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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 9, 2002, at 2 p.m.

Senate

FRIDAY, MARCH 22, 2002

The Senate met at 10 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

PRAYER

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

Lord God, Sovereign of this Nation, we praise You for the gift of authentic hope. More than wishful thinking, yearning, or shallow optimism, we turn to You for lasting hope. We have learned that true hope is based on the expectation of interventions by Your Spirit that are always on time and in time. You are the intervening Lord of the Passover, the opening of the Red Sea, and the giving of the Ten Commandments. You have vanquished the forces of evil, death, and fear through the Cross and the Resurrection. All through the history of our Nation, You have blessed us with Your providential care. It is with gratitude that we affirm, ''Blessed is the nation whose God is the Lord.''—Psalm 33:12.

May this sacred season, including Passover and Holy Week, be a time of the rebirth of hope in us. May Your Spirit of hope displace the discordant spirit of cynicism, discouragement, and disunity. Hope through us, O God of Hope. Flow through us patiently until we hope for one another what You have hoped for us. Then Lord, give us the vision and the courage to confront those problems that have made life seem hopeless for some people. Make us communicators of hope. We trust our lives, the work of this Senate, and the future of our Nation into Your all-powerful hands. In the name of the Hope of the world. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ZELL MILLER 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 please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 22, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ZELL MILLER, a Senator from the State of Georgia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, today the Senate will be in a period of morning business. There will be no rollcall votes today. The next rollcall vote will occur on Tuesday, April 9.

We hope that if people wish to give remarks today, they would get here as quickly as possible. Staff especially would appreciate that.

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

The ACTING PRESIDENT pro tempore. 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 (Ms. STABENOW). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Massachusetts.

PRIVACY PROTECTIONS

Mr. KENNEDY. Madam President, I want to draw to the attention of our

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

colleagues in the Senate and also to the American people the unfortunate decision by this administration to recommend that we alter and change some enormously important privacy protections. These protections were recommended by the previous administration—by President Clinton—and were scheduled to go into effect about a year from now. These protections to ensure the privacy of medical records. I will speak on the substance of the issue in a moment.

What I find equally distressing is that we are seeing a series of actions taken by the administration—this is just the latest example—where the administration seems to be opting in favor of the companies and corporations at the expense of individuals. In this case, the administration is acting at the expense of the medical privacy of our fellow citizens.

We have recently seen the administration effectively undermine the very sensible and responsible ergonomics recommendations to try to protect people in the workplace. This affects 800,000 workers—primarily women—in our society. Those workers are risking their health without protections. In this case, we saw the administration siding with the companies and corporations at the expense of workers.

We have seen it most recently in the Enron situation. We have seen individuals who are the major players in the corporations walking away with millions and millions of dollars, and the workers seeing their life's savings eliminated. And just this week, we tried to put in protections for workers in the future. The administration opposed those particular recommendations.

In an entirely different area, we see where the administration has come down on the side of the major health corporations at the expense of individuals on the powerful issue of medical privacy and medical records. The most sensitive information that individuals have is in their medical records.

We have seen over the period of this last year and a half a considerable amount of dialog and discussion, and a number of hearings. We had recommendations in place, which were to go into effect about a year from now. These were announced by the previous administration in response to a requirement put into law in what we call the HIPAA legislation—the Kassebaum-Kennedy legislation that dealt with health insurance portability and accountability.

We put in that legislation a requirement on the administration to come forward with medical records protections.

But announced yesterday and today was the decision by the administration to recommend that we wipe away the most important protections that individuals have; that is, their ability to say, no, I will not share the information that is in my medical records.

In the existing proposed regulations, an individual could say, all right, the hospital or the doctor could share it with the insurance company, but that is all they could share it with.

It permitted individuals to say that some information is so sensitive that they do not want to share it with the insurance company. They could pay for a doctor's visit out of pocket rather than sending the information to their insurer—which could very well come back, as it so often does, to their employer.

We have not passed legislation that will prohibit discrimination against individuals in the workplace—even genetic discrimination.

This is the most sensitive information. We had the promulgation of rules and regulations under the administration that were to go into effect next year. It is surrounding information which is of the most sensitive nature.

The American people give a high priority to privacy. They do not want to have their own private lives infringed on by individuals or by any governmental agencies. They hold their medical information in the highest order of priority.

For the administration to side with the medical corporate world in being willing to share that kind of sensitive information which individuals do not want shared, I think, is an infringement on the rights to privacy for Americans that this country will not and should not tolerate.

In our committee, we will have hearings on this administration's proposal as soon as we return from the April recess. We will introduce legislation to ensure the protection of privacy for the American public.

I see my friend from Connecticut, Senator DODD, who has worked on this issue. Our colleague from Vermont, Senator LEAHY, has been a leader on this issue. It has not been a partisan issue. It has been bipartisan in nature. But it is an issue of high importance and consequence.

Privacy is an enormously important value for our fellow citizens. To try at the stroke of a pen to say that your medical records are not going to be protected is a violation of the most important and basic privacy rights of an individual. It is wrong. It is basically a surrender to major corporate interests. We have seen that too often in recent times.

We want an administration that is going to represent the best in terms of protecting our individual rights and our individual liberties, and not always be serving the large medical corporate interests. The administration's decision has been recommended, suggested, and supported by those interests.

It is wrong. We are going to do everything we possibly can to prevent it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I commend my colleague from Massachusetts. I had no idea he was coming over to the floor to address an issue which he has spent a great deal of time on over the years. I found myself outraged when I awoke this morning and saw the headline in our local newspaper, ''Medical Privacy Changes Proposed.''

I do not have any long prepared speech to give, but I associate myself with the remarks of my friend and colleague from Massachusetts. We have worked hard over the years to try to see to it that people's privacy is protected.

We know today, as a result of technology, the gathering of information, consumers want the right to know, but they also want the right to say no when it comes to having access to some of the most private and personal information.

We would not tolerate allowing someone to break into your home and rifle through your closets and to find out, without any justification, the most personal details of your life or your family's life. Yet what the administration is doing here, in a sense, is going to allow people to do just that when it comes to the most personal and private information about you and your family—your medical history—and the damage that can be done to people with that kind of access.

So I am terribly disappointed this morning to hear that the administration is going to be rolling back regulations that are designed to protect people. They are doing so, they claim, in the name of ensuring more rapid care. Well, I say shame on them. Shame on them for pitting care against your right to protect you and your family from people knowing your personal and private information.

That is not what this is all about, wanting to protect you and getting you better care. We know people want access to this information. We know why they want access to the information. That is why people are so concerned. This is not about liberals or conservatives, Democrats and Republicans. This is about the fact that we, as Americans, feel deeply and strongly about our right to have private information kept private.

There is a growing fear in our society of technology being used not only to improve our lives, as it is in so many ways, but to make it easier for people to rifle through our medicine cabinets, peer into our checkbooks, and be able to track us on Internet activities. It worries Americans that this is becoming far too prevalent.

What we need to have is our Government standing up for individual citizens who cannot hire lawyers, who do not have the resources to go out and pay for people to bring lawsuits when this kind of information is abused or misused. We need to stand with them and say: Look, if you want to have this information, you have to get the patient's and the family's permission. In many cases, of course, families are going to give that permission, but you have to ask for it, and you have to get their permission to do so. The idea that you could bypass them and just decide

you are going to have access to that information, without securing the patient's approval in order to have access to that information, I think is just downright wrong.

I am heartened to know that the chairman of the Health, Education, Labor, and Pensions Committee is going to take steps, certainly through a hearing process, but, as well, to put the administration on notice that this rule change they are about to establish is not going to occur without significant opposition.

I tried to call Senator SHELBY in his office today. I cochaired the caucus, if you will, on privacy along with my colleague from Alabama, Senator SHELBY. I think he may have already gone back to his home State of Alabama. He may have left last evening. He was not here this morning. But I wanted to invite him to join me in this Chamber, as he has on so many other occasions when it comes to these privacy issues, to stand up to say that we are going to insist that people have the right to say no.

I cannot speak for him here, but I am confident that when the Senator from Alabama is heard on this issue, his voice and his words will not be significantly different than what I have said here already and that, in a bipartisan way, we will be standing up, very strongly, in seeing to it that this proposed rule change is not going to just fly through here without significant opposition.

THE FAMILY AND MEDICAL LEAVE ACT

Mr. DODD. Madam President, I rise to raise concern about a 5-to-4 decision that was reached earlier this week by the Supreme Court on the Family and Medical Leave Act, a bill that, along with many others in this body, I helped write back in the 1990s. It took a long time—about 7 years—from the time that bill was first introduced to the time it became law in February of 1993. But it was a singular achievement which improved tremendously the quality of life for millions of people who had worried about their dearly beloved ones—their children, their parents—so when their loved one was sick or they had a newborn or adopted a child, they could take some time off—12 weeks maximum in a year of unpaid leave—to be with their family during a time of crisis, or a ''joyous crisis,'' a birth, if you will—that is hardly a crisis but, nonetheless, an important period in people's lives, or a legitimate crisis—a child's illness or a parent they were caring for—to be with them without losing their job.

That is all it was: To help people, who often had been caught in the quandary of having to choose between the family they loved and the job they needed, when they needed to be with their families, yet there was the risk of losing their job if, in fact, they made the choice to be with their family.

I pointed out, on dozens and dozens of occasions, during the debate over 7 years in this Chamber, that I knew countless Members of this body who took time away from the Senate—missed dozens of votes, never went to committee hearings, did not see constituents—because a child, a spouse, or a parent needed our colleagues to be home with them. And none of their constituents ever held it against them, when they came up for reelection, because they missed a lot of votes because they were at a children's hospital taking care of a child or they were with their wife or husband when they were desperately ill and they needed to be with them. Certainly, we understood. In fact, had they been here voting and disregarding the needs of their families, they might have been in greater jeopardy politically for having made that choice.

But it seemed to me if Senators and Congressmen would make the choice to be with their families—and rightfully so—that we ought not ask average citizens to make any different choice. We wanted to provide the opportunity for them to do so without losing their job. That was the underlying thought process and the genesis of the bill.

One of the requirements in the bill was for a general notification to employees of what the bill provided for: the 12 weeks of unpaid leave. There were some regulations that were adopted along those lines as a result of the passage of the bill.

I think Sandra Day O'Connor got it right. The Court overruled the regulation because the regulation required specific notice to employees. It went beyond, if you will, you could argue, the general notification of the bill. But as Justice O'Connor pointed out, there was nothing in the bill that said you could not have additional requirements. You had a general notification, but there was nothing in the legislation, nor in the legislative history, that would have banned a regulation saying, you probably ought to give more specific notice to individuals rather than just tacking it up on a bulletin board someplace and saying: You have a right to 12 weeks of leave. We hope you get word of this.

Her point was it would be unrealistic to assume that individual employees would be aware of what the law provided to them with just a general notification. Her suggestion was that the regulation to require specific notification would not be going too far. What happened here was the regulation also said that if you do not do that, then you are required to provide an additional 12 weeks of leave.

The case, frankly, before the Court may not have been the best fact situation. In this particular case, the employer had been extremely generous to the employee, in my view. The employer had already provided about 30 weeks of leave for that particular employee. So it was one of those cases where it was not the best set of facts to make the point.

I am in this Chamber to urge the agency, if you will, to take another look at these regulations. And I strongly urge that they come back and reissue the regulation, if you will, on the specific notification. I think that is the way to go. And then, in view of the Court's decision about any additional penalties, I would say, pare back on that some way. Again, leave it to legal scholars how to write this and how to fashion this.

But the point is, on such a close decision—5 to 4—I do not believe the Court was suggesting somehow we ought to eliminate the need for specific notification, even though the bill talked about general notification. That is the point I want to make.

This is a law that I am told has already provided benefits to more than 35 million people in this country in the last decade who have been able to take advantage of this.

A lot of people cannot take advantage of it. I know that because it is unpaid leave. A lot of people find themselves in economic circumstances where unpaid leave is something they just can't afford to do. Candidly, we would never have passed a bill that would have required paid leave. The opposition was overwhelming to that idea. We have since suggested some creative ways in which States may be able to provide for paid leave under limited circumstances, and we are considering that legislation.

Even with the unpaid provisions of this proposal, millions of people have been able to spend time with their families during very important periods in any family's life. As I said, in the situation of a newly arrived child, and I certainly know the joys of that, having had a daughter 6 months ago, knowing how important it is for my wife and myself to be able to spend time with Grace as she begins her new life. And certainly as a Member of the Senate, I can do that without any fear of losing my job because of it.

There were literally millions of people who could not take time to be with their newborn without that fear on the table. Obviously, adoption makes the case clearly how important it is for a newly adopted child to be able to be with her new parents or his new parents during that bonding period.

I don't think I have to make the case. If any of you have been to a children's hospital in a waiting room and seen the fear and anxiety in a mother's or father's face holding a child that is going into the hospital for some operation or into a pediatric intensive care unit, looking on the faces of parents with a newborn who is struggling to stay alive, wondering whether or not they should be there or on the job, as if somehow they could actually do a job while their child is sitting in an emergency room or an intensive care unit.

It seemed to us logical that we provide this opportunity for people not to be forced into that situation. I regret we couldn't do something about having paid leave for people. We are one of the few countries in the world that does

not do that. Almost every other industrialized, advanced nation in the world provides for paid leave under these circumstances. We don't do that. I regret that. But I don't have 51 votes for that in this Chamber. I had to do what I could do. So unpaid leave is the best I could do.

The fact that millions of people have been able to take advantage of that is something for which I am very proud. I hope we can come back to this issue of notice. This has been a positive benefit for a lot of people. But a lot of people are unaware that the law exists. Some general notice tacked up on a bulletin board someplace means that an awful lot of people probably wouldn't find out about it. Specific notice makes more sense to me.

My hope is the administration will promulgate a regulation that will call for specific notification and tailor it accordingly so it will not run afoul of the Supreme Court decision reached 5 to 4 a few days ago.

I yield the floor and 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.

Mr. DORGAN. 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.

The Senator from North Dakota.

FAST TRACK AUTHORITY

Mr. DORGAN. Mr. President, yesterday the majority leader of the Senate described the conditions under which he intended to bring to the Senate legislation authorizing trade promotion authority. That is a euphemism for fast-track authority.

President Bush has requested of this Congress that we give him fast-track trade authority. Like Presidents before him, he has asked to be allowed to negotiate trade treaties and bring them to Congress for expedited consideration, without any amendments, under any circumstance, for any purpose.

I opposed fast-track authority for President Clinton, and I will oppose it for President Bush. I do not believe Congress should grant fast-track authority. I think it is undemocratic. I do not believe it is necessary for us to have fast-track authority in order to negotiate trade agreements. We negotiate the most sophisticated agreements without fast-track authority. Nuclear arms treaties are negotiated and brought to the Congress without fast-track authority. Only trade agreements, we are told, must have this handcuff put around Members of Congress, so they cannot offer any amendments.

The reason I care about this is I have watched trade agreement after trade agreement be negotiated, often trading away the interests of producers in the United States, only to discover the problems that arise cannot be solved by these agreements.

To give an example, the White House negotiated a trade agreement with Canada, under fast-track trade authority. I was serving in the House at the time. I was a member of the House Ways and Means Committee. The trade agreement came back to the House, to the Ways and Means Committee, and the vote in committee for that trade agreement was 34 to 1. I cast the lone vote against the agreement.

The chairman of the committee came to me and said: Congressman Dorgan, we must have a unanimous vote. It is very important. You are the only one who is holding out. It is really important you understand that Canada is our biggest trading partner, our neighbor to the north. The administration has negotiated this with great care. We really want to have a unanimous vote. Won't you join us?

I said: Absolutely not. It does not matter to me if I am the only vote. It does not matter to me at all.

The vote was 34 to 1, and they were sorely disappointed they could not get a unanimous vote out of the Ways and Means Committee. I was this troublemaker.

So the trade agreement went into effect, passed the House, passed the Senate. No one was able to offer an amendment. I could not offer an amendment. After the trade agreement was finished, we began to see an avalanche of Canadian grain being sent into our country. That Canadian grain came from the Canadian Wheat Board, which is a state trading enterprise. The Canadian Wheat Board has a monopoly on wheat, and is able to ship to this country deeply subsidized Canadian grain, undercutting our farmers, taking money right out of our farmers' pockets. Nothing could be done about it because I could not amend the trade agreement. Our hands were tied. That is what fast-track trade authority is all about.

Let me talk about trade for a few minutes and why I am going to oppose this fast-track resolution when it comes to the Senate. I and some others in the Senate—Senator BYRD has described his opposition—will be trying to slow down the fast track bill, and to ultimately defeat it.

Let me describe why. It is not because we are protectionists. It is not because we want to build a wall around our country. Those of us who oppose fast track believe in expanded trade. We believe trade is good for our country. We believe expanded trade and breaking down barriers in foreign markets makes sense for our country. We believe all of that. We also believe and insist and demand that trade be fair.

Let me point out what the Constitution says about trade. The U.S. Constitution, article I, section 8, says: The Congress shall have the power to regulate commerce with foreign nations and among the several States and with Indian tribes.

It could not be more clear. The Congress shall have the power to regulate commerce with foreign nations—not the President, not the executive branch, not the judicial branch, but the Congress and only the Congress.

With fast track, Congress relinquishes its responsibility. We will let someone else go negotiate a trade treaty, go into a room, shut the door, and in private, in secret, negotiate a trade treaty, and then bring it back to the Congress. Our hands will be tied behind our backs, as we will not be able to offer any amendments. That is what fast-track trade authority is all about.

I will use a chart to describe one piece of trade that I think demonstrates the bankruptcy of what has been going on in international trade. The example I have in mind involves trade with Korea in automobiles. Now, someone watching or listening on C–SPAN or someone in this Chamber might well drive a Korean car. If you do, good for you. You have every right to drive it. Korean cars are sold all over this country. You can go to a dealership, and buy a car from Korea, from Japan, from Europe. That is consumer choice. I would never be critical of that.

But the fact that there are lots of Korean cars coming to our country does not mean that there is free trade. You have to look at both sides of the equation. Last year the country of Korea sent to the United States 569,000 Korean automobiles. How many cars made in the United States are sold in Korea? Only 1,700. I repeat, we purchased in the United States 570,000 Korean cars and the Koreans purchased 1,700 from us.

Let me also describe how this happens. Korea does not want American cars in Korea. Under the World Trade Organization, tariff barriers to sending American cars to Korea have come down. Why would we not get more cars into Korea? In January, an English-language Korean newspaper published an article describing the trade barriers faced by imported cars in the Korean marketplace. It is based on a report put out by a Korean state-run think tank, the Korea Institute for International Economic Policy. The report cites a widespread climate of fear and intimidation associated with imported cars, including threats of physical harm. Now, this is a report by a Korean think tank, saying that Koreans face threats of physical harm, lengthy safety test procedures, and discrimination by the traffic police.

An especially flagrant example of unfair trade that caught my attention: Korean importers have been frustrated in their inability to showcase foreign cars at the Seoul Motor Show, the biggest car show in Korea. In May of 2000, the distributors put on their own import motor show. As the import show began to attract interest and some orders for foreign cars, the Korean Ministry of Finance announced the selling of any cars with engine displaced at

greater than 3,000 cc—which is effectively any imported car—would have to be reported to it. This had an immediate chilling effect on prospective buyers; a lot of car orders were canceled due to fears of tax audits and the like.

In January of this year, the deputy U.S. trade representative, Jon Huntsman, stated that ''Korea had somehow become a dynamic exporter without becoming an equally dynamic importer, dampening the competition companies need to keep their edge in the global marketplace.''

This is an example of an intolerable trade situation.

Let me give you another example, about Brazilian sugar. There is a tariff on sugar, but none on molasses. So what happens? Brazilian sugar is sent into the United States through Canada disguised as molasses. It is shipped from Brazil to Canada, loaded on as liquid molasses, and becomes stuffed molasses. It comes from Canada to the United States. The sugar is unloaded from the stuffed molasses. The molasses go back to Canada, and the whole process is repeated. This is fundamentally unfair trade. It goes on all the time, right under our noses. And nothing is being done about it—nothing. No one is willing to lift a little finger to resolve these problems. All they want to do is go to the next trade issue.

Over $100 million in U.S. beef per year cannot get into Europe. Now, I have here a picture of what a typical U.S. cow, or heifer might look like. It happens to be a Hereford. That is what I raised when I was a kid. Now, our cattle are sometimes fed hormones, and to hear the Europeans describe it, our cattle have two heads. Absurd, of course. We buy a lot from Europe every single year, but we cannot get beef into Europe.

There is so much more. Every pound of beef we send into Japan at the moment, 12 years after we had a beef agreement with Japan, has a 38½ percent tariff. Each pound of beef has a 38½ percent tariff attached when we send it to Japan. That is after we had a beef agreement. We had all the negotiators over there who reached a big deal with Japan. It was front-page headlines across the country: Beef agreement with Japan. Good for us. The agreement provided there will be a 50 percent tariff on all United States beef going to Japan, which will reduce over time, but snap back as the quantity increases. We have gotten more beef into Japan, yes, but 12 years after the agreement, we still have a 38½ percent tariff on each pound of beef going into Japan.

We ought to expect to get more T-bones into Tokyo. That is my cry: T-bones to Tokyo; pork chops to China. Get rid of stuffed molasses to China. How about cars to Korea?

How about asking those who are supposed to represent our country to stop worrying about the next agreement and fix a few of the problems we have created for American workers and American businesses? I am perfectly willing to ask Americans to compete anywhere under any circumstances as long as the competition is fair.

I said in the Chamber before, it is not fair competition when someone puts a 12-year-old in a factory, 7,000 miles from here, works them 12 hours a day, pays them 12 cents an hour, keeps the doors locked, and ships the product to a store shelf in Pittsburgh, Fargo, or Denver. That might be good for the consumer in terms of low prices, but it is not fair trade and it is not fair to America's producers.

We had a hearing one day in which we were told about how some people who make carpets in central Asia and the Middle East. They put the young kids, 8-, 10-, 12-year-old kids, in the factories, and they use needles to work with the carpets. They put gunpowder on the tips of their fingers and lit the gunpowder to burn them, so that the tips of their finger became deeply scarred from the burns. That way, when the kids were making carpets and they would stick their fingers with the needles, they could not feel it and it would not hurt—no downtime. And then the carpets end up on a store shelf someplace in the United States. Fair trade? I don't think so. Abusing children is not fair trade just because a product is getting manufactured at lower costs. Abusing children is just plain abusing children.

We ought not have on any store shelf in any place in this country the product of slave labor wages. We should not be letting in women's blouses made in a factory in Honduras where the doors are locked and people are paid slave wages—we ought not have that on the store shelves of this country. That is not good for consumers. It is not good for anybody.

This country needs to be a leader in demanding fair trade. We do not do that. We want to pass fast track so we can do another trade agreement, and essentially keep a blind eye for what is going on in the old agreements and move on to the next one.

I got involved with this issue because of wheat farmers in North Dakota. After the United States-Canada free trade agreement, I watched all that Canadian grain being dumped into our country, money taken from the pockets of our farmers and ranchers. They are furious about it, as well they should be.

On March 6, the U.S. trade ambassador stood up for the American steel industry. He said: We will slap tariffs on those who are unloading massive amounts of steel in this country and ruining our steel industry. We will give our steel producers a chance to compete on a more level playing field. Now, the tariffs are not what they should have been. There were too many loopholes. But at least it is a step in the right direction, and I commend the trade ambassador for doing that.

But the fact is, we also just had a guilty verdict against Canada on wheat trade, yet no tariffs have been imposed. Make no mistake about the finding of unfair trade. Here is what the USTR found:

> USTR concluded that for several years, the Canadian Wheat Board has taken sales from U.S. farmers because it is immune from commercial risk, benefits from special privileges and has competitive advantages due to its monopoly control over a guaranteed wheat supply. This infringes on the integrity of the competitive trading system.

That is how our trade ambassador has described the ongoing problem. So is our government taking prompt action, as it did for the steel industry? No. USTR has decided not to impose a tariff rate quota, as requested by our wheat farmers, because of fears that such an action ''would violate our NAFTA and WTO commitments.''

So in effect, USTR has concluded that Canada is guilty of unfair trade, but it is not going to do anything about it anytime soon. Granted, USTR is talking about taking the Canadians to the WTO. My great-great-grandchildren might get some result out of the WTO. There is no guarantee it will be a good result. I guarantee only that the way the World Trade Organization works, the proceedings will not be transparent, because panels deliberate cases behind closed doors, in secret. This country ought to demand open government and demand that World Trade Organization proceedings be open for all to see.

When we have the fast track, so-called trade promotion authority bill on the floor of the Senate, there will be a number of amendments. I intend to offer an amendment saying that the proceedings of trade tribunals must be open to the public. The American people have a right to see what is going on. And they may not like what they see.

Also, I will have an amendment proposing tariff rate quotas on Canadian wheat. I am going to raise some of the trade problems I have discussed today, and I think the Senate ought to have a chance to vote on this.

Advocates of free trade sometimes remind me of the Hare Krishnas, who chant the same thing over and over. Our trade negotiators are always singing the same song: free trade this, free trade that. I am tired of the chanting. The question is, Is someone going to stand up on the floor of the Senate and demand fair trade on behalf of America's workers and America's producers? Do we demand fair trade or don't we?

In this town there are only two recognized views of trade. You are either a protectionist xenophobic stooge who just doesn't get it and can't see over the horizon and can't see the big picture, or you are for global trade, expanded trade, opportunity, and jobs for the future. That is the way the issue is presented. You are either kind of a nut who wants to build walls around America and bring Smoot-Hawley back, or you have a broad vision and you are a great statesman and good for you.

That is the most thoughtless bunch of nonsense I ever heard. That is not an adequate description of the views of trade we ought to embrace. There ought not be anyone who is worried about standing up on the floor of the Senate and saying: Look, I stand up for this country's interests. I stand up for the interests of people who work in this country, who produce textiles, who work on the manufacturing floor, and who produce automobiles, who work in the fields and produce grain or livestock. We stand up for them.

Our government is not ensuring a level playing field. We have stacked the deck with bad international trade agreements, ineffective trade negotiators and bad agreements, one after the other. Now we are told, let's implement fast-track authority again so we can have a new agreement. I say to those who demand fast-track authority, please fix a few of the old problems and then come back and we will talk about new agreements. Fix some of the old problems first.

Will Rogers once said that the United States has never lost a war and never won a conference. He must surely have been thinking of our negotiators. I have suggested many times that our negotiators wear jerseys, like they do in the Olympics. Next time they sit around a table with China, Japan, Europe, Canada, and Mexico, they could look down at their jersey and be reminded that they represent the United States. They represent workers, businesses, investors, and others who have decided that, in a global economy, they want a fair shake. Nothing more more, just a fair shake.

I am flat sick and tired of seeing negotiators go abroad and negotiate a trade agreement that ties America's hands behind its back.

The first 25 years after the Second World War our trade was all foreign policy. We were bigger, better, stronger than anybody in the world, and we could outperform anyone with one hand tied behind our back. So what we did is we granted trade concessions all around the world because it was foreign policy to be helpful to foreign governments. That was the first 25 years after the Second World War.

The second 25 years have been different because we suddenly had tough, shrewd international competitors. Too much of our trade policy has been softheaded foreign policy. And it is not working.

We have a large, growing trade deficit, the largest in human history—a large deficit with China, a large deficit with Japan, a large deficit with Europe, a large and growing deficit with Canada and Mexico. This is not working.

We used to have a small trade surplus with Mexico and then we had a new trade agreement with Mexico and turned it into a big deficit. We had a moderate deficit with Canada. We got a new trade agreement with Canada and doubled the deficit. Of course, with China and Japan, it has been a miserable failure. Our trade relationship with them has failed to really break down the barriers and open up their markets.

So my message is not that I want us to put walls around our country. I don't believe in that. My message is not that we should create special protections for American producers. I don't believe in that. I believe in fair, free, and open competition. My message is, I demand, on behalf of the workers and producers of this country, that trade agreements represent fair trade conditions. If the rules are fair, if the conditions are fair, then we ought to be able to compete. I know we will compete and do well anywhere in the world under those circumstances.

This issue is an issue, at its roots, that has to do with jobs and economic opportunity and growth. When we give commencement speeches at high schools and colleges, we look out onto that sea of faces of young men and women, the best and brightest in our country, and we see people who are entering the workforce. The question is, What kind of an economy will they join?

We have people around this country bragging about their states being low-wage states. That is nothing to brag about. We need good jobs, good careers, good salaries, and good opportunities for the future. Manufacturing jobs have always been a base of good jobs that pay well and have good benefits, but our manufacturing industry is rapidly being decimated by trade agreements that are unfair to American workers and American businesses.

So I simply wanted to say today that we are going to have a vigorous and significant debate on this issue. It is long overdue. I welcome the opportunity to have trade promotion authority on the floor. Those who bring it should understand it will not be easy to get it. Those of us who have amendments to offer will be here offering many amendments.

CONGRESSIONAL OVERSIGHT OF HOMELAND SECURITY

Mr. DORGAN. Mr. President, I am chairman of an appropriations subcommittee. Last fall we asked Governor Ridge, who is the Director of Homeland Security, to come and testify on matters dealing with homeland security issues. In my subcommittee, we fund the U.S. Customs Service and others.

Governor Ridge determined that he could not do that and would not do that. Other committees have experienced the same reaction from the Governor. I think the administration is making a mistake. I think Governor Ridge is an excellent public servant. I enjoy working with him, but he really does need to come and testify before congressional committees. I think it will benefit him, it will benefit the Bush administration, it will benefit the Congress and the American people.

I did want to say, however, as we construct homeland defense, I think the administration's recommendations are good ones. I support them. I have commended President Bush for his prosecution of the war against terrorism. I think his recommendations in this budget dealing with homeland security are some thoughtful and good recommendations.

But there is one recommendation that is now floating around, being advanced by Governor Ridge and others, that I will not support. That is a recommendation to merge the Customs Service with the Immigration Service. Let me describe why I think that would be inappropriate.

There is a discussion going on about merging a number of agencies of the Federal Government into one larger agency. We are not going to solve the problems of any agency by simply creating larger bureaucracies. That doesn't solve any problems of government.

We had an embarrassing circumstance a couple of weeks or so ago in which the Immigration Service issued visas to Mohammed Atta and one of the other terrorists who flew the airplanes into the World Trade Center and murdered thousands of people.

We need to solve those problems at the INS. I must say Mr. Ziglar, who runs the INS, a friend of mine and acquaintance of most of the Senate, has inherited an agency that had a lot of problems, no question about that. I know he is struggling mightily to deal with them. I wish him well and I want to help him to do that. But he inherited an agency that wasn't able to track anything on its computers. It couldn't track down someone who overstayed a visa. I think Mr. Ziglar has a lot of work to do, and I want to help him do that.

But visiting the problems at the INS that Mr. Ziglar inherited on the Customs Service makes no sense at all. The Customs Service runs pretty well. We have some problems there as well, but it is an entirely different agency, which deals with the facilitation of trade and the prohibition of illegal goods from coming into the country. It is the second largest revenue raiser for the Federal Government next to the Internal Revenue Service. So I don't want to visit upon the Customs Service the problems of the INS or any other Federal agency, and I don't believe you solve the problems with respect to these issues by creating larger government and bigger bureaucracies.

So again, I would encourage Governor Ridge to come testify before Congressional committees, and discuss matters such as these. The idea of merging Customs and the INS is one that I just cannot support.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. 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.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DODD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 1 p.m., recessed subject to the call of the Chair and reassembled at 1:22 p.m. when called to order by the Presiding Officer (Mr. DODD.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

SENATOR HERMAN TALMADGE

Mr. BYRD. Mr. President, I take a few moments today to recall the days of yesteryear.

I came to this body in January of 1959, after having served in the other body, the House of Representatives, for 6 years. When I came to the Senate, I came into the midst of a chamber that was made up of men and one woman, Margaret Chase Smith of Maine. These men were ''tall men, sun crowned, who live(d) above the fog in public duty and in private thinking,'' men like Richard B. Russell of Georgia. Senator Richard Russell had never married, but he had a bride. His bride was the Senate. There was none other like him.

In my service in the Senate, this man from Georgia, Richard Brevard Russell, was the uncrowned leader, as far as I am concerned, of the Senate. There were men like Lyndon Johnson, Everett Dirksen, Lister Hill of Alabama, John McClellan, William Fulbright, Norris Cotton, and I could go on; John Pastore of Rhode Island, Senator O'Mahoney of Wyoming. They are all gone now.

I look about me today and I see the desks and the chairs. They were here then. Then one after another, as I look about me, I can see those Senators, Wayne Morse, Wallace Bennett, Jacob Javits, and Herman Talmadge.

I stand alone in this Chamber as in a great banquet hall where men have come and gone, fallen like winter's withered leaves. There is only one other Senator today who was here when I came here: STROM THURMOND.

The Senate is a far different place, far different from what it was when the Senator who is presiding over this Senate today, Senator CHRISTOPHER DODD, was a page boy; a different Senate. Yes, it is a different time. But the memories of those men and that woman who gave her ''Declaration of Conscience,'' Margaret Chase Smith of Maine, are still in my heart.

I begin now to make a few remarks about one of those Senators whose names I have mentioned, the late Senator Herman Talmadge. We heard the distinguished Senator from the State of Georgia yesterday, Mr. ZEL MILLER, speak of the passing of Herman Talmadge. As a colleague of the late Herman Talmadge, I say these few words in memory of him.

Mr. President, there was once a saying in the state of Georgia that ''if you were not a Talmadge man, you were a communist.''

That saying spoke so well of the high regard, the esteem, and the respect that the people of that proud southern State, which was one of the original 13 States, possessed for the Talmadge family and why the Talmadges were such a politically prominent family for so many years.

The Talmadge dynasty began in 1926—I was a little boy in a 2-room school house in southern West Virginia that year—when Eugene Talmadge was elected Commissioner of Agriculture. He was later elected Governor of Georgia to an unprecedented four terms.

It continued with his son, Herman Eugene Talmadge whose death we mourn today. Herman Eugene Talmadge served the State of Georgia first as Governor, 1948–1955, and then as a United States Senator, 1957–1980.

He had been in this body 2 years when I came and when the father of the Presiding Officer today, the late Thomas Dodd, came to the Senate with me. We came together from the House where we had previously served together.

During the Talmadge tenure, other powerful political leaders emerged in that great state, and obtained state and national offices. These included Senator Richard Russell, who sleeps peacefully today under a southern sky in a lonely cemetery in Georgia. I stood in that cemetery, at the grave of the late Senator Richard Russell.

Then there was President Jimmy Carter. I served as majority leader in this body during the years of his Presidency. Then there was Senator Sam Nunn, whom we all know, remember, and respect, and for whom we have an enormously high regard.

But the Talmadges were always there!

Some maintain that the Talmadge reign ended in 1980 when Senator Herman Talmadge lost his bid for reelection. But I can't help but believe that it did not end until this past Wednesday night when this sharp-witted man of simple values, who spent so much of his life in public service and who did so much to make his State and our Nation better, passed away. His passing should serve to remind all of us how much we need people who are dedicated to public service.

Herman Eugene Talmadge's public service began during World War II. Now listen to this: he was serving in the Navy when Pearl Harbor was attacked. He immediately requested combat duty, and participated in a number of important naval engagements during the war, including the invasion of Guadalcanal and the Battle of Okinawa. He was present at the Japanese surrender in Tokyo Bay.

Upon the death of his father, Herman Talmadge became Governor of Georgia, and his administration is regarded as one of the most progressive administrations in the history of that great state of Georgia.

In 1957, he took a seat in the Senate. I can see him standing over there, a man of few words. He was like John Pastore. Those two men were among the sharpest witted Senators with whom I have ever served.

In 1957, Herman Talmadge began an extraordinary career, which included serving as chairman of the Senate Committee on Agriculture, Nutrition and Forestry, where he became known as the ''champion of American agriculture'' because of the imprint he left on almost all farm legislation that was passed during his tenure as chairman. He authored legislation to expand and improve the School Lunch Program. He helped to develop the Food Stamp Program. As chairman of the Agriculture Committee and a crusader for rural development, Senator Talmadge established a rural development subcommittee and led the enactment of the Rural Development Act of 1972.

He was a member of the Senate Finance Committee—there was a sharp brain on a great committee, the Senate Finance Committee. I have never seen men or women in this Senate whose brains were more sharp than that of Herman Talmadge.

He was also very active on welfare legislation long before it became a popular issue to promote, and he authored a provision giving tax credits to private businesses to provide job training. There was a pioneer!

Talmadge was always a powerful proponent of programs calculated to get people on their feet, and to give them the means with which to secure their future and the future of their children. He was just as adamantly opposed to programs he felt perpetuated cycles of dependency, ''You gotta have more people pulling the wagon than riding,'' he was fond of saying. He could say it crisply, succinctly, right to the point.

Senator Talmadge came to national attention in 1973, when he was appointed to serve on the Watergate Committee. According to an article on him in the Georgia Historical Quarterly, Senator Talmadge:

> . . . thought the Watergate investigation was one of the most important events in the history of the United States [because] it demonstrated how a republican form of government [This is not a democracy, it is a republic; it is a republican form of Government] could correct the conduct of public officials and alert others not to make the same mistake.

It was during the Watergate hearings that the American people were able to observe for themselves the penetrating, get-to-the-heart-of-the-matter style of Senator Talmadge, and I am sure they were impressed.

Despite Senator Talmadge's productive and historic achievements in the Senate, his life was not without adversity. While serving in this Chamber,

Senator Talmadge suffered the tragic death of one of his sons, and endured other personal and professional misfortunes.

Nevertheless, in his memoirs (Talmadge, A Political Legacy, A Politician's Life: A Memoir), he wrote:

In looking back over my life, I suppose I have the normal share of regrets. But if I had it all to do over again, I wouldn't hesitate to enter politics. The rewards far outweigh the price one has to pay. When I speak to a civic club or just walk down the street, I invariably run into someone who has benefited in some way from my three-and-a-half decades in public life. Yes, it was a good life.

Mr. President, Herman Eugene Talmadge served his country and he served it well, in war and in peace. He served his State and the people of America very well with his extraordinary career in the Senate. His was indeed a ''good life'' and one for which all of us can be grateful. So:

Let Fate do her worst, there are relics of joy,
Bright dreams of the past, that she cannot destroy;
Which come, in the night-time of sorrow and care,
And bring back the features that joy used to wear.
Long, long be my heart with such memories filled!
Like the vase in which roses have once been distilled,
You may break, you may shatter the vase, if you will,
But the scent of the roses will hang round it still.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, at the request of the majority leader, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 1:50 p.m., recessed subject to the call of the Chair and reassembled at 3:34 p.m. when called to order by the Presiding Officer (Mr. JOHNSON).

The PRESIDING OFFICER. The Senator from Connecticut.

UNANIMOUS CONSENT AGREEMENT—S. 565

Mr. DODD. Mr. President, I am about to propound a unanimous consent request on behalf of the Democratic leader. This consent request has been cleared on the Republican side as well as the Democratic side. Let me read it, if I may.

I ask unanimous consent that the majority leader, in concurrence with the Republican leader, may resume the consideration of S. 565, the election reform bill; that debate on the bill be limited to 2 hours equally divided in the usual form; that the following be the only remaining first-degree amendments in order, and that debate on each amendment be limited to 30 minutes equally divided in the usual form unless otherwise listed; further, that no second-degree amendment be in order prior to a vote in relation to each amendment; further, that second-degree amendments must be relevant to the amendment to which it is offered and debate be limited to 30 minutes unless otherwise listed; further, that any pending amendment not listed be withdrawn; that upon disposition of the listed amendments, the bill be read the third time and the Senate vote on passage of the bill; and that upon passage, the title amendment, which is at the desk, be agreed to and the motion to reconsider be laid upon the table, all without further intervening action or debate; further, that no call for the regular order be in order with respect to this bill:

Senator LEVIN, provisional balloting; Senator CLINTON, residual ballot benchmark; Senator ROCKEFELLER, overseas voters; Senator WYDEN, voting by mail and first time voter; Senator NELSON of Florida, DOJ request; Senator NICKLES, confidentiality voter lists; Senator ROBERTS, provisional balloting notices; Senator HATCH, Internet study; Senator THOMAS, sense of Senate on rural concerns; Senator GRASSLEY, use of Social Security numbers; Senator SMITH of New Hampshire, election media reporting; and Senator DODD and Senator MCCONNELL, managers' amendment.

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

Mr. DODD. Mr. President, let me express my very sincere gratitude to both leaders, first of all to Senator DASCHLE and his very fine staff who were immensely helpful in pulling this together. I thank the Republican leader, Senator LOTT, for his wonderful leadership. He has been tremendously helpful to us in putting this agreement together. I also thank Senator MCCONNELL and Senator BOND and their staffs for making it possible. Senator LOTT's office worked very closely with their offices in bringing us to this point.

We have had an awful lot of amendments. This bill had already handled some 35 or 40 amendments. We then had to lay the bill aside, and there was still an outstanding list of 40 or 45 amendments. This is a much more abbreviated list, and it will allow us to get to final passage on this bill.

I am very optimistic we will end up with a positive vote in the Senate on this very important issue of election reform. It has been a little more than a year since the election of 2000. As we have said, this bill is forward looking. It is not about what happened in 2000; rather, what had been happening for many years in regard to the deteriorating condition of our election structure in the country. Florida merely highlighted for many Americans what had happened in many of the States as well.

This bill, while not a complete answer, will put us on a very strong road to resolving a lot of the outstanding issues that occurred then.

I am very grateful to the staffs of all those Senators involved—Senators SCHUMER and TORRICELLI. I thank my own staff, Veronica Gillespie and Kennie Gill of the Rules Committee, as well as Shawn Maher of my office, who have worked very hard. We are not done yet. We have work to do on this unanimous consent agreement to deal with the remaining amendments and then a conference with the House.

But this unanimous consent agreement, which took the cooperation of all Members of this Chamber, brings us very close to final passage of a good bill, my firm hope is, so that resources in the discretionary funds of this bill might even be available for the 2002 election, if we can get this done sometime over the next several months; that is, the final conference report.

The purpose of this bill, as has been stated by many, is to make it harder to defraud the system but, just as importantly, to make it easier for people to cast their ballots: the provisional voting provisions, statewide voter registration, making sure people who are disabled will have access to voting, being able to check your vote, not overvoting, as well as the antifraud provisions and the provisions dealing with the establishment of a permanent commission on elections.

All Members in this Chamber have been extremely cooperative on seeing to both of those twin goals: easier to vote and harder to defraud the system. Without the cooperation of everyone in this Chamber, we would not have arrived at this unanimous consent agreement.

So it is a great compliment to Members from all across the country that we have been able to arrive at this unanimous consent agreement, the disposition of these amendments, and final passage of the bill that will make it possible for us to say we have made it easier to vote in America and harder to defraud the system. If that is achieved in the final product we produce, we will have responded to the challenge posed to us by what occurred not only in the 2000 national election but what had been occurring across the country for many years. I express my gratitude again to all involved.

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

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

NOMINATION OF JAMES MAHAN

Mr. REID. Mr. President, I am very pleased that the Senate has approved Judge James C. Mahan, of Las Vegas, to be the next judge on the United States District Court for the District of Nevada.

May I say on behalf of my colleague, Senator ENSIGN, and myself that Jim Mahan has the unequivocal support of both Senators from Nevada.

Jim Mahan currently serves as a Judge on the Eighth Judicial District Court in Clark County, Nevada, He was Governor Kenny Guinn's first judicial appointment to the Clark County District Court in February 1999, an appointment that reflects the deep respect Judge Mahan has garnered from his colleagues and other Nevada officials. Since taking the bench on March 8, 1999, he has presided over a docket of more than 3,000 civil and criminal cases. Despite this heavy docket, Judge Mahan also hears probate matters, drug court and grand jury returns on a regular basis.

As my colleagues have heard me state on numerous occasions, Las Vegas has been the fastest growing metropolitan community in the United States for more than a decade. Very hard work and dedication is required of our judges, policemen, firemen, and other civil servants on a daily basis.

These qualities will serve Judge Mahan well on the U.S. District Court for the District of Nevada, whose docket has increased at a rate that mirrors the explosive growth of my home State, especially Las Vegas.

I am so proud to have played a role in creating three additional judgeships for the District of Nevada over the last few years.

Prior to the Senate's confirmation of Roger Hunt and Kent Dawson last year, and Larry Hickes last month, Nevadans seeking justice in Federal court were forced to wait up to 3 years before their case went to trial. And these delays may have been worse had it not been for our hard working judges. Those judges hear, on average, more cases than any active judges throughout the country.

Although the docket remains one of the busiest in the Federal judiciary, these judgeships—and the fine jurists who have filled them—have had an immediate impact on the Federal bench in Nevada. When he takes his place on the District Court, Jim Mahan will be a tremendous asset to what is already one of the finest courts in the nation.

As he assumes his new judgeship, Judge Mahan also will be taking a wealth of other experiences with him to the bench. Before becoming a judge, he and Frank A. Ellis III formed the law firm of Mahan & Ellis, where they practiced business and commercial law for 17 years in Las Vegas.

A long-time resident of Las Vegas, having lived and practiced law continuously since 1973, Jim was admitted to practice in Nevada in 1974 in both State and Federal court, the Ninth Circuit Court of Appeals in 1974, and the U.S. Supreme Court in 1980.

Jim Mahan was born in El Paso, TX, on December 16, 1943. His family eventually moved to Grand Junction, CO, where he graduated from high school. Jim graduated from the University of Charleston in Charleston, WV, in 1965, and received his law degree from Vanderbilt University School of Law in 1973. In between his graduate and law school studies, Jim served in the United States Navy.

Jim has been blessed with a beautiful family. He and his wife of 33 years, Eileen, are the proud parents of one son James, Junior, who is a graduate from the University of Southern California.

In short, Jim Mahan has already proven that he is an excellent judge and a fine Nevadan. He will make an outstanding addition to the Federal bench.

CAMPAIGN FINANCE REFORM

Mr. FEINGOLD. Mr. President, our victory Thursday on campaign finance reform was a tremendous victory for the American people, and it wouldn't have been possible without the tremendous support of grassroots organizations whose members and staff worked tirelessly to help us pass this bill. I mentioned a few of those organizations on the floor yesterday, but I wanted to take this opportunity today to single out four other groups who made invaluable contributions to our effort as part of the Americans For Reform coalition. The Sierra Club, AARP, the League of Women Voters, and NETWORK, the Catholic social justice lobby, deserve special recognition for the work they did on this legislation. I would also like to thank John Weaver and Lanny Wiles for their assistance during this effort. In particular, I am grateful to the people of Wisconsin whose support for this issue has been strong and steadfast.

THE 90TH ANNIVERSARY OF THE GIRL SCOUTS OF THE USA

Mr. BROWNBACK. Mr. President, I would like to take this opportunity to recognize the 90th anniversary of the Girl Scouts of the USA, GSUSA, this month. Girl Scouting began on March 12, 1912, when founder Juliet Gordon Low assembled 18 girls from Savannah, GA. She believed that girls should be given the opportunity to develop physically, mentally, and spiritually.

This excellent organization empowers girls to develop their full potential, to relate positively to others and their community, and to promote sound values and community service. GSUSA continues to expand its programs to address contemporary issues affecting girls, while maintaining its original core values. The organization's foundation is still premised on the original 1912 ''Girl Scout Promise and Law.''

Today, Girl Scouting has a membership of 3.8 million, comprised of 2.7 million girl members and over 900,000 adult members, making this the largest organization for girls worldwide. Moreover, this American organization is a member of the larger worldwide family of 10 million girls and adults in 140 countries.

Through Girl Scouting, girls acquire self-confidence and expertise, take on responsibilities, are encouraged to think creatively and act with integrity, all qualities essential for good citizenship and great leaders. At each level of Girl Scouting, girls engage in numerous activities including science and technology, sports, health and fitness, the arts, global awareness, community service, money management and finance, and much more. Importantly, the organization has established a research institute, receiving government funding to address violence prevention. It is also addressing the digital divide with activities that encourage girls to pursue careers in science, math, and technology.

In 2001, GSUSA launched a major initiative rededicating themselves to their founder's vision of empowering girls to grow into healthy, resourceful citizens. They are diligently working to ensure that Girl Scouting is available to every girl in every community, reaching beyond racial, ethnic, socioeconomic or geographic boundaries. Girl Scout troops meet everywhere including suburban, urban and rural areas, homeless shelters, migrant farm camps, and juvenile detention facilities. Some girls meet online via the Internet. And through one of Girl Scout's signature initiatives, Girl Scouts Beyond Bars, girls meet in prisons where their mothers are incarcerated.

Out of the almost one million adults in Girl Scouting, 99 percent are volunteers. While Girl Scouts enjoys the largest adult involvement of all such organizations, new leaders and mentors are constantly needed to serve the increasing number of participants who desire to be Girl Scouts.

Though the first troops met before women were given the right to vote, 90 years later there is a ''Troop Capitol Hill'' made up entirely of Congresswomen who are honorary Girl Scouts. More than 50 million women are alumnae. Over two-thirds of our doctors, lawyers, educators, community leaders, and women Members of Congress were once members of Girl Scouting, as were 64 percent of the women listed in ''Who's Who of American Women.''

For 90 years this month, this respected organization has demonstrated a proven track record of empowering girls to become leaders, equipping adults to be positive role models and mentors for children, and helping to build strong communities. With the support and dedication of Congress, Girl Scouts will surely continue this fine tradition for the next 90 years and beyond.

Mr. CORZINE. Mr. President, I rise today to celebrate the 90th anniversary

of the Girl Scouts of the United States of America. Founder Juliette Low envisioned an organization that would encourage girls to serve in their communities and experience the open air. Decades later, girls and young women from communities across our Nation enjoy scouting activities that nurture their mental, physical, and spiritual well-being in an accepting and supportive environment. I commend the efforts of the Girl Scouts and the outstanding volunteers who make this important work a reality.

Thousands of girls across the State of New Jersey actively participate in Girl Scouts. I have heard heartening stories of scouts visiting senior residence facilities, food pantries, and soup kitchens. In the wake of September 11, these thoughtful young people contributed in many meaningful ways. These active girls and young women participate in anti-smoking campaigns, sports, lessons in civics and the law, outdoors activities, and much more. These initiatives build self-confidence, and strong leadership and life skills. We cannot underestimate the importance of this positive reinforcement in the lives of girls and young women. Innovative leadership and tremendous outreach efforts in my State continue to promote the Girl Scout initiative For Every Girl, Everywhere. I offer my wholehearted support for this ambitious endeavor. Imagine the possibilities!

Thank you, Girl Scouts, for decades of volunteerism in our communities and dedication to young women. As our nation affirms its commitment to service, the Girls Scouts shine so brightly. Congratulations on this very special occasion.

ENERGY POLICY ACT OF 2002

Mr. JEFFORDS. Mr. President, the Daschle-Bingaman substitute amendment, also known as the Energy Policy Act of 2002, includes portions of a bill that was reported favorably last year from the Committee on Environment and Public Works.

That bill, the Federal Reformulated Fuels Act, S. 950, was approved with the committee's understanding that further action by the full Senate would be necessary to solve the delicate problem of eliminating MTBE from the fuel supply to protect water resources, while maintaining air quality and stimulating renewable fuel use.

The substitute amendment before the Senate now does a good job of resolving that problem and balancing many political and environmental concerns. This language does not represent the perfect solution for my State or the Northeast. However, without it, MTBE contamination of water resources will continue unabated. With it, at least we can be assured of greater protection of air and water quality.

If States proceed to ban MTBE without clear Federal authority provided in this amendment, air quality could suffer as RFG areas would be forced to use ethanol in a very inflexible way due to the existing oxygen content requirement in the Clean Air Act. In that situation, and without the anti-backsliding provisions in the substitute amendment before us, there might be significant increases in vehicle emissions of both volatile organic compounds, which contribute to smog, and toxic air pollutants, and large and sudden increases in gasoline prices could also occur.

I would have preferred a bill that, in addition to eliminating the oxygen content requirement, simply eliminated the existing one-pound waiver of Reid vapor pressure requirements for ethanol blends and allowed all Governors to opt-in easily to the RFG program for their whole States. But, at least this language expedites Governors' access to that RVP waiver's elimination and provides accelerated opt-in authority to the entire States in the ozone transport region, where the ozone problems are quite serious. My preferred construction would have gone even further toward providing ever greater air quality benefits and a clearer set of ''national'' fuels.

The provision on liability limitations for renewable fuels is also problematic in that it is not clear to many of us why such a limitation is necessary. One would assume that Congress has required a renewable fuel content in motor vehicle fuel knowing what renewable fuels will be used to meet this requirement. Indeed, we assume that these renewable fuels will be ethanol and biodiesel. If these renewable fuels are as beneficial to the public health as we have been lead to believe, then there should be no need for such a liability limitation.

Under the provision, it is clear that no liability limitation applies to MTBE. It is clear that no liability limitation applies to any cases filed prior to the date of enactment of the bill. It is clear that the limitation applies only to a defective product claim and no other type of claim. It is clear that this limitation applies only to a renewable fuel, and if such fuel is blended with substances that do not meet the definition of a renewable fuel, the limitation does not extend to those substances.

The limitation is not intended to limit any legal requirements that apply to the use, distribution, transport or storage of these renewable fuels, and as such, this provision does not amend or modify any such requirements. Nor should this provision be read to curtail the duty of the producers, transporters and distributors of these fuels to act responsibly with regard to their products, including providing all warnings of dangers to human health or the environment associated with their products and taking all precautions to avoid any such harm which may include eliminating the use of the product altogether.

The substitute amendment provides protection against increases in toxic air pollutant emissions by maintaining the overcompliance that refiners have achieved since the inception of the RFG program. This is particularly vital to the Northeast, as vehicles are a disproportionately large source of these emissions inventory. The language includes an important statutory deadline for further EPA rulemaking to impose any additional and necessary toxics reductions to protect public health. As my colleagues may know, several studies have implicated vehicle toxics emissions as a contributor to increased cancer and developmental risks in congested urban areas.

Perhaps as important, the amendment requires the EPA to do a much better job of ensuring that fuels and fuel additives don't harm water quality, as well as air quality. Manufacturers will need to regularly supply information to the Agency on the public health and environmental impacts of the use of fuels and fuel additives. The Administrator will be held responsible for assuring that that data is up to date and adequate for determining whether those substances' use is a cause for concern.

As my colleagues know, I have been a strong proponent of encouraging the use of alternative and renewable fuels for decades. That is why I have supported S. 760, a bill to provide incentives for those fuels and vehicles, and many many other efforts to motivate reductions in our dependency on petroleum. We are making a small dent in that dependency with this language. The total motor gasoline consumption in 2012 is expected to exceed 180 billion gallons annually. The substitute's provisions require that about 2.8 percent of gasoline consumption in that year to be fuel made from renewable sources. This is good for energy security and the environment.

Work has been underway in Congress to try to solve this problem since MTBE contamination was first found. Senators BOXER, FEINSTEIN and BOB SMITH, in particular, have been instrumental in addressing the matter. Before S. 950, the Committee on Environment and Public Works reported a bill, S. 2962, in the 106th Congress which had an effect similar to what is contained in this substitute amendment. Many of the most important concepts in those bills are now embodied in the amendment. It is past time that Congress acted on this matter. Further delay will simply lead to more water resource contamination.

I ask unanimous consent that a brief and informal section-by-section summary of the renewable fuels and MTBE provisions be included in the RECORD following my statement. This may assist Senators and their staff in understanding what we are attempting to do with this substitute. I urge them to help us solve this problem.

There being no objection, the following material was ordered to be printed in the RECORD.

SECTION-BY-SECTION SUMMARY

Section 819. Renewable Content of Motor Vehicle Fuel. Amends the Clean Air Act to require that gasoline sold or dispensed to consumers in the United States contain a certain volume of renewable fuel starting in the year 2004. The volume starts at 2.3 billion gallons in the first year and increases to 5.0 billion gallons in 2012. The volume requirement continues thereafter at the same percentage that the 5.0 billion gallons represents in relation to the total gasoline pool in 2012. Existing Clean Air Act compliance requirements for section 211 apply to this new requirement.

Renewable fuel is defined as motor vehicle fuel made from grain or other biomass sources, methane from landfills, sewage, etc. and that replaces or reduces fossil fuel. This includes ethanol and biodiesel.

EPA must promulgate regulations translating the total national volume requirement into percentages that are applicable to individual refiners, blenders and importers. They may achieve compliance with the applicable percentage by buying credits from others in the industry that have used more renewable fuel than required.

Credits are valid for up to three consecutive years, depending on regulations promulgated. Compliance with the applicable percentage of renewable fuel may be deferred for one year, if the refiner, blender or importer makes up the deficit in the following year and complies with the following year's requirement. Ethanol made from non-corn sources, such as dedicated energy crops, animal waste, municipal solid waste, and wood and wood residues, generates 1.5 credits for every gallon sold or introduced into commerce.

Using EIA information, EPA will ensure that no less than 35 percent of the applicable renewable fuel use shall take place in every season. In 2004, ethanol consumed in California will not be included in calculating that year's seasonal variation.

EPA, in consultation with DOE and USDA, may waive the renewable fuel requirement in whole or in part on petition by one or more States by reducing the national quantity required for one year at a time, if one of two conditions are met. One, implementation would severely harm the economy or environment of a State, a region or the country. Two, there is an inadequate domestic supply or distribution capacity to meet the requirement. DOE must do an initial study within 180 days to review the consumer impacts of the requirement in 2004 and make recommendations regarding a waiver.

Small refineries are not covered by the renewable fuel content requirement until 2008. Before 2007, DOE must study the economic hardship on small refineries of compliance with that requirement. If DOE finds disproportionate impact on a small refinery, EPA will provide an extension on compliance for up to 2 years. Small refiners may opt in to the renewable fuel program at any time before compliance is required.

Exclusions from Ethanol Waiver. A Governor may require that gasoline to be blended with ethanol must achieve a lower Reid vapor pressure than the Clean Air Act currently provides, upon a showing to EPA that there will otherwise be an increase in emissions that will contribute to air pollution in that State. EPA is required to act on a Governor's petition within 90 days, and promulgate regulations that will take effect the later of one year or the next high ozone season. If approving the Governor's petition would result in insufficient supplies of gasoline, EPA will extend the effective date of the regulations for not more than 1 year and may renew the extension two more times.

Renewable Fuels Safe Harbor. This section provides that renewable fuels required to be used and as defined by this act will not be deemed defective in design or manufacture, in terms of a manufacturer's liability for introducing it into commerce after enactment, so long as the renewable fuel does not violate EPA controls or prohibitions and the manufacturer is in compliance with EPA requests for information on the renewable fuels' public health and environmental effects, the techniques for detecting the additive in fuel, and the resulting effects on emissions from vehicles, vehicles' performance, and any emissions related effect on public wealth and welfare.

Section 832. The Leaking Underground Storage Tank, LUST, program is modified to allow EPA and the States to use LUST monies to carry out corrective actions to remediate MTBE and other ether contamination that poses a threat to human health, welfare, or the environment. Contamination by or from an underground tank leak is not required for use of the funds.

Bedrock/Soil Remediation. Funds are authorized to study remediation of aquifers of various sorts that have been contaminated by MTBE.

Total LUST funds authorized to be appropriated for this section are $402.35 million.

Section 833. Authority for Water Quality Protection From Fuels. The Clean Air Act is amended to allow EPA to regulate fuels and fuel additives to prevent degradation of water quality.

MTBE use is discontinued not later than 4 years after enactment, except in any State that chooses to continue using it. EPA will promulgate the appropriate implementing regulations and may allow trace quantities of MTBE in motor vehicle fuel to exist nationally after 4 years. This Federal phase out is not intended to affect any existing State efforts to ban MTBE.

Existing domestic manufacturers of MTBE supplying today's nonattainment areas are eligible for transition assistance for conversion of their facilities to produce MTBE substitutes. There are $750 million total authorized for 2003–05 for such assistance.

Section 834. Elimination of the Oxygen Content Requirement for Reformulated Gasoline. The 2 percent oxygen content requirement for RFG under section 211 of the Clean Air Act is eliminated 270 days after enacted, except that it is eliminated upon enactment for California.

To ensure that elimination of the oxygen requirement and the phase out of MTBE do not increase toxic air pollutant emissions, within 270 days EPA must promulgate regulations to ensure that each refinery or importer of RFG maintains its toxics emissions reduction performance achieved in 1999–2000. If that performance is not achieved in any region, PADD, of the country, EPA must modify the regulations for all RFG to assure performance.

EPA will promulgate revisions to the RFG regulations to require that the more stringent VOC performance requirements of Southern region RFG apply to all RFG.

Section 835. Public Health and Environmental Impacts of Fuels and Fuel Additives. EPA is required to regularly collect information from manufacturers on the public health and environmental effects, including water quality, of fuels and fuel additives. EPA must also study a variety of potential MTBE substitutes.

Section 836. Analyses of Motor Vehicle Fuel Changes. Within 5 years, EPA will conduct and submit to Congress a broad analysis of the changes in emissions of air pollutants and air quality due to the changes in the use of motor vehicle fuel that occurred as a result of this act.

Section 837. Additional Opt-in Areas Under Reformulated Gasoline Program. Any Governor of a State in the ozone transport region, 13 north/eastern States, may opt the whole State in to the reformulated gasoline program so long as there is a sufficient capacity to supply RFG. EPA shall implement this change not later than 2 years after the Governor's request, but opt in States must stay in the program for at least 4 years.

Section 838. Federal Enforcement of State Fuels Requirements. States may have the Federal Government enforce a State's controls on fuels or fuel additives if the controls are part of an approved SIP and otherwise meet the requirements of section 211(c)(4)(c).

Section 839. Fuel System Requirements Harmonization Study. EPA and DOE will conduct a study of motor vehicle fuel requirements and report to Congress by June 1, 2006, with recommendations for improving air quality, reducing costs to consumers and producers, and to increase supply liquidity.

ADDITIONAL STATEMENTS

ACCESS TO AFFORDABLE HEALTH CARE ACT

● Ms. LANDRIEU Mr. President, I am in support of a piece of legislation offered by my good friend and colleague from Maine, Senator COLLINS. Before I begin, I would like to take this opportunity to commend her for her distinguished leadership in this area. Throughout her career as a U.S. Senator, she has worked hard to develop laws that reflect the healthcare needs of the people of Maine and of the Nation. Each and every proposal to help increase access to health care that she has put forward has been based on sound principles and innovative strategies. This bill is no exception.

Almost 39 million Americans have no access to health insurance. In Louisiana, almost 1 million people go to bed each night worried about what they would do if they or their family member becomes seriously ill. That is one out of five people in our State. As a result, a great number of Americans are forced to decide between medical treatment and other life essentials such as food and shelter or worse, forgo treatment all together. The research has confirmed for us what common sense has lead us to believe all along. In a recent survey, 39 percent of those Americans without insurance said that they put off necessary medical treatments or tests because they could not afford them.

In order to understand the issues affecting the uninsured, it is important that we ask ourselves, who are the uninsured? Nearly 30 percent of the 39 million uninsured Americans are women of child bearing age; 12 million of the uninsured are children. More than 8 out of 10 uninsured are in working families. Nearly 8 out of every 10 are middle income. These statistics point to serious gaps in our health care delivery system, gaps that can and need to be filled

This bill attempts to fill these gaps. The Access to Affordable Health Care Act, which I am introducing today, is a seven-point plan that combines a variety of public and private approaches to

make quality health care coverage more affordable and available. The bill focuses on three key populations: small business employees; pregnant women and children as well as working individuals. In addition, it supports programs targeted at providing these populations greater access to affordable coverage. Let me explain in greater detail.

The Access to Affordable Health Care Act establishes a tax credit for small businesses to help meet the company's cost of providing health insurance. In addition, it provides grants to help states develop health insurance cooperatives for small companies.

The Access to Affordable Health Care Act gives states the option to expand the Children's Health Insurance Program for pregnant women and eligible children. Because of statewide efforts under LACHIP, more than 100,000 Louisiana children now have health insurance.

The Access to Affordable Health Care Act provides a refundable tax credit for low and middle income workers who don't have employer-provided coverage. It also improves the welfare-to-work transition by bridging the gap when newly employed workers lose their Medicaid coverage.

Providing access to insurance is not only the right thing to do it is the smart thing to do. Uninsured patients are 3 times more likely to require hospitalization for avoidable conditions. The uninsured have a greater chance of being diagnosed with late stage cancer. They are 2 times as likely to die of breast cancer. Because they are often unable to avail themselves on preventive care, the majority of medical attention they receive is catastrophic and delivered by an emergency room. What these statistics show is that when we provide greater access to health insurance we not only save lives, but we also save millions of dollars in long term health care costs.

Again, I want to thank my colleague from Maine for her efforts in producing this important legislation. I look forward to working with her and other like minded colleagues towards reaching the day when all Americans are insured.●

THE LATE HERMAN EUGENE TALMADGE

● Mr. THURMOND. Mr. President, I would like to take this opportunity to recall the memory of my devoted cousin and loyal friend. It is with great sadness that I remember my former colleague here in the United States Senate, the late Herman Talmadge, who shared this floor with me for many years. He passed away yesterday at his home in Hampton, GA.

Herman Eugene Talmadge was born in 1913 to Eugene and Mattie Thurmond Talmadge in McRae, GA. He graduated from the University of Georgia School of Law in 1936 and then went on to practice law in Atlanta with his father. He continued to practice law until he felt a patriotic duty to volunteer for World War II. He entered the United States Navy in 1941 as an ensign. He was discharged from the Navy as a lieutenant commander in 1945. Senator Talmadge was also the capable Governor of the fine State of Georgia from 1948 to 1955. As Governor, Senator Talmadge focused his efforts on the farmers and rural areas of Georgia.

Senator Talmadge distinguished himself in the United States Senate. During his tenure, he served as chairman of the Agriculture Committee, vice chairman of the Finance Committee, and on the Watergate committee hearings. Senator Talmadge continued to support rural areas and the farming community in the United States Senate when he helped pass the Rural Development Act of 1972. This act promoted the development of jobs and infrastructure in rural areas. He gained much of his national recognition during the year long Watergate committee hearings.

Senator Talmadge may have best been known for the outstanding services that he provided to the good people of Georgia. He tried to provide the best possible service to everyone that he possibly could. He never forgot those who voted for him, and he was always willing to help his constituents. It was a combination of this constituent support and his strong work ethic that made him so hard to beat in an election.

Senator Talmadge was a public spirited, patriotic citizen. He will long be remembered for all his great works in the United States Senate, and for his unwavering commitment and support to the people of the Peach State. He was not only a statesman, but also a true southern gentleman, and he will undoubtedly be missed by a large circle of family and friends.

My heartfelt thoughts and Prayers go out to the entire Talmadge Family. May God's richest blessings rest on them and sustain them in this time of sorrow and grief.●

WOMEN'S HISTORY MONTH 2002

● Mrs. CLINTON. Mr. President, on the occasion of women's history month, I am proud to honor the long tradition of New York women who made history. And there is no more appropriate place to begin than with three women heroes who gave their lives to save others at the World Trade Center. Officer Kathy Mazza, Emergency Medical Technician Yamel Merino, and Officer Moira Smith were recently named Women of Distinction for their heroic acts on September 11, and for their history of service to the people of New York.

Kathy Mazza served as the first female commandant of the Port Authority Police Training Academy. Yamel Merino was recognized as New York's emergency medical technician of the year last year, and Moira Smith previously received the Distinguished Duty Medal for rescuing people after a subway crash.

On September 11 these three heroes brought the same commitment to their jobs that they showed every day, willing to put their lives on the line at a moment's notice for fellow New Yorkers who they did not know. We will never forget their selfless acts of courage and commitment to duty on that day, and how they worked side by side with their brothers to escort as many people as possible to safety. Our thoughts remain with their families who have suffered an immeasurable loss during this tragedy, and who are comforted by the knowledge that their loved ones acted with honor and bravery.

Years from now their stories will be told alongside the stories of so many courageous New York women who devoted their lives to others and shaped history through their actions. After all, New York was the birthplace of one of the largest social movements of this country's history. In Seneca Falls in 1848, women came together to issue the Declaration of Sentiments that served as a launching point for the women's rights movement.

So many of our foremothers whose contributions are now legendary called New York home. From the great abolitionist Harriet Tubman who provided safe passage to her sisters and brothers who sought freedom from slavery, to Elizabeth Cady Stanton and Susan B. Anthony who never gave up in the movement for women's suffrage, to the great labor leader Kate Mullany, New York women have always made a difference.

When celebrating this women's history month, we pause to salute the accomplishments of women who gave so much of themselves to this country. Children generations from now will come to understand our great loss on September 11 by learning the stories of Kathy Mazza, Yamel Merino, Moira Smith and all of the firefighters, police officers and first responders to whom we owe so much. Today and everyday we need to do our part to tell their stories and to honor their lives.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I wish to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 27, 1993 in Atlanta, GA. A gay man was abducted, beaten, robbed and thrown out of a moving car. The four assailants used anti-gay slurs while beating the victim.

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

against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

TRIBUTE TO STEPHEN J. ANDERSON

● Mr. REED. Mr. President, it gives me great pleasure to recognize an outstanding Rhode Islander, Stephen J. Anderson. Steve has distinguished himself with a rewarding career as a public school teacher and as an accomplished State Representative in the Rhode Island General Assembly.

In 1972, Steve began his teaching career in the Exeter West Greenwich School System where he has taught Social Studies, History and Geography. Even as a young child, Steve dreamed of being a teacher, and his enthusiasm, dedication and professionalism over the past three decades has had a profound effect on our community and in the lives of generations of young people.

Steve is described as a hardworking and imaginative teacher who has a special gift for relating to his students. He is modest, friendly and witty and easily earns their respect and admiration. He has a deep belief that every student can learn and that each has contribution to make. Moreover, Steve has been a leader in the School Department and has chaired the school improvement team and coordinated its professional development plan. He can be credited with bringing standards-based training to the school and has worked to provide graduate course work in support of these efforts. In addition to his classroom duties, Steve also devotes his time and talents as the Coach of the Jr. High Soccer Team and the Cross Country Team.

In 2000, Steve Anderson was honored as the recipient of both the Charles B. Willard Achievement Award and the Alumni Service Award from his alma mater Rhode Island College. The Charles B. Willard Award is presented to graduates who have brought honor to the College by distinguished service in their field. Additionally, the Alumni Service Award honors those who have made a contribution to the College by unselfishly devoting their time, talents and resources or to an individual who has made a contribution to the state or nation which reflects ideals of service to the community. Indeed, Steve Anderson epitomizes the spirit of both these coveted awards.

In the General Assembly, Steve has been a leader on education issues and successfully sought funding for National Board Certification for Professional Teaching Standards in Rhode Island, for innovative reading programs for pre-school children and for the Rhode Island Geographic Alliance.

I ask my colleagues to join me in commending Stephen J. Anderson for his commitment to education and public service. He inspires us with his example of leadership, and I join with a grateful community in commending him for his efforts in the classroom, as a policy maker and as outstanding Rhode Island citizen.●

HONORING WOMEN 4 WOMEN, INC.

● Mr. BUNNING. Mr. President, today I offer a proper salute to Women 4 Women, Inc. of Greater Louisville, KY for its significant social and economic contributions to the Commonwealth of Kentucky.

Women 4 Women, founded and currently chaired by Elaine Musselman in 1993, is a not-for-profit organization, which aims to bring about positive social change by addressing existing issues confronting women and bringing these particular issues to a proper level of awareness in the community. In order to accomplish this goal, Women 4 Women offer their various resources to chosen community organizations and assist them in building adequate channels of communication to enhance their capacity to solve social and economic problems affecting women. Women 4 Women has also achieved an extraordinary level of success with their fundraising efforts. They have developed one of the most respected charity events held in Kentucky with their annual women's golf tournament. Also included with the golf tournament is a kick-off luncheon featuring a national speaker, a 5K run/walk, a family festival and a music celebration. Over the years, Women 4 Women has amazingly donated more than $500,000 for various causes through their fund-raising capabilities. This group, made up of over one hundred women, is dedicated to their causes, diligent in their efforts, and determined to bring about change.

Women 4 Women deserves special attention for unveiling their Benchmark 2000 partnership program in Jefferson County, KY for which they won an Ogden Newell & Welch Inc. Award. Specifically, Benchmark 2000 aims to study the status of women and girls in Jefferson County through strong coalition building between citizens and government in order to improve the overall economic and social status of females. By combining existing data and information from citizens, government officials, and service providers, the diligent participants of this program hope to, over time, address the existing needs of females and bring about positive social change.

I would like to express my sincerest admiration to all members of Women 4 Women for their hard work in the area of women's rights and commitment to the greater good of the community. Organizations such as Women 4 Women deserve praise and recognition for their good deeds and progressive vision.●

IN MEMORIAM OF BUZZ FITZGERALD AND JOEL ABROMSON

● Ms. COLLINS. Mr. President, I rise today with a heavy heart to pay tribute to two pillars of the Community of Maine, Buzz Fitzgerald and Joel Abromson. How can I describe what these two men meant to their beloved home State? These words of then President-elect John Fitzgerald Kennedy provide a start: ''And when, at some future date, the high court of history sits in judgment on each of us, recording whether in our brief span of service we fulfilled our responsibilities to the state, our success or failure, in whatever office we hold, will be measured by the answers to four questions: first, were we truly men of courage; second, were we truly men of judgment; third, were we truly men of integrity; and finally, were we truly men of dedication?''

These words, first uttered by President-elect Kennedy when I was an elementary school student in Caribou, began to have real meaning for me when they were quoted regularly in speeches by my old boss and mentor, Bill Cohen, a gifted orator and, in many ways, a walking Bartlett's.

But the full impact of Kennedy's glorious phrases struck me with special poignancy this year as I pondered the loss of two of Maine's leading citizens, two good friends, two wonderful men who were taken from us while still in their early 60's, at the height of their powers.

One was born in St. John Plantation in far northern Maine, the other in Auburn. One moved when he was one year old, the other after college. But each became synonymous with his community, Buzz Fitzgerald with Bath, and Joe Abromson with Portland.

Each contributed mightily to his company, to his community, to his State. Each had a family that extended well beyond actual relatives to Mainers in all walks of life. Each made the lives of thousands of people better, and each did it without apparent effort and without a hint of self-righteousness.

It is often said that if you want a job done well, find a busy man. Each of these remarkable individuals ran a company, each possessed a breathtaking list of civic and charitable credentials, and each demonstrated a willingness to embrace causes that would send many businessmen fleeing for cover.

As I watch Buzz become a champion of reproductive rights for women, or Joel become a leading advocate for equal rights for gays and lesbians, I watched the embodiment of Kennedy's four defining characteristics: courage, judgment, integrity, dedication. Those four qualities were an immense aid to Joel as he championed a state law that would outlaw discrimination against Maine citizens who are gay or lesbian. Even though he did not prevail, he led his noble fight for gay rights with courage and integrity, in a manner that is to be commended.

Indeed, I saw two men who could immerse themselves in the most emotional of issues, those causes that rubbed nerves raw in public debate, and I could see them emerge without enemies. Disagreeing without being disagreeable is a high art form, and these two men created a portrait of what informed public discourse should be.

Buzz and Joel took their jobs and their commitments seriously, but never themselves. A rich store of humor, often self-deprecating, was never far from their lips. Successful people rarely lack charm, and each possessed it in abundance. Whether it was the union leadership hammering out a contract agreement with Buzz at the Bath Iron Works or Joel's colleagues on both sides of the aisle negotiating with him on a bill in the Maine Senate, friends and adversaries alike were drawn to both men because they invariably deserved to be trusted. It may be hackneyed to say their word was their bond. But it was. Always.

A friend of mine who knew both men, but was not an intimate of either, tells a story that is illustrative. When my friend's father died in Florida, the first contribution made in his memory came from Joel Abromson. And when Buzzy's sister, Gayle Corey, died of a virulent form of cancer, Buzz did not wait to receive expressions of condolence; rather, he sent notes to Gayle's friends thanking them for befriending her. One does not easily forget gestures such as these, and there were thousands of others. In the final days and weeks of his life, Buzz called other cancer patients trying to cheer them up.

Fortunately for all of us who benefited from knowing them, many Maine leaders, led by Governor King, participated in exceptionally moving public tributes to these two remarkable individuals while they were still alive to hear the accolades. Having spoken to both of them shortly before they died, I know that they were touched by the outpouring of appreciation for lives well lived.

Losing public treasures like Joel and Buzz when they had so much more to give reminds us anew that life is unfair, as President Kennedy often noted. Fair or not, our state has lost two remarkable citizens and we will not see their like again soon.

To me, they are the standard by which we should measure ourselves. Each of us will honor their memory most appropriately if we try to emulate the service they gave so generously to our State and its people.●

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.)

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–220. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to permit states to promote long-term care insurance under Medicaid; to the Committee on Finance.

SENATE RESOLUTION NO. 109

Whereas, As the number of elderly in America continues its swift growth, the issue of long-term care will present an increasing number of problems for our Nation. Demographic trends leave little doubt that, without significant changes, the publicly funded Medicaid program may be stretched beyond its capacity to respond adequately to the needs of our country's poor and elderly; and

Whereas, The challenge of paying for long-term care most often ends up being handled by Medicaid. The Federal-State partnership of Medicaid, which is designed to provide health coverage for the poor, ends up covering the long-term care costs for millions of older Americans who become poor only because their resources are exhausted by the high costs of nursing homes or in-home care. Approximately one of every three Medicaid dollars is spent on long-term care; and

Whereas, While each state determines the eligibility requirements for Medicaid based on specific factors, general eligibility thresholds limit the assets that can be preserved by a Medicaid recipient and spouse; and

Whereas, There is a bill before Congress, H.R. 1041, that seeks to permit states more flexibility to enter into long-term care partnerships under Medicaid in order to promote the use of long-term care insurance. Clearly, any measure to increase insurance in this area would be most helpful for our country; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact legislation to permit states to promote long-term care insurance under Medicaid; and be it further

Resolved, that copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan Congressional Delegation.

POM–221. A joint resolution adopted by the Senate of the Legislature of the State of Vermont relative to the desecration of the United States Flag; to the Committee on the Judiciary.

JOINT SENATE RESOLUTION NO. 9

Whereas, the flag of the United States is one of the greatest symbols of our nation, and

Whereas, this symbol represents the defining principles of our country, and

Whereas, Americans have placed their lives in harm's way and, in hundreds of thousands of cases, have sacrificed their lives defending these principles, and

Whereas, their willingness to sacrifice their lives in defense of these cherished principles demonstrates one of the purest and most commendable forms of patriotism, and

Whereas, these patriots have focused on the flag as the ultimate symbol for which they and their families have sacrificed, and

Whereas, the flag serves important ceremonial functions at public gatherings, funerals, celebrations of patriotic holidays, parades and countless other gatherings, and

Whereas, respect for the flag and the various protocols attendant thereto (such as proper display, proper folding, saluting, et cetera) serves as an introduction, for many young Americans to the symbol of our nation, and

Whereas, we the American people, accord our flag a unique position of respect, love and admiration for the principles it represents, and recognize the importance of providing dignity and honor to this symbol, and

Whereas, these principles include the protection of individual freedoms enumerated in the First Amendment to the United States Constitution including free speech, free press, peaceable assembly, and petitions for the redress of grievances, now therefore be it

Resolved by the Senate and House of Representatives, That the General Assembly expresses its respect and admiration for our United States Flag, and be it further

Resolved, That the General Assembly expresses its condemnation of all acts of flag desecration, and similar displays of disrespect for the United States Flag, and be it further

Resolved, That the General Assembly urges the Congress of the United States to ensure that proper respect and treatment will always be afforded to the United States Flag, and that the Congress explore all avenues available, which may include a constitutional amendment, a statutory change and a public education program, to protect the United States Flag from physical desecration, and be it further

Resolved, That the Secretary of State transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and all members of the Vermont Congressional Delegation.

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–5876. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Melons Grown in South Texas; Increased Assessment Rate'' (Doc. No. FV02–979–1 FR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5877. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Onions Grown in South Texas; Increased Assessment Rate'' (Doc. No. FV02–959–01–FR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5878. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit Grown in California; Relaxation of Pack Requirements'' (Doc. No. FV08–920–1 FIR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5879. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled

''Nectarines and Peaches Grown in California; Revision of Reporting Requirements for Fresh Nectarines and Peaches'' (Doc. No. FV01–916–3 FIR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5880. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Hazelnuts Grown in Oregon and Washington; Establishment of Interim Final and Final Free and Restricted Percentages for the 2001–2002 Marketing Year'' (Doc. No. FV–982–1 IFR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5881. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisins Produced from Grapes Grown in California; Reduction in Production Cap for 2002 Diversion Program'' (Doc. No. FV02–989–2 IFR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5882. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate'' (Doc. No. FV02–925–01 FR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5883. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Beef Promotion and Research; Reapportionment'' (Doc. No. LS–01–05) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5884. A communication from the Administrator, Livestock and Seed—Seed Regulatory and Testing Branch, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Increased in Fees for Voluntary Federal Seed Testing and Certification Services and Establishment of a Fee for Preliminary Test Reports'' (Doc. No. LS–01–07) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5885. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Regulations Governing the California Prune/Plum (Tree Removal) Diversion Program'' (Doc. No. FV01–81–01 FR) received on March 15, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5886. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fees for Official Inspection and Official Weighing Service'' (RIN0580–AA79) received on March 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5887. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, received on March 15, 2002; to the Committee on Armed Services.

EC–5888. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, the notice of a revision to the Fiscal Year 2002 Annual Materials Plan (AMP); to the Committee on Armed Services.

EC–5889. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, a report relative to a Full-Up, System Level (FUSL) Live Fire Test and Evaluation (LFT&E) on all three variants of the Joint Strike Fighter (JSF) aircraft; to the Committee on Armed Services.

EC–5890. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of the Army, Acquisition, Logistics and Technology, received on March 15, 2002; to the Committee on Armed Services.

EC–5891. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary of Defense, Special Operations/Low Intensity Conflict, received on March 15, 2002; to the Committee on Armed Services.

EC–5892. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, the Department of Defense Education Activity (DoDEA) 1999–2000 Accountability Report and the 1999–2000 School Profiles for the Department of Defense Dependents Schools (DoDDS); to the Committee on Armed Services.

EC–5893. A communication from the Secretary of the Air Force, transmitting, the report of an Average Procurement Unit Cost (APUC) breach; to the Committee on Armed Services.

EC–5894. A communication from the Acting General Counsel, Peace Corps, transmitting, pursuant to law, the report of a vacancy in the position of Acting Director, received on March 15, 2002; to the Committee on Foreign Relations.

EC–5895. A communication from the Acting General Counsel, Peace Corps, transmitting, pursuant to law, the report of a vacancy and the discontinuation of acting officer for the position of Deputy Director, received on March 15, 2002; to the Committee on Foreign Relations.

EC–5896. 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–5897. 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–5898. 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–5899. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Documentation of Nonimmigrants Under the Immigration and Nationality Act, as amended: International Organizations; Interim Rule'' (22 CFR Part 41) received on March 15, 2002; to the Committee on Foreign Relations.

EC–5900. 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 or services sold commercially under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–5901. 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–5902. A communication from the Assistant Legal Advisor 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–5903. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''VISAS: Documentation of Nonimmigrants and Immigrants under the Immigration and Nationality Act, as amended: Fingerprinting; Access to Criminal History Records; Conditions for use of criminal history records'' (22 CFR Part 40) received on March 15, 2002; to the Committee on Foreign Relations.

EC–5904. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Documentation of Immigrants Under the Immigration and Nationality Act, As Amended—Immediate Relatives'' (22 CFR Part 42) received on March 18, 2002; to the Committee on Foreign Relations.

EC–5905. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended—Additional International Organization'' (22 CFR Part 41) received on March 18, 2002; to the Committee on Foreign Relations.

EC–5906. A communication from the Executive Secretary and Chief of Staff, USAID, Bureau for Africa, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator, received on March 18, 2002; to the Committee on Foreign Relations.

EC–5907. A communication from the Acting Deputy Chief of Naval Operations, Fleet and Readiness and Logistics, transmitting, a notice to convert to performance by the private sector the Transportation function at NADEP Cherry Point, NC; to the Committee on Armed Services.

EC–5908. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a change in Notice 2001–64, received on March 13, 2002; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CONRAD, from the Committee on the Budget, without amendment:

S. Con. Res. 100. An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2003 and setting forth the appropriate budgetary levels for each of the fiscal years 2004 through 2012.

NOMINATIONS DISCHARGED

The following nomination was discharged from the Committee on Finance pursuant to the order of March 22, 2002:

DEPARTMENT OF THE TREASURY

Randal Quarles, of Utah, to be Deputy Under Secretary of the Treasury.

The following nomination was discharged from the Committee on Agriculture, Nutrition, and Forestry pursuant to the order of March 22, 2002:

DEPARTMENT OF AGRICULTURE

Nancy Southard Bryson, of the District of Columbia, to be General Counsel of the Department of Agriculture.

The following nomination was discharged from the Committee on Health, Education, Labor, and Pensions pursuant to the order of March 22, 2002:

DEPARTMENT OF LABOR

Victoria A. Lipnic, of Virginia, to be an Assistant Secretary of Labor.

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. BAYH:

S. 2066. A bill to prohibit United States assistance and commercial arms exports to countries and entities supporting international terrorism; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself, Mr. BOND, and Mr. INOUYE):

S. 2067. A bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. BAYH, Mr. CLELAND, Mrs. CARNAHAN, and Mr. LIEBERMAN):

S. 2068. A bill to further encourage and facilitate service in the Armed Forces of the United States, and for other purposes; to the Committee on Armed Services.

By Mr. NELSON of Florida (for himself, Mr. GRAHAM, Mr. CLELAND, and Mr. MILLER):

S. 2069. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Jacksonville, Florida, metropolitan area; to the Committee on Veterans' Affairs.

By Mr. BINGAMAN (for himself and Mr. KERRY):

S. 2070. A bill to amend part A of title IV to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

By Mr. SMITH of New Hampshire:

S. 2071. A bill to amend title 23, United States Code, to prohibit the collection of tolls from vehicles or military equipment under the actual physical control of a uniformed member of the Armed Forces, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CORZINE (for himself, Mr. BINGAMAN, and Mr. BREAUX):

S. 2072. A bill to amend title XIX of the Social Security Act to provide States with the option of covering intensive community mental health treatment under the Medicaid Program; to the Committee on Finance.

By Mr. CRAIG:

S. 2073. A bill to provide for the retroactive entitlement of Ed W. Freemen to Medal of Honor special pension; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CONRAD:

S. Con. Res. 100. An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2003 and setting forth the appropriate budgetary levels for each of the fiscal years 2004 through 2012; from the Committee on the Budget; placed on the calendar.

ADDITIONAL COSPONSORS

S. 940

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 960

At the request of Mr. BINGAMAN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 960, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular diseases.

S. 1343

At the request of Mr. CHAFEE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1343, a bill to amend title XIX of the Social Security Act to provide States with options for providing family planning services and supplies to individuals eligible for medical assistance under the medicaid program.

S. 1409

At the request of Mr. SMITH of New Hampshire, his name was added as a cosponsor of S. 1409, a bill to impose sanctions against the PLO or the Palestinian Authority if the President determines that those entities have failed to substantially comply with commitments made to the State of Israel.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

S. 1924

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 2040

At the request of Mr. ROBERTS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2040, a bill to provide emergency agricultural assistance to producers of the 2002 crop.

S. 2058

At the request of Mrs. LINCOLN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2058, a bill to replace the caseload reduction credit with an employment credit under the program of block grants to States for temporary assistance for needy families, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. BOND, and Mr. INOUYE):

S. 2067. A bill to amend title XVIII of the Social Security Act to enhance the access of Medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits to improve the Medicare+Choice program, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today with Senators BOND and INOUYE entitled the ''Medicare Safety Net Access Act of 2002,'' or ''Access 2002,'' would improve services for Medicare beneficiaries and protect a critical mission of health centers, to provide access to care to underserved rural, frontier, and inner-city communities.

Community health centers, CHC's, provide primary and preventive care to more than 700,000 medically underserved Medicare beneficiaries, including over 20,000 in New Mexico. Health centers also provide critical support services that help seniors more easily access care. In many cases, the local health center may be the only source of primary and preventive care for Medicare beneficiaries in a community.

While hundreds of thousands of Medicare beneficiaries turn to health centers for care, many centers struggle to provide services to these patients. Current Medicare regulations cause health centers significant financial losses that have a direct impact on access to care. In addition, the Medicare federally qualified health center, FQHC, benefit has not been modernized to include many of the new preventive and other services added to the Medicare package by Congress in recent years again undermining the critical role that health centers play in providing access to care.

To address these and other issues, Senators BOND, INOUYE, and I are introducing the ''Medicare Safety Net Access Act of 2002'', also known as ''Access 2002.'' The legislation would address the following problems.

With respect to payment issues, the bill ensures that Medicare covers the cost of providing care to Medicare beneficiaries at CHC's. Congress provides more than $1.3 billion in section 330 funding to CHC's to provide care to

the uninsured. When Medicare fails to cover the costs of care for Medicare beneficiaries, CHC's must make up for the shortfall through a variety of mechanisms including drawing from the section 330 grants, which are supposed to be dedicated for care to the uninsured.

Medicare has historically provided such cost-based reimbursement to other safety net providers, such as certain rural hospitals, cancer hospitals, and children's hospitals. Moreover, Congress passed legislation in 2000 to protect health centers from the same problem in Medicaid.

The legislation assures that CHC's are afforded the same protections through the Medicare program so that Federal funding for the uninsured is not redirected to pay for shortfalls from Medicare patients. It does so by eliminating the per visit payment cap on health centers' Medicare payments. In the Medicare statute, Congress clearly intended to cover the cost of a health centers' Medicare patients, but the Centers for Medicare and Medicaid Services, CMS, applies an arbitrary ''payment cap'' that is not in the Federal statute. For many health centers, the cap has significantly reduced their Medicare payments, particularly for patients that have chronic illnesses, and forced them to reduce care they would have otherwise provided for their uninsured patients. Our bipartisan legislation prevents the imposition of the Medicare payment cap for health centers, and again, mirrors cost-based reimbursement that a number of other safety-net providers receive through Medicare.

The bill also extends payment protections to Medicare+Choice. This is achieved by establishing a supplemental or ''wrap-around'' payment much like the one that currently exists in the Medicaid program for FQHC's contracting with managed care organizations. As this has worked so well in the Medicaid program, Congress should also enact a ''wrap-around'' payment in the Medicare+Choice program to ensure CHC's are having their reasonable costs appropriately covered.

In addition, the legislation eliminates regulatory hurdles that impair health centers' ability to provide preventive ambulatory services to Medicare patients. While CHC's provide primary care services to their patients, Medicare does not cover anything other than the most basic services provided at CHC's. Such services that health centers may provide that Medicare does not pay on a cost basis, include: mammograms, nutrition services, or laboratory or x-ray services. Some of these services have been recently been added by Congress but the Medicare FQHC benefit has not been updated to reflect those changes. This legislation would expand the services that health centers could provide to medically underserved Medicare beneficiaries.

Furthermore, the bill ensures the availability of these services to those enrolling in Medicare managed care but requiring Medicare+Choice plans to contract with a sufficient number of FQHC's to make FQHC services accessible to plan enrollees.

And finally, the ''Medicare Safety Net Access Act of 2002'' establishes a safe harbor in the federal anti-kickback statute for arrangements between health centers and other providers that improve access to services for low-income patients in underserved communities. Health centers and other providers often participate in arrangements designed to expand their ability to provide care in the poor communities they serve. However, these arrangements can potentially expose health centers under the federal anti-kickback laws.

For nine years, a proposed ''safe harbor'' has been pending before the U.S. Department of Health and Human Services' Office of the Inspector General, HHS IOG, that would allow health centers to contract with other providers to improve health services to low-income patients without fear of being in violation of the anti-kickback law. To qualify under the proposed safe harbor, the arrangement would have to meet strict criteria to protect against fraud and abuse, including the demonstration of a community benefit through the savings of grant dollars intended for care for the uninsured or an increase in the availability of services to a medically underserved community. There are additional requirements, such as assurances that the arrangement to not limit a patient's freedom of choice, in addition to any others that the IOG deems are needed as long as they are consistent with congressional intent.

Community health centers enjoy strong bipartisan support in Congress because they are cost-effective providers of services that keep patients healthy and out of costly specialty and emergency settings. As more people prepare to enter the Medicare program, it is vital that beneficiaries in rural, frontier, and inner-city areas have access to the full range of Medicare benefits. Health centers are the vehicle to make that happen. I urge passage of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordererd to be printed in the RECORD, as follows:

S. 2067

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 ''Medicare Safety Net Access Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. SUPPLEMENTAL REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS PARTICIPATING IN MEDICARE MANAGED CARE.

(a) SUPPLEMENTAL REIMBURSEMENT.—

(1) IN GENERAL.—Section 1833(a)(3) of the Social Security Act (42 U.S.C. 1395*l*(a)(3)) is amended to read as follows:

''(3) in the case of services described in section 1832(a)(2)(D)—

''(A) except as provided in subparagraph (B), the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs; or

''(B) with respect to the services described in clause (ii) of section 1832(a)(2)(D) that are furnished to an individual enrolled with a Medicare+Choice organization under part C pursuant to a written agreement described in section 1853(j), the amount by which—

''(i) the amount of payment that would have otherwise been provided under subparagraph (A) (calculated as if '100 percent' were substituted for '80 percent' in such subparagraph) for such services if the individual had not been so enrolled; exceeds

''(ii) the amount of the payments received under such written agreement for such services (not including any financial incentives provided for in such agreement such as risk pool payments, bonuses, or withholds),

less the amount the Federally qualified health center may charge as described in section 1857(e)(3)(C);''.

(b) CONTINUATION OF MEDICARE+CHOICE MONTHLY PAYMENTS.—

(1) IN GENERAL.—Section 1853 of the Social Security Act (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

''(j) SPECIAL PAYMENT RULE FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—If an individual who is enrolled with a Medicare+Choice organization under this part receives a service from a Federally qualified health center that has a written agreement with such organization for providing such a service (including any agreement required under section 1857(e)(3))—

''(1) the Secretary shall pay the amount determined under section 1833(a)(3)(B) directly to the Federally qualified health center not less frequently than quarterly; and

''(2) the Secretary shall not reduce the amount of the monthly payments to the Medicare+Choice organization made under section 1853(a) as a result of the application of paragraph (1).''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraphs (1) and (2) of section 1851(i) of the Social Security Act (42 U.S.C. 1395w–21(i)(1)) are each amended by inserting ''1853(j),'' after ''1853(h),''.

(B) Section 1853(c)(5) is amended by striking ''subsections (a)(3)(C)(iii) and (i)'' and inserting ''subsections (a)(3)(C)(iii), (i), and (j)(1)''.

(c) ADDITIONAL MEDICARE+CHOICE CONTRACT REQUIREMENTS.—Section 1857(e) of the Social Security Act (42 U.S.C. 1395w–27(e)) is

amended by adding at the end the following new paragraph:

''(3) AGREEMENTS WITH FEDERALLY QUALIFIED HEALTH CENTERS.—

''(A) ENSURING EQUAL ACCESS TO SERVICES OF FQHCS.—A contract under this part shall require the Medicare+Choice organization to enter into (and to demonstrate to the Secretary that it has entered into) a sufficient number of written agreements with Federally qualified health centers providing Federally qualified health center services for which payment may be made under this title in the service area of each Medicare+Choice plan offered by such organization so that such services are reasonably available to individuals enrolled in the plan.

''(B) ENSURING EQUAL PAYMENT LEVELS AND AMOUNTS.—A contract under this part shall require the Medicare+Choice organization to provide a level and amount of payment to each Federally qualified health center for services provided by such health center that are covered under the written agreement described in subparagraph (A) that is not less than the level and amount of payment that the organization would make for such services if the services had been furnished by a provider of services that was not a Federally qualified health center.

''(C) COST-SHARING.—Under the written agreement described in subparagraph (A), a Federally qualified health center must accept the Medicare+Choice contract price plus the Federal payment as payment in full for services covered by the contract, except that such a health center may collect any amount of cost-sharing permitted under the contract under this part, so long as the amounts of any deductible, coinsurance, or copayment comply with the requirements under section 1854(e) and do not result in a total payment to the center in excess of the amount determined under section 1833(a)(3)(A) (calculated as if '100 percent' were substituted for '80 percent' in such section).''.

(d) SAFE HARBOR FROM ANTIKICKBACK PROHIBITION.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(G) any remuneration between a Federally qualified health center (or an entity controlled by such a health center) and a Medicare+Choice organization pursuant to the written agreement described in section 1853(j).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided on or after January 1, 2003, and contract years beginning on or after such date.

SEC. 3. REVISION OF FEDERALLY QUALIFIED HEALTH CENTER PAYMENT LIMITS.

(a) PER VISIT PAYMENT REQUIREMENTS FOR FQHCS.—Section 1833(a)(3)(A) of the Social Security Act (42 U.S.C. 1395*l*(a)(3)(A)), as amended by section 2(a), is amended by adding ''(which regulations may not limit the per visit payment amount, or a component of such amount, for services described in section 1832(a)(2)(D)(ii))'' after ''the Secretary may prescribe in regulations''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2003.

SEC. 4. COVERAGE OF ADDITIONAL FEDERALLY QUALIFIED HEALTH CENTER SERVICES.

(a) COVERAGE FOR FQHC AMBULATORY SERVICES.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3)) is amended to read as follows:

''(3) The term 'Federally qualified health center services' means—

''(A) services of the type described in subparagraphs (A) through (C) of paragraph (1), and such other services furnished by a Federally qualified health center for which payment may otherwise be made under this title if such services were furnished by a health care provider or health care professional other than a Federally qualified health center; and

''(B) preventive primary health services that a center is required to provide under section 330 of the Public Health Service Act, when furnished to an individual as a patient of a Federally qualified health center.''.

(b) OFFSITE FQHC SERVICES.—

(1) PATIENTS OF HOSPITALS AND CRITICAL ACCESS HOSPITALS.—Section 1862(a)(14) of the Social Security Act (42 U.S.C. 1395y(a)) is amended by inserting ''Federally qualified health center services,'' after ''qualified psychologist services,''.

(2) EXCLUSION OF FEDERALLY QUALIFIED HEALTH CENTER SERVICES FROM THE PPS FOR SKILLED NURSING FACILITIES.—Section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)) is amended—

(A) in paragraph (2)(A)(i)(II), by striking ''clauses (ii) and (iii)'' and inserting ''clauses (ii) through (iv)''; and

(B) by adding at the end of paragraph (2)(A) the following new clause:

''(iv) EXCLUSION OF FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Services described in this clause are Federally qualified health center services (as defined in section 1861(aa)(3)).''.

(c) TECHNICAL CORRECTIONS.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''subsection (hh)(1)),,'' and inserting ''subsection (hh)(1)),''.

(2) Clauses (i) and (ii)(II) of section 1861(aa)(4)(A) of the Social Security Act (42 U.S.C. 1395x(aa)(4)(A)) are each amended by striking ''(other than subsection (h))''.

(d) EFFECTIVE DATES.—The amendments made—

(1) by subsections (a) and (b) shall apply to services furnished on or after January 1, 2003; and

(2) by subsection (c) shall take effect on the date of enactment of this Act.

SEC. 5. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7(b)(3)), as amended by section 2(d), is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(H) any remuneration between a public or nonprofit private health center entity described under clauses (i) and (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations or loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement produces a community benefit that will be used by the health center entity to maintain or increase the availability or accessibility, or enhance the quality, of services provided to a medically underserved population served by the health center entity.''.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall establish, on an expedited basis, standards relating to the exception for health center entity arrangements to the antikickback penalties described in section 1128B(b)(3)(F) of the Social Security Act, as added by subsection (a).

(B) FACTORS TO CONSIDER.—In establishing standards relating to the exception for health center entity arrangements under subparagraph (A), the Secretary—

(i) shall extend the exception where the arrangement between the health center entity and the other party—

(I) results in savings of Federal grant funds or increased revenues to the health center entity;

(II) does not limit or restrict a patient's freedom of choice; and

(III) does not interfere with a health care professional's independent medical judgment regarding medically appropriate treatment; and

(ii) may include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this subsection.

(2) INTERIM FINAL EFFECT.—No later than 60 days after the date of enactment of this Act, the Secretary shall publish a rule in the Federal Register consistent with the factors under paragraph (1)(B). Such rule shall be effective and final immediately on an interim basis, subject to change and revision after public notice and opportunity (for a period of not more than 60 days) for public comment, provided that any change or revision shall be consistent with this subsection.

By Mr. NELSON of Florida (for himself, Mr. GRAHAM, Mr. CLELAND, and Mr. MILLER):

S. 2069. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Jacksonville, Florida, metropolitan area; to the Committee on Veterans' Affairs.

Mr. NELSON of Florida. Mr. President, this Nation honors in many ways the service of those who have worn the uniform of our Armed Forces and placed themselves in harm's way to defend our freedom and way of life. This Nation raises great monuments to commemorate the many battles and the countless heroes of those battles fought throughout our history. This Nation sets aside special days to remember the sacrifice of generations of Americans who have stepped forward in America's defense.

This Nation hallows ground where we lay to rest those who have served us in our hour of greatest need. Our National Cemetery System is not only hallowed ground, national cemeteries are monuments to military service, the places where we go on those special days to pay tribute to the sacrifice of so many in our history.

Today I offer legislation to establish a national cemetery near Jacksonville, FL, to meet the needs of thousands of veterans who have chosen to live out their lives in northeast Florida and southeast Georgia. Florida's veteran population is the second largest in the Nation. Right now in northern Florida and southern Georgia, there are nearly half-a-million veterans. Florida has the Nation's oldest veteran population and one of the largest remaining populations of World War II veterans. We are all aware that this greatest of generations is passing away at higher and higher rates.

Unfortunately for these hundreds of thousands of veterans in Florida and Georgia, the nearest national cemetery is located in Bushnell, FL, which is 3-hour drive from Jacksonville. The national cemetery in St. Augustine is full and closed. The nearest national cemetery in Georgia is in Marietta just north of Atlanta.

Our veterans have made great sacrifices to protect our country in her days of peril, and certainly deserve to rest in honored respect in a national cemetery. To honor the veterans of northeast Florida and southeast Georgia, we must act now, in order to have this facility established by 2006 when our World War II veterans' deaths are expected to reach their peak.

Senators GRAHAM and CLELAND and I are honored and proud to sponsor this important bill, and we look forward to the support of our colleagues as we provide for our veterans who have given so much for our country.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2069

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

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall establish, in accordance with chapter 24 of title 38, United States Code, a national cemetery in the Jacksonville, Florida, metropolitan area to serve the needs of veterans and their families.

(b) CONSULTATION IN SELECTION OF SITE.—Before selecting the site for the national cemetery established under subsection (a), the Secretary shall consult with—

(1) appropriate officials of the State of Florida and local officials of the Jacksonville metropolitan area, and

(2) appropriate officials of the United States, including the Administrator of General Services, with respect to land belonging to the United States in that area that would be suitable to establish the national cemetery under subsection (a).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the establishment of the national cemetery under subsection (a). The report shall set forth a schedule for such establishment and an estimate of the costs associated with such establishment.

By Mr. BINGAMAN (for himself and Mr. KERRY):

S. 2070. A bill to amend part A of title IV to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Children First Act. Since 1996, federal funding for child care assistance under the Child Care and Development Block Grant, CCDBG, has significally increased, making it possible for states to provide more low-income families with child care assistance and expand initiatives to improve the quality of child care. This has been an extremely important endeavor. Access to quality childcare helps families to work and children to succeed. Yet, we must do more. Only one out of seven children eligible for assistance through the CCDBG program receives a subsidy, approximately 12.9 million eligible children without assistance. In March 2000, a family earning as little as $25,000 could not qualify for child care assistance in most States. The need for child care assistance is likely to significantly increase in the near future. Many States are currently faced with serious budget shortfalls that threaten the progress they have made in the provision of child care in recent years. The administration's recently proposed welfare plan would increase work-related requirements for welfare recipients, which if passed will create an even greater demand for child care. Even if this aspect of the administration's welfare proposal is rejected as unworkable, which I believe is the case, we must make providing high-quality child care to low-income families a priority in this Congress. The Children First Act will do just that.

Increased availability of child care enables low-income parent on welfare, and parents trying to stay off welfare, to work and support their families. According to a recent administration report, employment among single mothers with young children grew in recent years fro 58 percent to 73 percent. The administration noted: ''These employment increased by single mothers and former welfare mothers are unprecedented.'' Most people agree that employment gains among single mothers can only be sustained if families have access to dependable child care. Studies show that when child care is available, and when families get help paying for care, they are more likely to work.

When I talk to people in my home State of New Mexico about welfare reform, they identify access to childcare as the most important work support we can provide. In New Mexico, 57 percent of children under 6 live in households in which all parents work. Approximately 67 percent of these households have income less than 200 percent of the Federal poverty threshold. Yet less than 25 percent of children under the age of 6 eligible under federal law for childcare assistance are receiving assistance in New Mexico. Families with both parent working aen earning he minimum wage must pay 49 percent of their income on childcare for one child. Without subsidized care, many of these families can not afford to work.

When I talk to people in New Mexico about improving our education system, the need for improved school readiness is often theotp concern. Improved quality of child care is an important component in that effort as well. Quality child care provides low-income children with the early learning experiences that they need to do well in school. We know that children in high-quality early care score higher on reading and math tests, are more likely to complete high school and go onto college, and are less likely to repeat a grade or get charged in juvenile court. In contrast, children in poor quality child care have been found to be more likely to be referred to special education, delayed in language and reading skills and to display more aggression toward other children and adults.

In the recently enacted No Child Left Behind Act, Congress and the President signaled a new commitment to improving educational outcomes in our schools. The legislation required states, school districts, and communities to close achievement gaps between disadvantaged students and their peers. In his State of the Union Address earlier this year, President Bush acknowledged the important of early learning and made it a priority for his administration. Increased federal support for child care is critical to supporting high-quality early learning programs. We should work on a bipartisan basis—as we did with respect to the No Child Left Behind Act—towards this goal.

We must increase access to child car, but we must also do more to ensure the improved quality of child care. Many families in New Mexico, even those receiving assistance, cannot provide their children with a high quality child car setting. In part, this is caused by the low reimbursement rates provided due to limited funding. For example, in New Mexico the reimbursement rate is $396, while the market rate averaged $470. As a result the higher quality provider often do not accept state-subsidized children into their programs.

A lack of qualified care provider also make the provision of high quality care difficult. Childcare workers in New Mexico make, on average, $6.24 per hour, less than half the average weekly wage. Less than 20 percent of these workers receive employee benefits such as health insurance and paid sick leave.

The Children First Act will address these issues by increasing funding for the Child Care Development Block Grant by $11.2 billion over five years. With these funds, states will be able to serve approximately 1 million more children nationally. The bill also contains an increase in the quality set-aside in CCDBG, which will provide funds specifically for efforts to improve quality. States can use these funds to provide training to care providers and create and enforce standards of care. The bill also makes common sense changes to the TANF program that support work by enabling states to increase the availability and improve the quality of child care.

I urge my colleagues to support this important piece of legislation. It will help low-income families work and help prepare our children to succeed.

By Mr. SMITH of New Hampshire:

S. 2071. A bill to amend title 23, United States Code, to prohibit the collection of tolls form vehicles or military equipment under the actual physical control of a uniformed member of the Armed Forces, and for other purposes; to the Committee on Environment and Public Works

Mr. SMITH of New Hampshire. Mr. President, I rise today to offer a bill that will exempt our Nation's military vehicles and equipment from being subject to paying tolls on America's roads, bridges and ferries. As the Ranking Member of Environment & Public Works Committee, which has jurisdiction over our highway system, and as a senior member of the Armed Services Committee, I believe that this an appropriate action long overdue. In this time of war and heightened threat to America's shores, the thought of all units in an Army troop convoy digging into their pockets to drop quarters into the nets at tollbooths on the Jersey turnpike is absurd. When we created the interstate highway system in the 1950's under the strong leadership of President Eisenhower, a primary motivation of the former General of the Army was to facilitate the movement of men and material in times of crisis. Yet in the intervening years, as toll roads have been established, no one at the Federal level has thought to exempt the armed forces form being slowed down to pay these levies. While the Federal Government has not acted, many States, most notably my State of New Hampshire, has seen fit to exempt those who are protecting us from paying these tolls. America's armed forces deserve all the help we can give them. The shortsighted among us might say that all we need to do is to provide some expedited form of payment, so that the tolls can be collected faster. I say that our troops deserve better. There is just no reason to subject our military to paying tolls in order to use America's roads when their only reason for being on those roads is to protect America. Therefore, my bill provides for a complete exemption from tolls, and not just half-way measures to simplify the payment. But my bill goes even further. In the same vein, I believe that it is essential, should a crisis arise, or God forbid, should America again be attacked, to speed our troops through the toll facilities. Accordingly, I have written the bill a provision to require a toll facility, in times of an emergency declared by the President, to reserve a dedicated support for America's military by voting for this important bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2071

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

SECTION 1. PROHIBITION ON COLLECTION OF TOLLS FROM VEHICLES AND EQUIPMENT USED BY THE ARMED FORCES.

Section 129 of title 23, United States Code, is amended by adding at the end the following:

''(d) PROHIBITION ON COLLECTION OF TOLLS FROM VEHICLES AND EQUIPMENT USED BY THE ARMED FORCES.—

''(1) IN GENERAL.—No tolls shall be collected from any vehicle or military equipment owned by the Department of Defense for the use of any toll facility described in paragraph (3) when the vehicle or military equipment is under the actual physical control of a uniformed member of the Armed Forces.

''(2) PERIODS OF NATIONAL EMERGENCY.—During a period of national emergency declared by the President, upon request of the Secretary of Defense, a toll facility described in paragraph (3)(A) shall reserve a lane of the toll facility for the exclusive use of a vehicle or military equipment described in paragraph (1).

''(3) TOLL FACILITIES.—A toll facility described in this paragraph is—

''(A) a toll highway, bridge, or tunnel located on a public road; or

''(B) a toll ferry boat that operates on a route classified as a public road.''.

By Mr. CORZINE (for himself, Mr. BINGAMAN, and Mr. BREAUX):

S. 2072. A bill to amend title XIX of the Social Security Act to provide States with the option of covering intensive community mental health treatment under the Medicaid Program, to the Committee on Finance.

Mr. CORZINE. Mr. President, I am very pleased to introduce today a critical piece of mental health legislation with my colleagues Senators BINGAMAN and BREAUX. This legislation, the Medicaid Intensive Community Mental Health Act, will assist and encourage States to provide comprehensive intensive mental health services through the Medicaid Program.

Since deinstitutionalization, too many people with severe mental illnesses have fallen through the cracks of our mental health system in part because too many States and localities have not established intensive community-based programs to assist those with severe mental illness.

In 1999, the Supreme Court rules in its Olmstead decision that individuals with disabilities, including mental illness, who are capable of living in a community setting, must be placed in less restrictive settings. Two years after this decision, my State of New Jersey and States nationwide are struggling to improve and expand community-based mental health services in order to ensure that the appropriate services are in place for the mentally ill so that they can lead productive lives outside of the institution. And, let me be clear that this applies to children just as it applies to adults. I know my colleague from New Mexico, Senator BINGAMAN, has expressed deep concern about the hundreds of youth with mental illness in his State who are being held at detention centers because there are very limited community-based mental health treatment options.

These children do not deserve to be treated as criminals, they need and deserve access to treatment, counseling, and other rehabilitative and supportive services. We need to give States the flexibility and the resources they need to make these options available. Currently, Federal financing for community-based mental health care is so complex and burdensome that States are unable to offer a comprehensive, coordinated set of community-based intensive mental health services with a single point of access. Rather, those in dire need of these services are forced to rely on a patchwork of uncoordinated programs with missing service components.

Currently, States must apply for six optional Medicaid waivers in order to provide these services. This legislation would help fill the cracks in our mental health care system by allowing States, through a single policy decision, to finance the entire array of community-based services that individuals with severe mental illness need. The Medicaid Intensive Community Mental Health Act would allow States to choose the ''intensive community mental health treatment'' option under Medicaid, which would allow States to provide services such as psychiatric rehabilitation, crisis residential treatment, medication education and management, integrated treatment services for individuals with co-occurring mental illness and substance abuse disorders, and family psycho-education services, among others, in a coordinated manner.

In my home State of New Jersey, there are about 3,000 people residing in psychiatric hospitals. About half of these people, or 1,500 people, are eligible to be released, but, due to a lack of intensive community-based treatment, they continue to remain needlessly institutionalized. If passed, this legislation would help States to create an integrated system of intensive community-based mental health care for those with severe mental illness. Not only would this option improve community-based services for the mentally ill, but it would also give states a mechanism to assist people who otherwise require costly hospitalization.

Far too often in our Nation, individuals with severe mental illness are either unable to access appropriate mental health care or have repeated but ultimately unsuccessful hospitalizations. And unfortunately, untreated mental illness has led many sufferers to become homeless. It has also led many to commit crimes. Ultimately, this legislation will help States respond to the problems associated with deinstitutionalization, homelessness, and the criminalization of mental illness, and in doing so, it will help people with severe mental illness to live better lives in their communities and with their families.

I want to thank my colleagues, Mr. BINGAMAN and Mr. BREAUX, for joining me today to introduce this important legislation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3075. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3076. Mr. DODD (for Mr. KERRY (for himself and Mr. BOND)) proposed an amendment to the bill S. 1499, to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes.

SA 3077. Mr. DODD (for Mr. NICKLES (for himself and Mr. INHOFE)) proposed an amendment to the bill S. 1321, to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

TEXT OF AMENDMENTS

SA 3075. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 200, strike line 9 and all that follows through page 204, line 13.

On page 204, line 14, strike ''(e)'' and insert ''(c)''.

On page 213, strike line 16 and all that follows through page 218, line 14.

Beginning on page 219, strike line 18 and all that follows through page 224, line 17 and insert the following:

(6) in recent years, MTBE has been detected in water sources throughout the United States;

(7) MTBE can be detected by smell and taste at low concentrations;

(8) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown;

(9) in the report entitled ''Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline'' and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard; and

(B) to greatly reduce use of MTBE;

(10) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(11) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) adequate energy supply; and

(B) reasonable fuel prices; and

(12) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended by adding at the end the following:

''(5) PROHIBITION ON USE OF MTBE.—

''(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

''(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

''(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

''(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

''(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

''(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

''(A) IN GENERAL.—The Secretary of Energy may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (B) to—

''(i) the production of iso-octane and alkylates; and

''(ii) the production of such other fuel additives as will contribute to replacing quantities of motor fuel rendered unavailable as a result of paragraph (5).

On page 224, line 18, strike ''(C)'' and insert ''(B)''.

On page 225, line 10, strike ''(D)'' and insert ''(C)''.

Beginning on page 227, strike line 3 and all that follows through page 232, line 24.

On page 233, line 1, strike ''(d)'' and insert ''(b)''.

Beginning on page 233, strike line 6 and all that follows through page 244, line 23, and insert the following:

SEC. 8___. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Energy shall conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(C) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities; and

(D) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2006, the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers; and

(C) motor vehicle fuel producers and distributors.

SA 3076. Mr. DODD (for Mr. KERRY (for himself and Mr. BOND)) proposed an amendment to the bill S. 1499, to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Small Business Emergency Relief and Recovery Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Nation's 25,000,000 small businesses employ more than 58 percent of the private workforce, and create 75 percent of all net new jobs;

(2) as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, many small businesses nationwide suffered—

(A) directly because—

(i) they are, or were as of September 11, 2001, located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator of the Small Business Administration;

(ii) they were closed or their business was suspended for National security purposes at the mandate of the Federal Government; or

(iii) they are, or were as of September 11, 2001, located in an airport that has been closed; and

(B) indirectly because—

(i) they supplied or provided services to businesses that were located in or near the World Trade Center or the Pentagon;

(ii) they are, or were as of September 11, 2001, a supplier, service provider, or complementary industry to any business or industry adversely affected by the terrorist attacks perpetrated against the United States on September 11, 2001, in particular, the financial, hospitality, and travel industries; or

(iii) they are, or were as of September 11, 2001, integral to or dependent upon a business or business sector closed or suspended for national security purposes by mandate of the Federal Government; and

(3) small business owners adversely affected by the terrorist attacks are finding it difficult or impossible—

(A) to make loan payments on existing debts;

(B) to pay their employees;

(C) to pay their vendors;

(D) to purchase materials, supplies, or inventory;

(E) to pay their rent, mortgage, or other operating expenses; or

(F) to secure financing for their businesses.

(b) PURPOSE.—The purpose of this Act is to strengthen the loan, investment, procurement assistance, and management education programs of the Small Business Administration, in order to help small businesses meet their existing obligations, finance their businesses, and maintain and create jobs, thereby providing stability to the national economy.

SEC. 3. DEFINITIONS RELATING TO TERRORIST ATTACKS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(r) DEFINITIONS RELATING TO TERRORISM RELIEF.—In this Act, the following definitions shall apply with respect to the provision of assistance under this Act in response to the terrorist attacks perpetrated against the United States on September 11, 2001, pursuant to the American Small Business Emergency Relief and Recovery Act:

''(1) DIRECTLY AFFECTED.—A small business concern is directly affected by the terrorist attacks perpetrated against the United States on September 11, 2001, if it—

''(A) is, or was as of September 11, 2001, located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator related to those terrorist attacks;

''(B) was closed or its business was suspended for national security purposes at the mandate of the Federal Government; or

''(C) is, or was as of September 11, 2001, located in an airport that has been closed.

''(2) INDIRECTLY AFFECTED.—A small business concern is indirectly affected by the terrorist attacks perpetrated against the United States on September 11, 2001, if it—

''(A) supplied or provided services to any business that was located in or near the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator related to those terrorist attacks;

''(B) is, or was as of September 11, 2001, a supplier, service provider, or complementary industry to any business or industry adversely affected by the terrorist acts perpetrated against the United States on September 11, 2001, in particular, the financial, hospitality, and travel industries; or

''(C) it is, or was as of September 11, 2001, integral to or dependent upon a business or business sector closed or suspended for national security purposes by mandate of the Federal Government.

''(3) ADVERSELY AFFECTED.—The term 'adversely affected' means having suffered economic harm to or disruption of the business operations of a small business concern as a direct or indirect result of the terrorist attacks perpetrated against the United States on September 11, 2001.

''(4) SUBSTANTIAL ECONOMIC INJURY.—As used in section 7(b)(4), the term 'substantial economic injury' means an economic harm to a small business concern that results in the inability of the small business concern—

''(A) to meet its obligations on an ongoing basis;

''(B) to pay its ordinary and necessary operating expenses; or

''(C) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the small business concern.''.

SEC. 4. DISASTER LOANS AFTER TERRORIST ATTACKS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately before the undesignated material following paragraph (3) the following:

''(4) DISASTER LOANS AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—

''(A) LOAN AUTHORITY.—In addition to any other loan authorized by this section, the Administration may make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to a small business concern that has been directly affected and suffered substantial economic injury as the result of the terrorist attacks on September 11, 2001, including due to the closure or suspension of its business for national security purposes at the mandate of the Federal Government.

''(B) REFINANCING DISASTER LOANS.—

''(i) IN GENERAL.—Any loan made under this subsection that was outstanding as to principal or interest on September 11, 2001, may be refinanced by a small business concern that is also eligible to receive a loan under this paragraph, and the refinanced amount shall be considered to be part of the new loan for purposes of this clause.

''(ii) NO EFFECT ON ELIGIBILITY.—A refinancing under clause (i) by a small business concern shall be in addition to any other loan eligibility for that small business concern under this Act.

''(C) REFINANCING BUSINESS DEBT.—

''(i) IN GENERAL.—Any business debt of a small business concern that was outstanding as to principal or interest on September 11, 2001, may be refinanced by the small business concern if it is also eligible to receive a loan under this paragraph. With respect to a refinancing under this clause, payments of principal shall be deferred, and interest may accrue notwithstanding clause (iii) of section 202 of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107-117, 115 Stat. 2297), during the 1-year period following the date of refinancing.

''(ii) RESUMPTION OF PAYMENTS.—At the end of the 1-year period described in clause (i), the payment of periodic installments of principal and interest shall be required with respect to such loan, in the same manner and subject to the same terms and conditions as would otherwise be applicable to any other loan made under this subsection.

''(iii) AUTHORIZATION CAP.—Notwithstanding any other provision of law, the total amount authorized to be obligated by the Administration, under this subparagraph only, for purposes of refinancing business debt, may not exceed $225,000,000, notwithstanding any amount otherwise obligated by the Administration under this paragraph.

''(D) TERMS.—A loan under this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2). Any reasonable doubt concerning the repayment ability of an applicant under this paragraph shall be resolved in favor of the applicant.

''(E) NO DISASTER DECLARATION REQUIRED.—For purposes of assistance under this paragraph, no declaration of a disaster area is required for those small business concerns directly affected by the terrorist attacks on September 11, 2001.

''(F) SIZE STANDARD ADJUSTMENTS.—Notwithstanding any other provision of law, for purposes of providing assistance under this paragraph to businesses located in areas of New York, Virginia, and the contiguous areas designated by the President or the Administrator as a disaster area following the terrorist attacks on September 11, 2001, a business shall be considered to be a 'small business concern' if it meets otherwise applicable size regulations promulgated by the Administration, and, with respect to the applicable size standard, it is—

''(i) a restaurant having not more than $8,000,000 in annual receipts;

''(ii) a law firm having not more than $8,000,000 in annual receipts;

''(iii) a certified public accounting business having not more than $8,000,000 in annual receipts;

''(iv) a performing arts business having not more than $8,000,000 in annual receipts;

''(v) a warehousing or storage business having not more than $25,000,000 in annual receipts;

''(vi) a contracting business having a size standard under the North American Industry Classification System, Subsector 235, and having not more than $15,000,000 in annual receipts;

''(vii) a food manufacturing business having not more than 1,000 employees;

''(viii) an apparel manufacturing business having not more than 1,000 employees; or

''(ix) a travel agency having not more than $3,000,000 in annual receipts.

''(5) AUTHORITY TO INCREASE OR WAIVE SIZE STANDARDS AND SIZE REGULATIONS.—

''(A) IN GENERAL.—At the discretion of the Administrator, the Administrator may increase or waive otherwise applicable size standards or size regulations with respect to businesses applying for assistance under this Act in response to the terrorist attacks on September 11, 2001.

''(B) EXEMPTION FROM ADMINISTRATIVE PROCEDURES.—The provisions of subchapter II of chapter 5, of title 5, United States Code, shall not apply to any increase or waiver by the Administrator under subparagraph (A).

''(6) INCREASED LOAN CAPS.—

''(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and in addition to amounts otherwise authorized by this Act, the loan amount outstanding and committed to a borrower may not exceed—

''(i) with respect to a small business concern located in the areas of New York, Virginia, or the contiguous areas designated by the President or the Administrator as a disaster area following the terrorist attacks on September 11, 2001—

''(I) $10,000,000 in total obligations under paragraph (1); and

''(II) $10,000,000 in total obligations under paragraph (4); and

''(ii) with respect to a small business concern that is not located in an area described in clause (i) and that is eligible for assistance under paragraph (4), $5,000,000 in total obligations under paragraph (4).

''(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, waive the aggregate loan amounts established under subparagraph (A).

''(7) EXTENDED APPLICATION PERIOD.—Notwithstanding any other provision of law, the Administrator shall accept applications for assistance under paragraphs (1) and (4) until

September 10, 2002, with respect to applicants for such assistance as a result of the terrorist attacks on September 11, 2001.

''(8) LIMITATION ON SALES OF LOANS.—No loan under paragraph (1) or (4), made as a result of the terrorist attacks on September 11, 2001, shall be sold until 3 years after the date of the final loan disbursement.''.

(b) CLERICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended in the undesignated matter at the end—

(1) by striking '', (2), and (4)'' and inserting ''and (2)''; and

(2) by striking '', (2), or (4)'' and inserting ''(2)''.

SEC. 5. EMERGENCY RELIEF LOAN PROGRAM.

(a) LOAN PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

''(31) TEMPORARY LOAN AUTHORITY FOLLOWING TERRORIST ATTACKS.—

''(A) IN GENERAL.—During the 9-month period beginning on the date of enactment of this paragraph, the Administration may make loans under this subsection to a small business concern that has been directly or indirectly adversely affected.

''(B) LOAN TERMS.—With respect to a loan under this paragraph—

''(i) for purposes of paragraph (2)(A), participation by the Administration shall be equal to 85 percent of the balance of the financing outstanding at the time of disbursement of the loan;

''(ii) section 203 of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107-117, 115 Stat. 2297), as it relates to annual fees, shall apply;

''(iii) the Administrator shall collect a guarantee fee in accordance with paragraph (18)(C), as amended by the American Small Business Emergency Relief and Recovery Act;

''(iv) the applicable rate of interest shall not exceed a rate that is 2 percentage points above the prime lending rate;

''(v) no such loan shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower under this paragraph—

''(I) would exceed $1,000,000; or

''(II) at the discretion of the Administrator, and upon notice to the Congress, would exceed $2,000,000, as necessary to provide relief in high-cost areas or to high-cost industries that have been adversely affected; or

''(vi) no such loan shall be made if the gross amount of the loan would exceed $3,000,000;

''(vii) upon request of the borrower, repayment of principal due on a loan made under this paragraph may be deferred during the 1-year period beginning on the date of issuance of the loan; and

''(viii) any reasonable doubt concerning the repayment ability of an applicant for a loan under this paragraph shall be resolved in favor of the applicant.

''(C) APPLICABILITY.—The loan terms described in subparagraph (B) shall apply to a loan under this paragraph notwithstanding any other provision of this subsection, and except as specifically provided in this paragraph, a loan under this paragraph shall otherwise be subject to the same terms and conditions as any other loan under this subsection.

''(D) TRAVEL AGENCIES.—For purposes of loans made under this paragraph, the size standard for a travel agency shall be $3,000,000 in annual receipts.''.

(b) CONFORMING AMENDMENT.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by inserting ''other than a loan under paragraph (31),'' after ''this subsection,''.

SEC. 6. REDUCTION OF FEES.

(a) TEMPORARY REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

''(C) TEMPORARY REDUCTION IN FEES.—With respect to loans approved during the period beginning on the date of enactment of the American Small Business Emergency Relief and Recovery Act and ending on September 30, 2004, the guarantee fee under subparagraph (A) shall be as follows:

''(i) A guarantee fee equal to 1 percent of the deferred participation share of a total loan amount that is not more than $150,000.

''(ii) A guarantee fee equal to 2.5 percent of the deferred participation share of a total loan amount that is more than $150,000, but not more than $700,000.

''(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than $700,000.''.

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: ''With respect to loans approved during the period beginning on the date of enactment of the American Small Business Emergency Relief and Recovery Act and ending on September 30, 2004, other than a loan under paragraph (31), the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking ''not exceed the lesser'' and inserting ''not exceed—

''(i) the lesser''; and

(C) by adding at the end the following:

''(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the period beginning on the date of enactment of the American Small Business Emergency Relief and Recovery Act and ending on September 30, 2004, for the life of the loan; and''; and

(2) by adding at the end the following new subsection:

''(i) TEMPORARY WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the period beginning on the date of enactment of the American Small Business Emergency Relief and Recovery Act and ending on September 30, 2004.''.

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), during the period beginning on the date of enactment of the American Small Business Emergency Relief and Recovery Act and ending on September 30, 2004, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section to section 503 of the Small Business Investment Act of 1958, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) CONFORMING REPEAL.—Effective on the day before the date of enactment of this Act, section 6 of the Small Business Investment Company Amendments Act of 2001 (Public Law 107-100, 115 Stat. 970), and the amendments made by that section, are repealed.

SEC. 7. OTHER SPECIALIZED ASSISTANCE AND MONITORING AUTHORIZED.

(a) ADDITIONAL SBDC AUTHORITY.—

(1) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(A) in subparagraph (S), by striking ''and'' at the end;

(B) in subparagraph (T), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(U) providing individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected, directly or indirectly, by the terrorist attacks on September 11, 2001.''.

(2) WAIVER OF MATCHING REQUIREMENTS.—Section 21(a)(4)(A) of the Small Business Act (15 U.S.C. 648(a)(4)(A)) is amended by inserting before the period at the end the following: '', except that the matching requirements of this paragraph do not apply with respect to any assistance provided under subsection (c)(3)(U)''.

(b) ADDITIONAL SCORE AUTHORITY.—Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B) is amended—

(1) by inserting ''(i)'' after ''(B)''; and

(2) by adding at the end the following:

''(ii) The functions of the Service Corps of Retired Executives (SCORE) shall include the provision of individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected by the terrorist attacks on September 11, 2001.''.

(c) ADDITIONAL MICROLOAN PROGRAM AUTHORITY.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following:

''(14) ASSISTANCE AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—Amounts made available under this subsection may be used by intermediaries to provide individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected by the terrorist attacks on September 11, 2001.''.

(d) ADDITIONAL WOMEN'S BUSINESS DEVELOPMENT CENTER AUTHORITY.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns that were adversely affected by the terrorist attacks on September 11, 2001.''; and

(2) in subsection (c), by adding at the end the following:

''(5) WAIVER OF MATCHING REQUIREMENTS.—A recipient organization shall not be subject to the non-Federal funding requirements of paragraph (1) with respect to assistance provided under subsection (b)(4).''.

(e) ADDITIONAL SBIC AUTHORITY.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended by adding at the end the following:

''(k) AUTHORITY AFTER TERRORIST ATTACKS OF SEPTEMBER 11, 2001.—Small business investment companies are authorized and encouraged to provide equity capital and to make loans to small business concerns pursuant to sections 304(a) and 305(a) of the Small Business Investment Act of 1958, respectively, for the purpose of providing assistance to small business concerns adversely affected by the terrorist attacks on September 11, 2001.''.

SEC. 8. STUDY AND REPORT ON EFFECTS ON SMALL BUSINESS CONCERNS.

(a) STUDY.—

(1) IN GENERAL.—The Office of Advocacy of the Small Business Administration shall conduct annual studies for a 5-year period on the impact of the terrorist attacks perpetrated against the United States on September 11, 2001, on small business concerns, and the effects of assistance provided under this Act on such small business concerns.

(2) CONTENTS.—The study conducted under paragraph (1) shall include information regarding—

(A) bankruptcies and business failures that occurred as a result of the events of September 11, 2001, as compared to those that occurred in 1999 and 2000;

(B) the loss of jobs, revenue, and profits in small business concerns as a result of those events, as compared to those that occurred in 1999 and 2000;

(C) the impact of assistance provided under this Act to small business concerns adversely affected by those attacks, including information regarding whether—

(i) small business concerns that received such assistance would have remained in business without such assistance;

(ii) jobs were saved due to such assistance; and

(iii) small business concerns that remained in business had increases in employment and sales since receiving assistance.

(b) REPORT.—The Office of Advocacy shall submit a report to Congress on the studies required by subsection (a)(1), specifically addressing the requirements of subsection (a)(2), in September of each of fiscal years 2002 through 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $500,000 for each of fiscal years 2002 through 2006.

SEC. 9. EMERGENCY EQUITABLE RELIEF FOR FEDERAL CONTRACTORS.

(a) GUIDANCE REQUIRED.—

(1) IN GENERAL.—Under guidance issued by the Administrator for Federal Procurement Policy in conjunction with the Administrator of the Small Business Administration, the head of a contracting agency of the United States may increase the price of a prime contract entered into by the agency prior to September 11, 2001 with a small business concern (as defined in section 3 of the Small Business Act) to the extent determined equitable under this section on the basis of loss resulting from security measures taken by the Federal Government at Federal facilities as a result of the terrorist attacks on September 11, 2001.

(2) EXPEDITED ISSUANCE.—Guidance required by paragraph (1) shall be issued under expedited procedures, not later than 45 days after the date of enactment of this Act.

(b) EXPEDITED PROCEDURES.—

(1) IN GENERAL.— The Administrator for Federal Procurement Policy shall prescribe expedited procedures for considering whether to grant an equitable adjustment in the case of a contract of an agency under subsection (a).

(2) REQUIREMENTS.—The procedures required by paragraph (1) shall provide for—

(A) an initial review of the merits of a contractor's request by the contracting officer concerned with the contract;

(B) a final determination of the merits of the contractor's request, including the value of any price adjustment, by the Head of the Contracting Agency, in consultation with the Administrator of the Small Business Administration, taking into consideration the initial review under subparagraph (A); and

(C) payment from the fund established under subsection (d) for the contract's price adjustment.

(3) TIMING.—The procedures required by paragraph (1) shall require completion of action on a contractor's request for adjustment not later than 30 days after the date on which the contractor submits the request to the contracting officer concerned.

(c) AUTHORIZED REMEDIES.—In addition to making a price adjustment under subsection (a), the time for performance of a contract may be extended under this section.

(d) PAYMENT OF ADJUSTED PRICE.—

(1) FUND ESTABLISHED.—The Secretary of the Treasury shall establish a fund for the payment of contract price adjustments under this section. Payments of amounts for price adjustments shall be made out of the fund.

(2) AVAILABILITY.—Notwithstanding any other provision of law, amounts in the fund under this subsection shall remain available until expended.

(e) TERMINATION OF AUTHORITY.—

(1) REQUESTS.—No request for adjustment under this section may be accepted more than 330 days after the date of enactment of this Act.

(2) TERMINATION.—The authority under this section shall terminate 1 year after the date of enactment of this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury, for deposit into the fund established under subsection (d), $50,000,000 to carry out this section, including funds for administrative expenses and costs. Any funds remaining in the fund established under subsection (d) 1 year after the date of enactment of this Act shall be transferred to the disaster loan account of the Small Business Administration.

SEC. 10. REPORTS TO CONGRESS.

(a) REPORTS REQUIRED.—The Administrator of the Small Business Administration shall submit regular reports to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the implementation of this Act and the amendments made by this Act, including program delivery, staffing, and administrative expenses related to such implementation.

(b) FREQUENCY OF REPORTS.—The reports required by subsection (a) shall be submitted 20 days after the date of enactment of this Act and monthly thereafter until 1 year after the date of enactment of this Act, at which time the reports shall be submitted on a quarterly basis through December 31, 2003.

SEC. 11. EXPEDITED ISSUANCE OF IMPLEMENTING GUIDELINES.

Not later than 20 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue interim final rules and guidelines to implement this Act and the amendments made by this Act.

SEC. 12. SPECIAL AUTHORIZATIONS OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following:

''(j) SPECIAL AUTHORIZATIONS OF APPROPRIATIONS FOLLOWING TERRORIST ATTACKS.—In addition to any other amounts authorized by this Act for any fiscal year, there are authorized to be appropriated to the Administration, to remain available until expended—

''(1) for each of fiscal years 2002 through 2004, such sums as may be necessary to carry out paragraph (4) of section 7(b), including necessary loan capital and funds for administrative expenses related to making and servicing loans pursuant to that paragraph;

''(2) for fiscal year 2002, $25,000,000, to be used for activities of small business development centers pursuant to section 21(c)(3)(U)—

''(A) $2,500,000 of which shall be used to assist small business concerns (as that term is defined for purposes of section 7(b)(4)) located in the areas of New York and the contiguous areas designated by the President as a disaster area following the terrorist attacks on September 11, 2001; and

''(B) $1,500,000 of which shall be used to assist small business concerns located in areas of Virginia and the contiguous areas designated by the President as a disaster area following those terrorist attacks;

''(3) for fiscal year 2002, $2,000,000, to be used under the Service Corps of Retired Executives program authorized by section 8(b)(1) for the activities described in section 8(b)(1)(B)(ii);

''(4) for fiscal year 2002, $5,000,000 for microloan technical assistance authorized under section 7(m)(14);

''(5) for fiscal year 2002, $2,000,000 to be used for activities of women's business centers authorized by section 29(b)(4);

''(6) for each of fiscal years 2002 through 2004, such sums as may be necessary to carry out paragraphs (18)(C) and (31) of section 7(a), including any funds necessary to offset fees and amounts waived or reduced under those provisions, necessary loan capital, and funds for administrative expenses; and

''(7) for each of fiscal years 2002 through 2004, such sums as may be necessary to carry out the temporary suspension of fees under subsections (b)(7)(A) and (i) of section 503 of the Small Business Investment Act of 1958, in response to the terrorist attacks on September 11, 2001, including any funds necessary to offset fees and amounts waived under those provisions and including funds for administrative expenses.''.

SA 3077. Mr. DODD (for Mr. NICKLES (for himself and Mr. INHOFE)) proposed an amendment to the bill S. 1321, to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Director shall offer to award financial assistance equaling not more

than $33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Director which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Director, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this Act, the Director shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this Act:

(1) AUTHORITY.—The term ''Authority'' means the Native American Cultural and Educational Authority of Oklahoma, and agency of the State of Oklahoma.

(2) CENTER.—The term ''Center'' means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) DIRECTOR.—The term ''Director'' means the Director of the Institute of Museum and Library Services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that a fellow from the Commerce Department, Gabriel Adler, be given floor privileges for the remainder of this session of Congress.

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

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to executive session and the Agriculture Committee be discharged from further consideration of the following nomination: Nancy Bryson, to be General Counsel of the Department of Agriculture, and that the nomination be confirmed.

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

The nomination was considered and confirmed as follows:

DEPARTMENT OF AGRICULTURE

Nancy Southard Bryson, of the District of Columbia, to be General Counsel of the Department of Agriculture.

Mr. DODD. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of the nomination of Randal Quarles, to be Deputy Under Secretary of Treasury, and that the nomination also be confirmed.

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

The nomination was considered and confirmed as follows:

DEPARTMENT OF THE TREASURY

Randal Quarles, of Utah, to be a Deputy Under Secretary of the Treasury.

EXECUTIVE CALENDAR

Mr. DODD. Mr. President, I further ask unanimous consent that the Senate proceed to the consideration of nominations numbered 658, 663, 664, 669, 737 through 757; that they be confirmed, that all above motions to reconsider be laid on the table, any statements thereon be printed in the RECORD, and the President be immediately notified of the Senate's action.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF THE TREASURY

Kenneth Lawson, of Florida, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Vickers B. Meadows, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

Diane Leneghan Tomb, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Kenneth M. Donohue, Sr., of Virginia, to be Inspector General, Department of Housing and Urban Development.

NATIONAL CREDIT UNION ADMINISTRATION

JoAnn Johnson, of Iowa, to be a Member of the National Credit Union Administration Board for a term expiring August 2, 2007.

Deborah Matz, of New York, to be a Member of the National Credit Union Administration Board for a term expiring August 2, 2005.

ENVIRONMENTAL PROTECTION AGENCY

J. Paul Gilman, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

DEPARTMENT OF COMMERCE

James R. Mahoney, of Virginia, to be Assistant Secretary of Commerce for Oceans and Atmosphere.

DEPARTMENT OF VETERANS AFFAIRS

Daniel L. Cooper, of Pennsylvania, to be Under Secretary for Benefits of the Department of Veterans Affairs for a term of four years.

Robert H. Roswell, of Florida, to be Under Secretary for Health of the Department of Veterans Affairs for a term of four years.

NOMINATION DISCHARGED

Mr. DODD. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of the following nomination: Victoria Lipnic, to be Assistant Secretary of Labor; that the nomination be confirmed, the motion to reconsider be laid on the table; that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action; and the Senate return to legislative session, all without any intervening action or debate.

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

The nomination was considered and confirmed as follows:

DEPARTMENT OF LABOR

Victoria A. Lipnic, of Virginia, to be an Assistant Secretary of Labor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

AMERICAN SMALL BUSINESS EMERGENCY RELIEF ACT OF 2001

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 186, S. 1499.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1499) to provide assistance to small business concerns adversely impacted by the terrorist attacks perpetrated against the United States on September 11, 2001, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3076

Mr. DODD. Mr. President, I understand Senators KERRY and BOND have a substitute amendment at the desk. I ask unanimous consent that the Senate proceed to its immediate consideration, that the amendment be agreed to, and that the motion to reconsider be laid upon the table.

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

The amendment (No. 3076) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

● Mr. KERRY. Mr. President, I would urge that there be no further delay, no further obstruction, and that the Senate act—at long last—to pass a bill that is very important to so many small businesses in this country crippled by the economic fall-out of September 11, including businesses that were already struggling before September 11 during the recession and are now faced with even more difficult prospects.

For months, tens of thousands of small businesses have been asking for help—an immediate helping hand—just to keep their businesses going—particularly working capital to meet payroll and pay the bills—but they have been forced to make ends meet by using credit cards and depleting personal savings because small businesses doesn't have the same access as big

business—to credit or otherwise. Left in the lurch by congressional inaction and delay, these businesses and their employees paid the price.

Now it is time that the Senate delivers the relief the vast majority of us were prepared to deliver in the first weeks after September 11, urgent relief delayed by partisan gamesmanship.

My American Small Business Emergency Relief and Recovery Act has gotten a lot of attention over the past 5 months. It has been blocked from even a meaningful debate on the Senate floor. What makes this week different?

What makes it different is that we have reached final agreement with the White House on a compromise, thanks to our last resort—hardball tactics of our own—and the bill has at long last been cleared to pass the Senate by unanimous consent.

I thank the 63 cosponsors of this bill. I thank the numerous small businesses and small business advocates who have worked so hard and used so much of their limited resources to free this bill for passage. This diverse coalition of business leaders and Democratic and Republican policy makers have stood by us from day one—their support should have been enough to guarantee passage way back then, but it wasn't enough to stop some from playing partisan games with even bipartisan legislation. Now, at long last, the good faith efforts of our supporters are being rewarded.

It is my hope that having worked out our differences with the White House, we have cleared the way for passage not just through the Senate but also through the House. Once this help is enacted, small businesses will finally be able to receive desperately needed economic relief.

I am pleased with the compromise. It preserves provisions that are really important for those small businesses that have needed help over the past few months but fell through the cracks in SBA's disaster loan program, or fell through the cracks in the private sector where lenders have cut back on loans to small businesses over the past year.

It simply was not enough, not efficient, and not cost-effective to use only one of SBA's many lending programs to serve all the small businesses throughout this country that were hurt by the terrorist attacks or that have been struggling with the credit crunch. All of the SBA's tools should be used to help the affected small businesses, and this bill does just that. Because this bill was blocked from consideration, Senator BOND and I were forced to enact some of these provisions through a defense bill. I very much thank Senators BYRD and HOLLINGS for including them. Specifically, we made it possible for small businesses to get working capital loans through the SBA's 7(a) loan program. SBA is calling these ''STAR loans,'' and compared to the economic injury disaster loans, borrowers are accessing capital faster. In just seven weeks, since the loans were made available, nearly $38 million has been loaned to 129 small businesses. It reminds us that being able to go sit in the office of a lender in the same town is far more efficient and effective than requiring a small business in West Virginia or Puerto Rico to call a 1–800 number in Niagara Falls for emergency assistance.

One needs only to look at the record by comparison for economic injury disaster loans outside New York and Virginia to see the need for these STAR loans. After 22 weeks (nearly 6 months), only 2,600 loans have been approved, adding up to a denial rate of almost 50 percent . That doesn't even include the small businesses that were turned away before they even filled out an application because of outdated size standards. That has left a lot of small businesses across this country without assistance. A lot of small business owners turning are in their keys to the bank. As one small business advocate said today, in reference to the thousands of tour bus companies that went out of business, ''I understand the banks now own a wonderful fleet of tour buses.''

Well, for those small tour bus owners who have been waiting for this bill to pass and still need a working capital loan to ramp back up in the upcoming tour season, the compromise preserves the refinancing of business debt under a disaster loan. They need this so that they can restructure debt to survive this business slump. We fought very hard to keep this assistance in the bill.

For the owners of travel agencies—the majority of which are small businesses—we have increased the size standards for your industry so that more of your companies qualify for disaster loans and 7(a) emergency loans. Please spread the word to travel agencies that were turned away earlier in the year because they were considered too large. They might need working capital more than ever now that the airlines have completely eliminated commissions.

For small businesses that need access to credit and can't get it because of the credit crunch, Senator BOND and I were able make SBA's programs more affordable by reducing the fees borrowers pay through September 2004. In both the Senate and the House, we have had hearing after hearing trying to get fairer fees for the borrowers who need capital and the lenders who make loans, but until now we haven't gotten any cooperation. This bill will make a difference. Whether you need working capital through SBA's 7(a) loan program or credit to buy a building or equipment through SBA's 504 loan program, it will now be less expensive. Stimulating lending and borrowing is good for the economy because it creates jobs and saves jobs. By law, small businesses that borrower money through the SBA 504 loan program have to hire or retain on employee for each $35,000 borrowed. This is a win-win situation for our economy.

The overall purpose of this emergency legislation is to provide access to the full complement of SBA loans and business counseling in order to help small businesses hurt by the terrorist attacks of September 11th and their aftermath.

This legislation will help mitigate bankruptcies, business closures, and lay-offs and address the shrinking availability of credit. However, small businesses doing business with the Federal Government have also felt the impact of the terrorist attacks.

Small business contractors, because of very real and legitimate security concerns, have experienced a dramatic increase in costs for work in and around Federal Government facilities. We have heard reports of small businesses being denied access to their equipment on military bases, waiting for hours each day to enter government facilities and being limited in the hours they can work on their projects.

Let me cite the situation faced by Dave Krueger, President of AS Horner Construction, Inc. out of Albuquerque, NM. Dave was currently doing work on a Federal contract at an Air Force facility pouring concrete parking aprons. Immediately after the attack, his company was locked out of the facility for nearly 2 weeks and currently has limited hours to access the construction site. Dave estimates that this will result in cost increases of at least 10 percent, meaning he will take a loss on this contract.

Such situations cannot go unresolved. Small businesses are far too important, not just to our national economy, but to our national defense as well. Small business is a vital component of our national supply chain and essential to our national security interests. To address this, S. 1499 establishes an expedited procedure whereby Federal small business contractors can apply for an equitable adjustment to their contract if costs have been incurred due to security or other measures resulting from the terrorist attacks. In the interest of compromise, Senator BOND and I agreed to reduce the funding available for these provisions from $100 million to $50 million.

The Kerry-Bond approach has always been cost-effective—about five times cheaper than the administration's approach. CBO estimated that providing this assistance to small businesses would cost $860 million. The final compromise, based on CBO's estimates, is down from $860 million to $300 million.

This is a good compromise. It will help small businesses in every State. It is a reasonable approach that maximizes existing resources and private sector help. I strongly and respectfully urge my colleagues to let this legislation pass. Small businesses in your State will thank you.

I ask that a list of supporters of S. 1499 be printed in the RECORD.

The list follows:

S. 1499 Supporters: Airport Ground Transportation Association; American Bus Asso-

ciation; American Subcontractors Association; Associated General Contractors of America; Association of Women's Business Centers; CDC Small Business Finance; Chicago Association of Neighborhood Development Organizations; Citizens Financial Group, RI; Clovis Community Bank, CA; Coastal Enterprises, ME; County of San Diego; Delaware Community Reinvestment Act Council; Fairness in Rural Lending; Florida Atlantic University Small Business Development Center; Helicopter Association; HUBZone Contractors National Council; National Association of Government Guaranteed Lenders; National Community Reinvestment Coalition; National League of Cities; National Limousine Association; National Restaurant Association; National Small Business United; National Tour Association; New Jersey Citizen Action; Rural Housing Institute; Rural Opportunities; Self Help Credit Union; Small Business Legislative Council; U.S. Conference of Mayors; United Motorcoach Association; United States Air Tour Association; United States Chamber of Commerce; United States Tour Operator Association; Women's Business Development Center.●

● Mr. BOND. Mr. President, I urge my colleagues in the Senate to vote in favor of S. 1499, the American Small Business Emergency Relief and Recovery Act. I thank my colleague from Massachusetts, Senator KERRY, for introducing the bill, and I am pleased to be its principal cosponsor. Since S. 1499 was introduced on October 4, 2001, 62 of our Senate colleagues have joined us as cosponsors.

The measure before the Senate today is a comprehensive managers' substitute amendment to S. 1499, which incorporates significant changes that have been agreed to following lengthy negotiations with the staffs from the White House and the Office of Management and Budget, OMB. In particular, I thank Andy Card, the President's Chief of Staff, Dr. Lawrence Lindsey, Director of the National Economic Advisors, and Steve McMillin, Assistant Director at OMB, for their personal involvement in the negotiations.

The managers' substitute amendment modifies S. 1499 to recognize changes in the disaster relief and credit programs at the Small Business Administration, SBA, that were enacted on January 10, 2002, in section 203 of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorists Attacks on the United States, P.L. 107–117 Emergency Disaster Supplemental.

Enactment of S. 1499, as amended, will insure that valuable credit and management assistance will flow to small businesses that were harmed by the September 11 terrorist attacks on the World Trade Centers and the Pentagon. It is my understanding the House of Representatives is prepared to act quickly on the bill soon after the 2-week recess, so that it can be sent to President Bush for his signature in the near future. Fast action by Congress is critical. Small businesses from across the United States are continuing to struggle under the dual pressures from the economy and the aftermath of the terrorist attacks.

As the ranking member of the Committee on Small Business and Entrepreneurship, I have received pleas for help from small business in Missouri and across the nation: small restaurants that have lost much of their business due to the fall off in business travel; local flight schools that have been grounded as a result of the recent terrorist attacks; and Main Street retailers who are struggling to survive. The American Small Business Emergency Relief and Recovery Act contains sound initiatives to help our nation's small businesses and their employees. We in Congress must act and act soon to help our Nation's small businesses.

In response to the urgent calls for strong and effective Federal Government action to reverse the decline in the economy and stimulate a business rebound, last October I introduced the Small Business Leads to Economic Recovery Act of 2001, S. 1493, which was designed to provide effective economic stimulus in three distinct but complementary ways: increasing access to capital for the nation's small enterprises; providing tax relief and investment incentives for our small firms and the self-employed; and directing one of the Nation's largest consumers—the Federal Government—to shop with small business in America.

Historically, when our economy slows or turns into a recession, the strength of the small business sector helps to right our economic ship, with small businesses leading the Nation to economic recovery. Small businesses employ over one-half of the U.S. workforce and create 75 percent of the net new jobs. Clearly, we cannot afford to ignore America's small businesses as we consider measures to stimulate our economy.

S. 1499 goes to the heart of a major problem confronting thousands of small businesses today by taking on access to capital barriers. This bill is a bipartisan collaboration between Senator KERRY, and me and our staffs of the Committee on Small Business and Entrepreneurship. We have worked together to devise one-time modifications to the SBA Disaster Relief, 7(a) and 504 Loan Programs because the traditional approach to disaster relief will not address the critical needs of thousands of small businesses located at or around the World Trade Center, the Pentagon and in strategic locations throughout the United States.

In New York City, it could be a year and more before many of the small businesses destroyed or shut down by the terrorist attacks can reopen their doors for business. Small firms near the Pentagon, such as those at the Reagan National Airport or Crystal City, VA, are also shut down or struggling. And there are small businesses throughout the United States that were shut down for national security concerns and continue to struggle to regain lost customers.

Small enterprises located in the Presidentially declared disaster areas surrounding the World Trade Center and the Pentagon are not the only businesses experiencing extreme hardship as a direct result of the terrorist attacks of September 11. Nationwide, thousands of small businesses are unable to conduct business or are operating at a bare-minimum level. Tens of thousands of jobs are at risk of being lost as small businesses weather the fall out from the September 11 attacks.

Regular small business disaster loans fall short of providing effective disaster relief to help these small businesses. The Emergency Disaster Supplemental included a provision from S. 1499 as introduced that allows small businesses to defer for up to 2 years repayment of principal and interest on their SBA disaster relief loans. Interest that would otherwise accrue during the deferment period would be forgiven. The thrust of this essential ingredient is to allow the small businesses to get back on their feet without jeopardizing their credit or driving them into bankruptcy. The managers' substitute amendment restates this key provision.

The managers' substitute amendment also retains the provision permitting small businesses located in the Presidentially declared disaster areas and those small businesses directly affected by the terrorist attack to refinance existing business debt. Repayment of principal shall be deferred for disaster loans to refinance existing business debt, however, interest would accrue during the deferment period.

S. 1499 would provide a special financial tool to assist small businesses as they deal with these significant business disruption. Small businesses in need of working capital would be able to obtain SBA-guaranteed ''Emergency Relief Loans'' from their banks to help them during this period. Fees normally paid by the borrower to the SBA would be eliminated, and the SBA would guarantee 85 percent of the loan. A key feature of the bill is the authorization for banks to defer repayment of principal for up to one year. This section would remain in effect for 9 months after the date of enactment of the act.

My colleagues and I have heard from thousands of small businesses since the terrorist attacks that small businesses are experiencing significant hardship. The downturn in business activity, however, was clearly underway prior to September 11. The downturn was further exacerbated by the terrorist attacks.

S. 1499 would provide for changes in the SBA 7(a) Guaranteed Business Loan Program and the 504 Certified Development Company Loan Program to

stimulate lending to small businesses that are most likely to grow and add new employees. The managers' substitute amendment incorporates the provision from the emergency supplemental that reduces the annual fee paid by lenders from 50 basis points, 0.50 percent, to 25 basis points, 0.25 percent. In addition, the up front origination fee paid by small business borrowers would be reduced. These enhancements to the SBA's 7(a) program, and comparable reductions in 504 loan program fees, are to continue through September 30, 2004. They are designed to make the programs operate more effectively and efficiently during the period when the economy is weak and banks have tightened their underwriting requirements for small business loans.

Specifically, when the economy is slowing, it is normal for banks to raise the bar for obtaining commercial loans. However, making it harder for small businesses to survive is the wrong reaction to a slowing economy. By making these adjustments to the 7(a) and 504 loans to make them more affordable to borrowers and lenders, we will be working against history's rules governing a slowing economy, thereby adding a stimulus for small businesses. Essentially, we will be providing a counter-cyclical action in the face of a slow economy with the express purpose of accelerating the recovery.

The SBA has a very effective infrastructure for providing management assistance to small businesses located nationwide. The Small Business Development Center, SBDC, SCORE, Women's Business Center and Microloan programs provide much needed counseling to small businesses that are struggling or facing problems in their start-up phase. With the U.S. economy under unusual stress, many segments of the small business community are today unable to cope with daily management issues.

S. 1499 would authorize expansions in these programs so that the SBDCs, the SCORe chapters and the Women's Business Centers are positioned to address the needs of a large influx of small businesses looking for help. Our bill would create special authorization for each program to provide assistance tailored to the needs of small businesses following the September 11 terrorist attacks. In addition, the bill would increase the authorization levels by the following amounts: SBDC program, $25 million, SCORE $2 million, Women's Business Centers $2 million, and Microloan technical assistance, $5 million.

For small businesses that are doing business with the Federal Government section 9 of the managers' substitute amendment to S. 1499 would authorize a fund of $50 million to compensate small businesses when Federal action as the result of the terrorist attacks, has caused the costs to increase for small businesses to meet the terms of their contracts. The fund would be administered by the Department of the Treasury. The Office of Federal Procurement Policy would establish guidelines for administering the program, and the contracting agencies would consult with the SBA when determining whether an award should be made.

The American Small Businesses Emergency Relief and Recovery Act is important legislation that is needed to help the many struggling small businesses. Swift passage will be very helpful to the long-term survival of many of American's small businesses, and I urge each of my colleagues to vote in favor of the bill.●

Mr. DODD. Mr. President, I ask unanimous consent that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1499), as amended, was read the third time and passed.

AUTHORIZING CONSTRUCTION OF NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

Mr. DODD. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. 1321 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1321) to authorize the construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3077

Mr. DODD. Mr. President, Senator NICKLES has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. NICKLES, for himself and Mr. INHOFE, proposes an amendment numbered 3077.

The amendment is as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Director shall offer to award financial assistance equaling not more than $33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Director which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Director, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this Act, the Director shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this Act:

(1) AUTHORITY.—The term ''Authority'' means the Native American Cultural and Educational Authority of Oklahoma, and agency of the State of Oklahoma.

(2) CENTER.—The term ''Center'' means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) DIRECTOR.—The term ''Director'' means the Director of the Institute of Museum and Library Services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

Mr. DODD. Mr. President, I ask unanimous consent that the amendment be agreed to; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3077) was agreed to.

The bill (S. 1321), as amended, was read the third time and passed.

EXPRESSING SENSE OF CONGRESS REGARDING BUREAU OF THE CENSUS ON THE 100TH ANNIVERSARY OF ITS ESTABLISHMENT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 333, H. Con. Res. 339.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 339) expressing the sense of the Congress regarding the Bureau of the Census on the 100th anniversary of its establishment.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, and that the motion to reconsider be laid upon the table, without intervening action or debate.

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

The concurrent resolution (H. Con. Res. 339) was agreed to.

The preamble was agreed to.

MAJOR LYN McINTOSH POST OFFICE BUILDING, FRANK SINATRA POST OFFICE BUILDING, TOM BLILEY POST OFFICE BUILDING, HERBERT H. BATEMAN POST OFFICE BUILDING, BOB DAVIS POST OFFICE BUILDING, FRANCIS BARDANOUVE POST OFFICE BUILDING, NORMAN SISISKY POST OFFICE BUILDING, VERNON TARLTON POST OFFICE BUILDING, RAYMOND M. DOWNEY POST OFFICE BUILDING

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar No. 305, H.R. 1432; Calendar No. 332, S. 1222; Calendar No. 334, H.R. 1748; Calendar No. 335, H.R. 1749; Calendar No. 336, H.R. 2577; Calendar No. 337, H.R. 2876; Calendar No. 338, H.R. 2910; Calendar No. 339, H.R. 3072; Calendar No. 340, H.R. 3379.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed en bloc.

Mr. DODD. Mr. President, I ask unanimous consent that the bills be read a third time en bloc; that the motions to reconsider be laid upon the table en bloc; that the consideration of these items appear separately in the RECORD, without intervening action or debate; that any statements relating thereto be printed in the RECORD.

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

The bills (H.R. 1432, H.R. 1748, H.R. 1749, H.R. 2577, H.R. 2876, H.R. 2910, H.R. 3072, H.R. 3379) were read the third time and passed.

The bill (S. 1222) was read the third time and passed, as follows:

S. 1222

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

SECTION 1. DESIGNATION OF FRANK SINATRA POST OFFICE BUILDING.

The facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, shall be known and designated as the ''Frank Sinatra Post Office Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the Frank Sinatra Post Office Building.

RECOGNIZING SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT

Mr. DODD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 132, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 132) recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD.

The resolution (S. Res. 132) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 132

Whereas more than 3,000,000 American children are reported as suspected victims of child abuse and neglect annually;

Whereas more than 500,000 American children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that more than 1,000 children, 78 percent under the age of 5 and 38 percent under the age of 1, lose their lives as a direct result of abuse and neglect every year in America;

Whereas this tragic social problem results in human and economic costs due to its relationship to crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a ''Day of Hope'' to be observed on Wednesday, April 3, 2002, during Child Abuse Prevention Month, to focus public awareness on this social ill: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep these victimized children in their thoughts and prayers;

(B) all Americans should seek to break this cycle of abuse and neglect and to give these children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist these children; and

(2) the Senate—

(A) supports the goals and ideas of the ''Day of Hope''; and

(B) commends Childhelp USA for its efforts on behalf of abused and neglected children everywhere.

CORRECTIONS IN ENROLLMENT OF H.R. 2356

Mr. DODD. Mr. President, I ask unanimous consent that the Senate turn to the immediate consideration of H. Con. Res. 361.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 361) directing the clerk of the House of Representatives to make corrections in the enrollment of the bill, H.R. 2356.

There being no objection, the Senate proceeded to consider the concurrent resolution.

● Mr. MCCONNELL. Mr. President, I am in support of the unanimous consent for the adoption of H. Con. Res. 361 making technical corrections to H.R. 2356 passed by the Senate yesterday.

Several weeks ago, I met with Senator MCCAIN to discuss a list of 12 technical corrections to H.R. 2356. Of those 12 items, we were able to come to an agreement in principle on 6. After weeks of negotiations between my staff, and the staffs of Senator MCCAIN and Senator FEINGOLD, we have before us today the fruit of our labor. I thank them and their staff, specifically Jeanne Bumpus and Bob Schiff, for their hard work and persistence in making these minor corrections.

The items contained in this concurrent resolution are a compilation of technical corrections sought by me, and corrections sought by the Senators from Arizona and Wisconsin. In fact, the independent expenditure reporting correction was raised by FEC Commissioners Brad Smith and Dave Mason and advanced by the staff of my colleagues from Arizona and Wisconsin. I applaud my colleagues for addressing this technical issue and will ask consent that a letter from Commissioners Mason and Smith outlining technical issues with H.R. 2356 for the Senate to consider be included in the RECORD. Similarly, the correction to the citation to the Immigration and Nationalization Act was raised by the FEC. Shays-Meehan inadvertently cited the definition of ''advocates'' rather than ''lawfully admitted for permanent residence.''

These technical corrections clarify some other important points: Respecting the primacy of State law in financing State and local party buildings; continuing to allow members to transfer excess campaign funds to party committees without limit; ensuring that we do not change the rules for 2002 candidates engaged in a run-off, recount, or election contest; providing for direct member challenges to the constitutionality of H.R. 2356; and providing a sunset provision for expedited review in the D.C. court so that plaintiffs who live on the west coast do not forevermore have to come to Washington, DC, to challenge provisions of the act.

However, I remain strongly opposed to the underlying H.R. 2356 and believe its disparate treatment of individuals, parties, groups, corporations, and labor unions runs afoul of our fundamental constitutional rights. By singling out national party committees and chilling their speech at the State and local level, this legislation ensures the end of ''national'' party committees and the beginning of ''federal'' party committees. Further, the broadcast gag

provisions in the bill are not only unprecedented in scope, but haphazard in applicability. I will ask consent that 5 additional items be included in the RECORD which highlight the egregious constitutional and practical problems with this legislation.

Again I thank Senator MCCAIN and Senator FEINGOLD for their efforts on this concurrent resolution and commend the House for their swift action on this concurrent resolution.

I ask to have additional material printed in the RECORD.

The material follows.

FEDERAL ELECTION COMMISSION,
Washington, DC, February 25, 2002.

Hon. MITCH MCCONNELL,
Ranking Member,
Senate Committee on Rules.

DEAR SENATOR MCCONNELL: You have asked for comments on provisions of H.R. 2356 that appear sufficiently problematic in enforcement or interpretation as to require legislative clarification. We urge Congress to consider ways to address these issues which could otherwise hinder our ability to effectuate the will of the Congress or to administer the Federal Election Campaign Act.

We note that we have had only a few days to review the House-passed version of H.R. 2356, so the list below may not be exhaustive of all desirable technical and clarifying changes.

1. Should the Commission regulate Internet web pages or e-mail as ''Public Communication''? The proposed new definition of ''Public Communication'' (proposed Part 22 of Section 301 of the FECA [2 USC 431]) includes ''any other form of general public political advertising.'' The Commission has treated Internet web pages available to the public and widely-distributed e-mail as forms of ''general public political communication.'' Thus, the new definition combined with the Commission's established interpretation of the FECA could command regulation of Internet and e-mail communications. Congress should clarify whether it intends for the Commission to regulate publicly-available web pages and widely-distributed e-mail as forms of ''Public Communication.''

2. Does Congress intend to prohibit state or local political parties from making contributions to state or local PACs? Proposed new Section 323(d) prohibits contributions by national state or local political parties to 527 organizations other than political parties, ''political committees,'' and authorized committees of state and local candidates. Since the term ''political committee'' as used in the FECA is limited to Federal (e.g. FECA-registered) political committees, Congress may wish to clarify whether it intends to prohibit state and local political parties from making state-permissible (non-Federal) contributions to state-registered political committees.

3. Does Congress intend to prohibit Federal Officeholders from appearing at fundraising events for state an local candidates? Proposed new Section 323(e) prohibits raising of non-Federal funds by Federal officeholders, except for state or local party committees or for the official's own campaign for state or local office. Congress may wish to clarify whether it intends to allow Federal officeholders to appear at fundraising events for authorized committees of state or local candidates.

4. Does Congress intend to exempt non-Federal amounts spend on ''Federal Election Activity'' (''Levin Amendment'' funds) from state reporting requirements? Section 453 of the FECA pre-empts state law ''with respect to election to Federal office.'' This provision prohibits states from imposing reporting requirements additional to those of the FECA. Section 103 of H.R. 2356 requires state and local parties to disclose to the FEC non-Federal amounts expended for a share of ''Federal Election Activity.'' Thus, these funds reported to the FEC as ''Federal Election Activity'' would presumably be exempt from state reporting requirements. The ''Levin'' funds must be ''donated in accordance with state law'' (but not ''reported'' pursuant to state law). However, if these funds are not reported to relevant state agencies, the FEC will have difficulty determining whether they were ''donated'' in accordance with state law. Congress should clarify whether it intends to exempt non-Federal amounts spent on ''Federal Election Activity'' from state reporting requirements, or to require dual (Federal and state) reporting.

5. Does Congress intend to repeal the requirement that Independent Expenditure reports be received (rather than ''filed'') within 24 hours? Just over a year ago Congress revised the FECA to require that last-minute Independent Expenditure reports be received by the Commission within 24 hours. Previous provisions required filing by mail, which sometimes resulted in a several day delay in receipt of ''24 hour'' reports. Section 212 of H.R. 2356 would impose additional reporting requirements for Independent Expenditures. However, Section 212 appears to be based on the pre-2000 version of the FECA and thus, presumably inadvertently, would have the effect of repealing the recently-imposed requirement that 24-hour reports be received within 24 hours. Similarly, Congress should consider whether personal expenditure notifications under Sections 304 and 319 of H.R. 2356 must be received or merely filed within 24 hours. (See item 6 below for additional comments on Sections 304 and 319)

6. Does Congress intend to repeal the requirement that reports of Independent Expenditures in support of or opposition to Senate candidates be filed with the Secretary of the Senate? Section 212 (discussed above) in restating the Independent Expenditure reporting requirements also omits the provision in 2 U.S.C. 434(c) providing for Senate-related reports to be filed with the Senate, and requires all Independent Expenditure reports to be filed with the FEC. Congress may wish to consider whether this change is intended.

7. Are the existing and proposed new ''coordination'' provisions intended to be read consistently? Section 202 of H.R. 2356 treats an electioneering communication ''coordinated'' with a candidate or party as a contribution to that candidate or party. Earlier versions of H.R. 2356 included a definition of ''coordination,'' but that definition was deleted in preference to retention of the existing statutory rule addressing ''cooperation, consultation or concert'' (441a(a)(B)(i)). Congress should harmonize the terminology between existing subparagraph (B) and proposed new subparagraph (C) of this section, lest confusion arise as to whether Congress intended a common regulatory standard to apply. Similarly, Congress should clarify the relationship between ''expenditures'' addressed in subparagraph (B) and ''electioneering communications'' addressed in proposed new subparagraph (C). We are also concerned that the instruction (Section 214(c) of H.R. 2356) that a new coordination regulation ''not require agreement'' could be read so broadly as to encompass virtually any communication whatsoever (even ''disagreement'') between candidates and persons making expenditures of electioneering communications.

8. Does Congress intend to punish inadvertent solicitations of foreign nationals? Section 303 of H.R. 2356 helpfully strengthens the ''foreign money ban.'' It appears that Congress intends to hold foreign nationals strictly liable for violations of this provision. However, the provision also prohibits ''solicitation, acceptance or receipt'' of funds from a foreign national, read most naturally to apply even when the solicitor is unaware that the contributor is a foreign national. Thus, candidates signing direct mail fundraising appeals could be held in violation of this provision if the mailing list included the name of a foreign national Congress should consider instead prohibiting the ''knowing solicitation, acceptance or receipt'' of foreign national funds. The ''knowing'' standard is distinct from ''knowing and willful,'' thus, this change would protect genuinely inadvertent solicitations while still distinguishing between simple and aggravated violations.

9. Does Congress intend for the FEC to audit all self-financing candidates and their opponents? The ''millionaire'' amendments (Sec. 304 and 319 of H.R. 2356) include eight variables (two of which will change as often as daily). Section 304 additionally provides for graduated increases in contribution limits.

We are concerned that candidates who may be entitled to benefit from this provision will be prevented from doing so because of both its complexity and the lag time between personal expenditures and resulting increases in contribution limits. The complexity will also make it difficult and costly for the Commission to enforce, likely requiring an audit of every campaign in which this provision comes into play. (The Commission currently has resources to audit approximately two Senate campaigns per election cycle. At least twelve Senate campaigns would have been affected (by triggering or being eligible for increased contributions) had these provisions been in effect for the 2000 elections.)

The distinction between primary and general elections could allow wealthy candidates (particularly in states with late primaries) to spend unlimited funds attacking a prospective general election opponent during the primary without triggering increased contributions limits. Similarly, wealthy candidates might contribute excess funds during the primary and carry them over to the general election, making potentially unlimited amounts of personal funds available without triggering increased contribution limits. Further, the intended application of the ''gross receipts'' factor (Section 316) is unclear: Are the gross receipts figures from June 30 and December 31 added together, or combined, compared or applied in some other fashion? A provision with a higher initial threshold, fewer offsetting factors, and a non-graduated response (similar to the House provision) might strike a better balance among the goals of aiding candidates, limiting the size of contributions and reasonable simplicity of application.

Finally, the provisions require candidates benefiting from increased contributions limits to return unspent funds within fifty days of the election. However, the bill requires reports on the disposal of these contributions ''in the next regularly scheduled report after the date of the election.'' For general elections, this date would fall only thirty days after the election, and for many primaries, the relevant date would be less than thirty days following the primary. Thus, committees would be required to report on how they had disposed of funds before they are required to dispose of them. Congress should consider requiring the ''disposal report'' in a report due sixty days or more (allowing fifty days for return of excess contributions and some time to complete the report) after the relevant election.

10. Does Congress intend to extend the Commission's ''allocation window'' during the soft money transition period? A floor amendment to H.R. 2356 clarified that the national party soft money transition rule (Section 402(b)) is not intended to allow parties to pay ''hard money'' debts with soft money. However, the statutory provision allowing payment of debts through December 31, 2002 would appear to override the Commission's regulation which requires that party committees make non-Federal reimbursements to their federal accounts between 10 days before and not later than 60 days after expending funds. Congress may wish to clarify whether it intends for national party committees to comply with the Commission's existing allocation regulations (including the 70-day allocation window) during the transition period.

11. Does Congress intend for the expedited Judicial Review and exclusive jurisdiction provisions of Section 403 to apply in perpetuity? Section 403 provides for a special three-judge District Court panel and expedited appeal to the Supreme Court for any constitutional challenge to the Act. However, by not limiting the provision to initial challenges (brought within a specified period), Section 403 would require convening of a three-judge panel and expedited appeal to the Supreme Court for actions filed years in the future. All such future challenges would have to be filed only in the District of Columbia, and circuit court review would be permanently foreclosed. Special FECA procedures governing constitutional challenges enacted in 1971 and 1974 have been employed in the Third Circuit and District of Columbia in the past two years. Congress may wish to set a time limit for these special judicial review provisions and allow normal judicial procedures to govern constitutional claims raised in subsequent years.

Sincerely,

DAVID M. MASON,
Chairman.
BRADLEY A. SMITH,
Commissioner.

[From the Detroit News, Mar. 15, 2002]

DONATIONS DON'T SEEM TO CHANGE VOTES

(By John R. Lott Jr.)

A lot of politicians have been explaining the money they have gotten from Enron. When U.S. Rep. John Dingell (D-Mich.), the powerful ranking Democrat on the House Energy and Commerce Committee, was asked about the donations he received, he said: ''when somebody gives me money, they, I assume, are supporting one thing: good government. And that's what they got, and that's what Enron got.''

In recently passing new campaign finance regulations, public interest groups and the press insist that donors supposedly only give money to politicians to buy influence. There is little doubt that campaign contributions and voting records often go together. But few mention that this relationship might simply reflect that donors only support candidates whose views they share.

Fortunately, there are cases where we can separate these two motives. Consider a retiring politician. He has little reason to honor any ''bribes,'' for re-election is no longer an issue. Even if earlier there were corrupting influences from donations, the politician would now have freedom to vote according to his own preferences. Therefore, if contributions are bribes to make the politician vote differently from his beliefs, there ought to be a change in the voting record when the politician decides to retire.

Yet, this proves not to be the case. Together with Steve Bronars of the University of Texas, I have examined the voting records of the 731 congressmen who held office for at least two terms during the 1975 to 1990 period. We found that retiring congressmen continued voting the same way as they did previously, even after accounting for what they do after their retirement or focusing on their voting after they announce their retirement.

Despite retiring politicians only receiving 15 percent of their preceding term's political action committee (PAC) contributions, their voting pattern remains virtually the same: They only alter their voting pattern on one issue out of every 450 votes.

If anything, these statistically insignificant changes even move in the wrong direction. Retiring politicians are slightly more likely to favor their former donors. This makes no sense if contributions had been buying votes.

The voting records also reveal that politicians are extremely consistent in how they vote over their entire careers. Those who are the most conservative or liberal during their first terms are still ranked that way when they retire. Thus the young politician who does not yet receive money from a PAC does not suddenly change when that organization starts supporting him.

The data thus indicate that politicians vote according to their beliefs, and supporters are giving money to candidates who share their beliefs on important issues.

A reputation for sticking to certain values is important to politicians. This is why political ads often attack policy ''flip-flops'' by the opponent—if a politician merely tells people what they want to hear, voters lack assurance that he will vote for and push that policy when he no longer faces re-election. Voters instead trust politicians who show a genuine passion for the issues.

If donations were really necessary to keep politicians in line, why would individual donors ever give money to a politician who is running for office for the last time? If politicians simply took positions to get elected, why would voters ever elect such a politician who would then be able to vote anyway that he likes?

Proponents of campaign finance reform have managed to claim the mantle of dislodging the entrenched political establishment. But, in fact, the reverse is true: Allowing large contributions is instead the key to letting new faces into politics. Existing federal and state donation limits have entrenched incumbents, who can rely on voters' greater familiarity with them as well as use their government resources to help them campaign and generate news coverage.

It is very difficult for challengers to raise numerous small donations. Incumbents have an advantage here, as they have had years to put together long mailing lists as well as making a wide array of contacts. Allowing large donations would make it easier for newcomers to raise a large sum from a few sources. The long start required for fundraising mean that if a candidate falters, it is virtually impossible for other candidates to enter in at the last moment.

For example, Sen. Eugene McCarthy, nicknamed ''Clean Gene,'' would—under current restrictive rules—not have been able to challenge Lyndon Johnson for the presidency in 1968. He relied on six donors who bucked the party establishment and almost entirely financed his campaign. McCarthy raised as much money (after adjusting for inflation) as George W. Bush has so far in the last election, but Bush has had to raise the money from 170,000 donors.

George McGovern's 1972 presidential primary campaign only succeeded because of extremely large donations from one person, Stuart Mott.

Donation limits have reduced the number of candidates running for office; cut in half the rate at which incumbents are defeated; given wealthy candidates an advantage, raised independent expenditures; increased corruption of the political process; as well as led to more ''negative'' campaigns. More of the same will follow if we continue the path of stricter and stricter campaign ''reform.'' The Enron case is no more relevant to advancing campaign finance than the hopes that new rules will somehow make campaigns more competitive.

[From the Washington Post, Feb. 15, 2002]

NOW, THE UNINTENDED CONSEQUENCES

(By David S. Broder)

It was a famous victory. The campaign finance bill now has passed both the House and Senate and likely will become law with President Bush's signature.

The bill has one great virtue. It will end the ugly and indefensible practice of federal elected officials extorting six-figure contributions to their political parties from corporations, unions and wealthy individuals. it is clear and definitive about doing that, and it will be effective.

Beyond that, the consequences of the bill the Senate approved last year and the House passed early Thursday morning are probably not what supporters have been led to believe. The optimism of the backers is exceeded only by the folly of the House Republican leadership, which must be grateful today of fraudulent Republican amendments so nakedly intended to kill the bill. Their tactics give hypocrisy a bad name.

Still, parts of the bill are probably unconstitutional, and other parts largely unworkable or unenforceable. As with previous campaign finance legislation, it is likely to have big unintended consequences.

For example, the Democrats who furnished the bulk of the votes for passage may be dismayed to learn that in the view of Michael Malbin, the widely experienced head of the nonpartisan Campaign Finance Institute, the bill hands President Bush an enormous advantage in his 2004 reelection campaign.

Here's why: In 200, when Bush rejected public financing of his race for the Republican nomination, he assembled a record treasury of ''hard money'' contributions (limited to $1,000 per person) from family friends, Texas supporters and allies in the business world. As an incumbent president, he can probably double or triple his take, while at the same time avoiding the spending limits that go with public financing.

No Democratic challenger is likely to be in a position to reject the taxpayer subsidies, and in a serious contest, on the accelerated calendar Democrats recently adopted, all the Democrats may well hit their spending limit by mid-March. In the past, the winner could turn to the Democratic National Committee and ask it to finance waves of TV ads from its ''soft money'' account at least until August, when the convention formally made him the nominee and a Treasury check for the autumn campaign arrived.

If this bill becomes law, Malbin points out, the Democrats will have no federal soft money account; their nominee may well be off the air and invisible for five months, while Bush dominates the political debate.

Another unintended consequence may well be to shift the flow of soft money from national parties to state and local parties. Contrary to the impression left by many editorials, this bill does not make all soft money contributions illegal. The amendment sponsored by Michigan Democratic Sen. Carl Levin allows state and local parties to receive individual soft money contributions of up to $10,000 a year ($20,000 per election cycle), as long as they do not spend the money on ads for federal candidates.

Theoretically, one wealthy individual could drop $1 million or more into his favorite party, by writing separate checks to 50 state or local party headquarters.

You can call this a giant loophole or a wise provision to support grass-roots activity, but it goes against the centralizing forces in our politics—which have strengthened not just recent presidents but congressional leaders of both parties.

When the national parties do less for their presidential nominees and their congressional candidates, those men and women become even more individual political entrepreneurs.

It is perhaps not a coincidence that all four of the sponsors—Sens. John McCain and Russ Feingold, Reps. Chris Shays and Marty Meehan—are notable for their maverick tendencies. It is likely this legislation will breed more of their kind.

Finally, the issue the opponents of this bill tried without success to raise its effect on the relative power of interest groups and political parties. The most dubious parts of the measure are those regulating ''issue ads'' that non-party groups run during election campaigns. These provisions implicate basic First Amendment rights of expression, and if the courts find them unconstitutional, then the net effect may well be to empower interest groups while restricting the parties' participation in campaigns.

Interest groups are as American as apple pie. But their agendas are, by definition, narrower than those of the broad coalitions called Republicans and Democrats. It will not help our politics to magnify the power of narrow interests at the expense of the two-party system.

[From the American Prospect, Mar. 25, 2002]

WITH VICTORIES LIKE THESE . . . THE GLARING INADEQUACIES OF SHAYS-MEEHAN

[By Ellen S. Miller]

What a cruel twist of fate: campaign finance reform that benefits Republicans and big money.

The Shays-Meehan bill is back-to-the-future reform: legislation that takes us back to just before 1980, when there was no ''soft money'' but still a huge imbalance in the influence of the big contributors over the rest of the population. Under the terms of the bill that passed the House, the national parties' committees can no longer raise soft money—the unlimited and unregulated contributions that totaled $498 million in 2000. A very good thing, that. But the tradeoff to eliminate this most notorious campaign finance ''loophole'' will actually enhance the power of wealthy special interests, for it loosens a whole series of strictures on hard-money donations—and hard money has already eclipsed soft. Total hard-money contributions to candidates, political action committees (PACs), and parties in the 2000 election cycle came to $1.8 billion, nearly three times the soft-money total.

To ease shock to big-money politics, Shays-Meehan contains three separate increases in the amounts that individual donors can give in regulated hard money, plus a huge exemption that enables campaigns to sidestep the limits altogether. The first increase involves the aggregate contribution limit for individuals. The legislation nearly doubles it to $95,000 per two-year election cycle. The second hike is in what individuals can give to national political parties, which rises from the current $20,000 per cycle per party committee to $57,500. Within these limits, the bill also provides for another dramatic increase: the amount individuals can give to House and Senate candidates doubles to $2,000 per election.

But say that a self-funding multimillionaire candidate is running for office, as is frequently the case these days. Should that happen, Shays-Meehan raises the cap on individual donations to that candidate's opponents from $2,000 to $12,000. Another limit—that imposed on the political parties for their coordinated expenditures to supplement the campaigns of party candidates within the states—is lifted altogether.

Politically, this provision could prove more unsettling for the Democrats than for the Republicans. While only five of the 19 federal legislative candidates who spent $1 million or more of their personal money in 2000 won their races, four of them were Senate Democrats—three of them newcomers (Jon Corzine of New Jersey, Mark Dayton of Minnesota, and Maria Cantwell of Washington) and one returning (HERB KOHL of Wisconsin).

So who would gain power from these fixes? To understand just how off kilter this reform is, you have to understand one primary factor: Today, less than one-tenth of 1 percent of Americans make a contribution of $1,000 to candidates, but these 340,000 individuals accounted for fully $1 billion of the $2.9 billion in hard and soft money that politicians, PAC, and parties banked in 2000. Most of this money comes in large bundles from the ''economically interested''—executives and business associates who've been armed-twisted into supporting a corporation's electoral favorites.

Under the new legislation, those bundles will only grow larger. Republican Senator John McCain of Arizona admitted to being embarrassed recently by the disclosure that he took 431,000 from individuals associated with the now bankrupt telecommunications firm Global Crossing as he argued their case before the Federal Communications Commission. Just how tainted would be feel if he got double that amount (allowable under the new limit) from them the next time he runs for president?

After all these years of struggle, why did reformers settle for so little?

In fact, after more than a decade of seeing their more ambitious ideas come to naught even as the amount of money in politics grew exponentially, reformers and their editorial-board allies felt that they desperately needed a win. According to Derek Cressman of USPIRG (the only campaign-finance-reform organization to oppose the bill), Kentucky's Republican Senator ''Mitchell McConnell wore down the reform movement by defeating stronger legislation year after year. Legislators kept compromising and the watchdogs let them do that.'' As a result, the reform package grew steadily weaker. ''I can't think of any other legislation that's had a tough fight that ended up actually rolling things back,'' Cressman says. ''This bill could have passed easily 10 years ago.''

Speaking not for attribution, some reformers admit that forward movement—even if only one small step forward—became their goal. A second factor, perhaps perversely, was the Democrats' growing proficiency at raising big money themselves—a skill that may have lulled them about the political ramifications of Shays-Meehan. Buoyed by near-parity with the GOP in soft money fundraising, the Democrats generally—and party chairman Terry McAuliffe particularly—came to believe that they could complete in the hard-money game, too. That made the bill's tradeoff between hard money and soft money acceptable.

As the proposed reforms grew steadily more modest, their appeal to the center and center-right grew. Moderate Republicans in the Senate and the House took the lead and the Democrats stood back to let them carry the fight. A seemingly enlightened segment of the business community, some of whom were executives tired of being dunned for six-figure checks, jumped on the bandwagon out of their own self-interest. The scope of reform dwindled until hardly anything remained at all.

There should be nothing surprising in the spectacle of White House Press Secretary Ari Fleisher trying to steal credit for the bill on behalf of his boss. And why shouldn't Bush sign it? Shays-Meehan favors Republicans. The GOP outraised the Democrats in the 2000 cycle $466 million $275 million; and in just released figures for the current election cycle, the Republicans are leading the democrats in hard money $131 million to $60 million. Moreover, Shays-Meehan certainly favors the incumbent president in his 2004 campaign. Bush is a hard-money dynamo: In 2000 he raised $103 million in hard-money donations for the primaries alone, while sitting veep Al Gore raised a paltry $46 million in hard money. Worse yet, signing Shays-Meehan helps to inoculate Bush from the taint of Enron's political money. Nonetheless, Bush taking credit for campaign finance reform, notes Public Campaign analyst Micah Sifry, is ''like Harry Truman claiming credit for sparking the nuclear-disarmament movement by dropping the bomb on Hiroshima.''

But this dubious victory may hold the seeds of more sweeping changes. One thing is certain: The kind of incremental reform that the House has enacted is far from the kind of dramatic change that can actually renew people's faith in our political system. But passing Shays-Meehan at least clarifies the challenge. For years, progressives have endorsed public financing, specifically public financing that covers both primary and general elections. The AFL–CIO has long supported it, and recent converts include the NAACP, the ACLU, the Sierra Club, and the National Organization for Women. The small state experiments in Maine and Arizona have shown what a huge difference it can make. Activists on the national front are poised to move forward. The next victories are likely to come at the state level in judicial elections. Spurred by the American Bar Association's endorsement of full public financing for judicial races, activists in North Carolina, Wisconsin, and Illinois are moving to change their state laws. Public financing of campaigns for the legislature, though further down the road, is most likely in Minnesota, New Mexico, and Connecticut.

Now that soft-money reform is off the table, it's time to focus on the real deal.

ACLU CAMPAIGN FINANCE POSITION PROTECTS FREE SPEECH

[Statement of Nadine Strossen, ACLU President, Ira Glasser, ACLU Executive Director, and Laura W. Murphy, ACLU Legislative Director]

WASHINGTON.—Nine former leaders of the American Civil Liberties Union today released a statement saying that they have changed their positions on campaign finance and now disagree with legal scholars, Supreme Court Justices and the ACLU's longstanding policy to seek the highest constitutional protection for political speech.

In their statement, these leaders argue that the Supreme Court misread the First Amendment in 1976 when it issued its ruling in *Buckley* v. *Valeo*, which struck down legislative limits on campaign expenditures in a holding that reflected many legal precedents and has been repeatedly reaffirmed. Our former ACLU colleagues say that our opposition to current legislation allows members of Congress to hide behind an unjustified constitutional smokescreen.

We are untroubled by the questions they raise and believe that it is they who allow members of Congress and President Clinton to hid behind so-called reforms that are both

unconstitutional and ineffective. As long as measures like McCain-Feingold or Shays-Meehan are allowed to masquerade as reform, neither Congress nor President Clinton will get serious about adopting true reform, which we believe lies in the direction of fair and adequate public financing.

Just last year, we offered Burt Neuborne, a former ACLU Legal Director and one of the principal opponents of our campaign finance policies, the opportunity to argue his position before the ACLU's 83-member National Board. After hours of debate and discussion, Neuborne completely failed to shift the ACLU Board to his view. Many Board members in fact argued that Neuborne's position was in direct conflict with the First Amendment rights that form the foundation of our democracy. Ultimately, the one Board member who had offered a motion to radically alter our long-standing policy withdrew it rather than allowing it to come to a vote.

Yet our former ACLU colleagues persist, offering sweeping proposals that would constitute a wholesale breach of First Amendment rights and that ignore the real-world impact of limits on speech. They speak approvingly of efforts to impose ''reasonable limits on campaign spending'' without saying specifically what such regulations would do. But when we look at those consequences it becomes clear that current campaign finance measures would do immeasurable damage to political speech. The devil, as the cliché goes, is in the details.

A key provision of both McCain-Feingold and Shays-Meehan would, for example, establish limits that effectively bar any individual or organization from explicitly criticizing a public official—perhaps the single most important type of free speech in our democracy—when the official is up for re-election within 60 days. If that kind of law had governed the recent New York City mayoral election, it would have effectively barred the ACLU (and other non-partisan groups) from criticizing incumbent Mayor Giuliani by name on the subject of police brutality in the wake of the horrific Abner Louima incident precisely during the pre-election period when such criticism is most audible. That prohibition would have gagged us even though the ACLU has never endorsed or opposed any candidate for elective office and is barred by our non-partisan structure from doing so. Similarly, anti-choice groups like the National Right to Life Committee would be effectively barred from criticizing candidates who support reproductive freedom. Yet such criticism of public officials is exactly what the First Amendment was intended to protect.

In contrast, there are many reform measures the ACLU supports that would protect and increase political speech. These include instituting public financing, improving certain disclosure requirements, establishing vouchers for discount broadcast and print electoral ads, reinstating a tax credit for political contributions, extending the franking privilege to qualified candidates and requiring accountability of and providing resources to the Federal Elections Commission. None of these proposed reforms would run afoul of the First Amendment.

Still, our former ACLU colleagues press proposals that would inevitably limit political speech. We continue to shake our heads, wondering how such measures can be regarded as ''reforms'' by anyone who is genuinely committed to the First Amendment.●

Mr. DODD. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements regarding this matter be printed in the RECORD.

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

The resolution (H. Con. Res. 361) was agreed to.

ORDERS FOR MONDAY, APRIL 8, 2002

Mr. DODD. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 3 p.m. Monday, April 8; that following the prayer and 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 the Senate resume consideration of the energy reform bill.

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

ADJOURNMENT UNTIL 3 P.M. MONDAY, APRIL 8, 2002

Mr. DODD. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 360.

There being no objection, the Senate, at 3:58 p.m. adjourned until Monday, April 8, 2002, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate March 22, 2002:

FEDERAL EMERGENCY MANAGEMENT AGENCY

ANTHONY LOWE, OF WASHINGTON, TO BE FEDERAL INSURANCE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE JO ANN HOWARD, RESIGNED.

DEPARTMENT OF STATE

PAULA A. DESUTTER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (VERIFICATION AND COMPLIANCE), VICE OWEN JAMES SHEAKS.

FEDERAL MINE SAFETY AND HEALTH ADMINISTRATION

STANLEY C. SUBOLESKI, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2006, VICE MARC LINCOLN MARKS, TERM EXPIRED.

DEPARTMENT OF JUSTICE

DEBRA W. YANG, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS, VICE ALEJANDRO N. MAYORKAS, RESIGNED.

FRANK DEARMON WHITNEY, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR A TERM OF FOUR YEARS, VICE JANICE MCKENZIE COLE, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 22, 2002:

DEPARTMENT OF THE TREASURY

KENNETH LAWSON, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

VICKERS B. MEADOWS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DIANE LENEGHAN TOMB, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

KENNETH M. DONOHUE, SR., OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

NATIONAL CREDIT UNION ADMINISTRATION

JOANN JOHNSON, OF IOWA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2007.

DEBORAH MATZ, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2005.

ENVIRONMENTAL PROTECTION AGENCY

J. PAUL GILMAN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF COMMERCE

JAMES R. MAHONEY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

DEPARTMENT OF VETERANS AFFAIRS

DANIEL L. COOPER, OF PENNSYLVANIA, TO BE UNDER SECRETARY FOR BENEFITS OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF FOUR YEARS.

ROBERT H. ROSWELL, OF FLORIDA, TO BE UNDER SECRETARY FOR HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF FOUR YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF AGRICULTURE

NANCY SOUTHARD BRYSON, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE.

DEPARTMENT OF LABOR

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF THE TREASURY

RANDAL QUARLES, OF UTAH, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.