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# *Senate*

The Senate met at 10:40 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

PRAYER

The guest Chaplain, Father Daniel P. Coughlin, Chaplain of the U.S. House of Representatives, offered the following prayer:

Lord in whom all place their trust, great Healer of souls and nations, we come before You bent by responsibilities and often weakened by years, yet strong in faith and commitment.

A year ago, this Congress battled not only the threat to humanity, terrorists; within the walls of duty Your people fought against the deadly foe called anthrax. But by Your grace and divine Providence not one life was lost here on Capitol Hill. Today we bless You and thank You for Your care and protection. We ask Your continued blessings on the Office of the Attending Physician and its entire staff who proved to be Your instrument in this victory.

At this time, strengthen once again the Members of the Senate and all who serve this Chamber, that they may lead Your people and accomplish great tasks for the good of this Nation and in the name of justice.

Deliver from illness all relatives and friends who are of concern to Your people today, that freed from their infirmities they may be restored to full potential in Your service and come to the fullness of life in Your presence now and forever. 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, October 16, 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.

## RESERVATION OF LEADER TIME

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

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. REID. Mr. President, at 11:40 today the Senate will resume consideration of the election reform conference report with 20 minutes of debate prior to a rollcall vote on adoption of the report. Senators DODD and MCCONNELL will speak at that time.

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

At 2:15 p.m. the Senate will consider the Department of Defense appropriations conference report with 15 minutes of debate prior to a rollcall vote on adoption of that report. That debate will be controlled by Senators STEVENS and INOUYE, who will manage that bill.

Following the disposition of the DOD report, the Senate will begin consideration of S. Res. 304 regarding budget points of order.

Mr. President, we have votes then scheduled at noon and at 2:30. We hope we can resolve S. Res. 304 on the budget issue today. We hope we can do that.

We hope there are no more votes after 2:30, but that has not yet been determined by the majority leader; depending on what happens on S. Res. 304.



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

PRAYING FOR MRS. OGILVIE

Mr. REID. Mr. President, I want to mention very briefly that we are all very concerned about the Chaplain's wife. As some know, she has been extremely ill for a long time, and it is my understanding she took a turn for the worse in recent days. The Chaplain is with her. They moved her to another facility in another part of the country; she is very sick.

The Chaplain prays for us, prays for our families and friends and anyone we make known to him about whom he should be praying about. He is a very fine man. He is very concerned about the welfare of the Senate, and I hope the Senate would be concerned about his welfare and that of his wife, and that we mention Mrs. Ogilvie in our prayers.

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

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

DEFENSE AUTHORIZATION CONFERENCE

Mr. REID. Mr. President, there are a number of issues I want to speak about briefly this morning. First of all, there is a conference report that has not yet been completed—there are many, but I will talk about the defense authorization conference today. There is one issue holding that up.

I have had the good fortune of having the acting chairman of the House Armed Services Committee come and speak to me on this issue. There is an amendment I offered with a number of other Senators that would allow our veterans who are disabled and who have retirement benefits from the U.S. military to draw both of their benefits. Right now, they cannot; they have to make a choice. I have explained this to people at home, and they are dumbfounded that people who have been declared to have a disability in the military, and following the declaration and retirement, they cannot draw both pensions. That is holding up a $400 billion conference because the President of the United States—I used to say people around him, but that is clearly gone now; the President makes the decision—has said he will veto the $400 billion bill. He is going to veto it because of veterans who are disabled and drawing unemployment. He has said it would be something that is not good for the country. I don't think that is true.

I will talk about that more throughout the day. I see my friend from Minnesota. The conference is not closed. I dare the President to veto the bill. The conference should get that report out here. We should pass it and send it to the President and let him veto that. There isn't a veteran in the United States who would not be dumbfounded that the Commander in Chief would veto a bill that gives benefits to somebody who is disabled and retired from the military. It is unfair, inequitable, and wrong. I dare the President to veto that. If there were ever an opportunity to override a veto, this is it. I think the President would make a mistake doing this.

The second thing I want to talk about is, I wrote a letter to Mitch Daniels. I said—generalizing—reading all the press accounts, the President is campaigning more than he is working on policy for this country. He is trying to show the trips he takes, where he makes campaign stops, are really trips where he is doing something of a policy nature, so that trip will be paid for by the taxpayers. I have asked Mitch Daniels, how do you justify that? No response.

Well, I think we have to do something to make the taxpayers free of the obligation of paying for campaign expenses. When we campaign, we have to pay those expenses out of our campaign funds. The President should do that. The Republican National Committee should pay for those trips, and taxpayers should not. I will have more to say about that later in the day.

I see my friend from Minnesota. His plane was a little late, and this is his assigned time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

UNANIMOUS CONSENT REQUEST—S. 3009

Mr. WELLSTONE. I thank the Senator from Nevada.

Mr. President, I come to the floor for now the sixth time with a piece of legislation I have introduced. At other times, Senator KENNEDY has spoken about this, Senator CLINTON has spoken about this, and Senator DURBIN has spoken about this. Many have. I come to the floor to ask that the Senate proceed—I will not make the unanimous consent request yet; I don't see colleagues from the other side of the aisle here yet—that we pass calendar No. 619, S. 3009. This is a bill to extend unemployment benefits for an additional 13 weeks for workers in every State, plus 7 weeks in additional benefits for workers in States with the highest levels of unemployment. This extends the expiration date of the temporary benefits program we passed last March, which otherwise would terminate December 31.

Every time we have tried to do this, my colleagues on the other side—usually it has been the Senator from Oklahoma—have come out and objected. What I have heard my Republican colleagues on the other side of the aisle say is that they need more time to look at this. It is seven pages long. We have been at this now for well over, I think, 2 weeks and, really, one page a day certainly can be read.

I have also heard from my colleagues on the other side of the aisle that they want to work with us. We have been trying to sit down with staff on the other side because we believe we should not leave until we get this done.

One of the points my colleague from Oklahoma has been making is that we are talking about 26 weeks; in other words, if we take what we did in March—people then had 13 weeks of benefits—and they now get an additional 13 weeks of benefits, that is 26 weeks.

I say to my colleague from Oklahoma and other Republicans that we have about 900,000 men and women who have run out of unemployment benefits in the country—20,000 in Minnesota; 50,000 in Minnesota in February; close to 2 million in February of next year—and extending 13 weeks of benefits for people who have utilized the 13 weeks we gave them earlier is exactly what we did in the early 1990s on a 97-to-3 vote, with my colleague from Oklahoma, among others, supporting it.

I do not understand what the problem is. Having been back home and traveled the State a lot, I am not going to make an argument that I would consider to be a false dichotomy; that is to say, people are just focused on the economy and nothing else. I say people are worried about a lot of issues. They are worried about Iraq and what is the right thing to do, they are worried about terrorism, and they are worried about the economy. People want us to focus on the economy, and they want us to put people first. They want us to focus on people, and there are a lot of actions we could take. We could raise the minimum wage. We could invest in education and job training because a lot of workers are trying to go from one job to another, and they need to have that opportunity.

At the very minimum, could we not at least have enough of a sense of compassion and extend unemployment benefits to people who are out of work, through no fault of their own, and have run out of these benefits? This is the sixth time I have asked consent to move forward and pass this legislation.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. WELLSTONE. I will be pleased to yield for a question.

Mr. REID. Has the Senator found at home what I found at home this past Monday? I had a group of veterans with whom I met at 8 o'clock in the morning in Henderson, NV. For the first time I can remember, an elderly World War II veteran came up to me and said: Would you speak to my grandson? His grandson was a graduate of the University of Pittsburgh, had a grade point average of 3.7, and could not find a job. At that meeting, I had two young men come up to me, both of whom are college graduates and could not find jobs.

Has the Senator found that not only those people seeking entry-level jobs

are having trouble, but people who have been laid off at factories and other industries and recent college graduates cannot find work? Has the Senator found that?

Mr. WELLSTONE. Mr. President, I say to my colleague from Nevada, in Minnesota and around the country there are about twice as many people looking for jobs as are jobs available. This economy is flat and, having turned downward, cuts across a broad section of population, and this does include college graduates.

As the Presiding Officer knows, given his work with the Joint Economic Committee, chairing that committee, it is also true that many of the people who are out of work right now actually come from skilled professions, skilled work, middle-income jobs.

I think this administration is sleepwalking through history. We ought to be paying more attention to the economy. We need to get this economy going again. We need to start putting people first again. We need to start investing in people. All of that is true, but at the least what we ought to do is what we did over and over in the early 1990s, which was to pass this legislation I have introduced, which is very simple and straightforward. It will extend unemployment benefits for 13 weeks. We ought to do that. We have done it before. It is the right thing to do. We can help a lot of people, and, in addition—I have said it before—it also provides some economic stimulus because, believe me, whether it is the 9,000 Oklahoma workers who have run out of the benefits we extended in March or whether it is the 20,000 people in Minnesota, people will buy. Right now, they cannot meet their needs month by month.

This is a matter of compassion, of doing what is right. Frankly—I will say it one more time, and then I will propound my unanimous consent request—it is absolutely unforgivable that this is being blocked over and over when this is exactly what we did in the early 1990s.

Before my colleague from Oklahoma came to the Chamber, I said I keep hearing about 26 weeks. This is what we did before. In March, we gave 13 weeks of additional benefits, and they have run out, and now we are talking about an additional 13 weeks. We have always helped people. We have always provided this help to people. We have always moved forward with this kind of legislation.

This is now the sixth time. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3009, a bill to provide economic security for America's workers; that the bill be read the third time, passed, and the motion to reconsider be laid upon the table. This is the sixth time we have propounded this request.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object.

Mr. REID. Regular order, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I came back today from Minnesota. There is a lot of work to be done. At the minimum, we ought to extend unemployment benefits. We have 20,000 people in Minnesota who have run out of unemployment benefits. It is going to be 50,000 in February. We have 900,000 people in the country, 9,000 in Oklahoma. We are going to have 2 million men and women in the country who will run out of benefits by February of next year. We have two times as many people looking for jobs as jobs available.

As my colleague from Nevada said, we have college graduates who cannot find work. We have people who were in middle-income jobs, professional jobs, highly trained, looking for work. They cannot find jobs. At the very minimum, should we not extend unemployment benefits? This is exactly what we did in the early 1990s. We extended an additional 13 weeks of benefits in March of this year, and now people have exhausted their benefits. We are trying to extend an additional 13 weeks of unemployment compensation, 20 weeks in States with high levels of unemployment.

This is exactly the same—I want everybody in the country to know this—this is exactly the same legislation we passed with an overwhelming vote in the early 1990s. Why is this being blocked? Why do my colleagues on the other side of the aisle, every time I come out here or come out here with other Senators, say: We need more time to read it? My gosh, they have had plenty of time to read it. We need more time to negotiate. Have we not been involved in negotiation? This is nothing but stall, stall, stall, block, block, block, put up roadblocks, put up roadblocks, put up roadblocks.

What is so tragic about this situation is it is people's lives.

Mr. REID. Mr. President, will my friend answer a question without losing his right to the floor?

Mr. WELLSTONE. I will be pleased to.

Mr. REID. I do not know if the Senator from Minnesota had an opportunity to hear me earlier today. The Senator was in the Chamber but was communicating with his staff. The Defense authorization bill is in conference. There are about $400 billion in programs in that legislation that affect the military men and women in this country. There is only one provision holding up the conference committee from reporting that bill out, and that is what is called concurrent receipts.

Can the Senator from Minnesota find any justification that a person, who has a disability from the U.S. military and is retired from the military, should not be able to draw both benefits? Is there a reason the Senator can come up with that they should not be able to draw both benefits?

Mr. WELLSTONE. I say to my colleague from Nevada I will talk about this in the same way I talked about the State unemployment benefits. I was proud to be an original cosponsor.

When I was home over this last week, veterans were talking to me about the concurrent receipt, and they were saying they served their country and should get a disability payment when they served our country. And then dollar for dollar it is subtracted from their retirement pay? And they cannot believe there are Members of Congress, be it House or Senate, and the administration, who are trying to block this, keep it out of the Defense appropriations bill; nor can anybody in Minnesota believe there are Senators—and I gather it is the White House as well—who want to block the extension of unemployment benefits. It is the same mentality. It is like they do not want to count people. We are supposed to be helping people. Our work is supposed to be connected to people's lives.

I say to the Senator from Nevada, the Senators and Representatives who are trying to hold up concurrent receipt—and the White House, I gather, is threatening a veto—they better watch themselves because the veterans community is not going to accept this. The veterans community is going to say, in all due respect, this is no way to say thank you. It is no way to say thank you to those who have served our country. It is no way to say thank you to tell them that they cannot get a disability payment without having that money taken out of their retirement pay.

This is a huge issue in the veterans community, and if my colleague does not mind, I am going to speak a little while longer about this because I do not know what has happened. We are nearing the end of the session. There are all these elections, but these two issues we are now talking about—I want to join the two of them—should not have very much to do with politics. They really should not. We have always extended unemployment benefits to people who are flat on their backs through no fault of their own. That is exactly the same thing that is in my legislation that is being blocked over and again on the other side.

What are people who cannot find jobs, who are out of work, who are struggling to put food on the table supposed to do?

Mr. REID. Will the Senator yield for a question?

Mr. WELLSTONE. In one second. What are they supposed to do, wait around for Senators and the White House to continue to play this game of blocking? What is the problem? And what are veterans supposed to do? How are veterans supposed to feel when

they hear the White House is threatening a veto because concurrent receipt is in?

Then the argument is, well, we cannot afford it, or this will cost more money. Tell that to people who served our country. Tell them we cannot afford to live up to our commitment to them. Tell them we do not really believe they have made a valid claim; that it is wrong to take away from retirement pay just because we are giving people a disability payment, a disability payment coming from a disability while serving our country. What in the world is going on? What has happened to our humanity? Why are Senators blocking these initiatives?

I have the floor, but I am pleased to yield for a question.

Mr. REID. Does the Senator also acknowledge that these unemployment benefits help more than the unemployed in that this generates money into the economy, helps small businesses, people can buy gasoline they could not afford otherwise, they might be able to buy some additional groceries? Would the Senator acknowledge that part of the reason extended unemployment benefits were originally passed was to help the economy?

Mr. WELLSTONE. I thank my colleague for his question because he is trying to help me. I view it first as an issue of compassion. Call me a softy, but honest to God, when people have run out of unemployment benefits and they are out of work through no fault of their own, it would seem to me we could provide a helping hand.

My colleague from Nevada is absolutely right. There is not an economist in the Nation who would not make the argument that this is also economic stimulus, as opposed to these Robin-Hood-in-reverse tax cuts with 40 percent of the benefits going to the top 1 percent, and proposals on the part of my Republican colleagues to eliminate the alternative minimum tax so big corporations do not have to pay anything. This is real economic stimulus because the families in Minnesota that would get the additional benefits, much less in Oklahoma, Nevada, and Rhode Island, will consume. They have to consume because right now they cannot make ends meet month by month. They will buy food. They will go out and buy a washing machine if it is broken down because they need it. They will consume. Therefore, it is a win/win.

What puzzles me is that in the early 1990s, five times we passed almost the identical legislation.

Mr. NICKLES. Will the Senator from Minnesota yield?

Mr. WELLSTONE. I would be pleased to yield if I could make one final point, and that is it is amazing the disconnect between what is going on with this effort to block the extension of unemployment benefits and also with this effort to block concurrent receipt and live up to our contract for veterans. Senator REID has taken the lead. I feel as strongly about concurrent receipt as I do about unemployment benefits. It has been a labor of love for me working with veterans.

There is a disconnect between what is going on, blocking this help for people, blocking living up to our commitment to veterans, blocking getting unemployment benefits to families that have run out and what people in Minnesota are saying because what people in Minnesota and the country are saying is focus on the economy. How about unemployment benefits? How about investing in job training and education for people who are working and now trying to look for other jobs or work their way up to better jobs? How about raising the minimum wage? How about making sure that as opposed to a Harvey Pitt, there is somebody at SEC we can count on so when there is an oversight board they are really going to be a watchdog so us little investors can finally count on investing in companies and know that they have not cooked their books?

How about doing away with these egregious rip-offs where companies go to Bermuda, renounce their citizenship and do not pay their taxes? How about not telling big corporations they do not have to pay anything? How about more tax credits for higher education? How about refundable tax credits for tuition? How about applying tax credits to other costs students have like books and other living expenses? How about investing in people? How about helping us? How about thinking about the economy? Every single time we come to the floor, we are not able to get this done.

Mr. NICKLES. Will the Senator from Minnesota yield for a question?

Mr. WELLSTONE. I would be pleased to do so.

Mr. NICKLES. I almost forgot the question, but I think it is coming back to me now. I am almost amused, but not quite, on the bill that the Senator is trying to pass by unanimous consent. Correct me if I am wrong, but did it go through the Finance Committee? Has it been reported out of any committee?

Mr. WELLSTONE. We have been down this road—let me answer the question. I say to my colleague from Oklahoma, in the last 2 weeks we have had this conversation six or seven times. Every time, I say no, and then my colleague says he has not had time to read it, and I say it is seven pages and I know the Senator is a quick reader. That is one page a day. Then my colleague says, let's us work together. We are waiting, and so far the only thing I have seen from the Senator is obstruction. That is my answer.

Mr. NICKLES. I admonish my colleague—that is a strong word—I inform my colleague that a person could exhaust their benefits, find a job and still would be counted as being unemployed.

Mr. WELLSTONE. I am sorry?

Mr. NICKLES. The current law is a 13-week Federal program, which is what we have done most of the time. The Senator has gone back to 1990. At one time there was a 26-week extension.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired.

Mr. NICKLES. I ask unanimous consent to continue for 4 additional minutes.

Mr. DODD. Reserving the right to object, I hesitate to interfere with my colleagues from Oklahoma and Minnesota who are engaged in a very important discussion.

Mr. NICKLES. We will be done in 4 minutes.

Mr. DODD. I ask unanimous consent to revise your unanimous consent request to provide an additional 4 minutes for Senator BOND and myself to talk about the election. I know that is not as compelling to some, but we think it is very important, and we want to say some things about it before the vote. After the 4 minutes is up, I will object to an extension of time.

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

Mr. NICKLES. Just to inform my colleague from Minnesota, that current law is a 26-week State program and a 13-week Federal program, with some high unemployment States getting an additional 13 weeks. You are trying to modify the original 13 weeks and make it 26 weeks. That is very expensive.

Just to inform my colleague, if you did not try to change the trigger, or use the adjusted insured unemployment rate which costs a lot of money, and just looked at a clean, straight extension which would cost about $7 billion instead of $17.1 billion, the probability of success would go up dramatically. I mention that. To draft a bill, put it directly on the calendar, and say we expect you to pass it without any modification, is not going to happen.

I wanted to make that point. I thank my colleague from Connecticut.

Mr. WELLSTONE. Mr. President, let me say to my colleague from Oklahoma in a sincere and emphatic way, he knows a straight extension is not enough. We need an additional 13 weeks. That is the whole point. It is not a straight extension. It is adding 13 weeks for people who have run out of unemployment benefits, 900,000 men and women in the country. The trigger is the exact same trigger we used in the early 1990s. This is $10.6 billion over 10 years, all of which is in the trust fund to provide the help to people who have run out of benefits.

My colleague has blocked the very legislation we passed in the 1990s to help people. For the people in Minnesota, and the people in the country, the straight extension is not what this is about. This is an additional 13 weeks. That is what we did in the early 1990s, many times over, and what we should do today. It is simply wrong, after almost 2 weeks, that my colleague has been blocking this over and over and over again.

I yield the floor.

Mr. NICKLES. I know the Senator wants to be factually correct. I believe the trigger is different from the one in the early 1990s. The fact is, if you want to help people, consider a straight extension of the program we have in current law.

I yield the floor.

## THE PROSECUTORIAL REMEDIES AND TOOLS AGAINST EXPLOITATION OF CHILDREN TODAY (PROTECT) ACT

Mr. LEAHY. Mr. President, I rise today to urge the Senate to pass S. 2520, the Prosecutorial Remedies and Tools Against the Exploitation of Children Today, PROTECT, Act of 2002. This bill and the substitute I offer will protect our Nation's children from exploitation by those who produce and distribute child pornography, within the parameters of the First Amendment. I was an original cosponsor of S. 2520 and joined Senator HATCH, the ranking Republican member of the Judiciary Committee, on the Senate floor when the bill was introduced.

Since that time, I have been working with Senator HATCH both to improve the bill that we introduced together and to build consensus for it. Unlike the Administration's bill, which has been widely criticized by constitutional and criminal law scholars and practitioners, we have been largely successful in that effort. The substitute I offer today is virtually identical to the version circulated by Senator HATCH before the October 8, 2002 meeting of the Judiciary Committee. I am glad to report that this substitute has been approved by every single Democratic Senator. Moreover, every Democratic Senator has agreed to discharge S. 2520 from the Judiciary Committee for consideration and passage by the Senate, with a refining amendment.

I am now asking my colleagues on the Republican side of the aisle to lift any holds and to allow this important legislation to pass the Senate. That way, the House may take up the bill and the PROTECT Act may become law before we adjourn. I know that there are some who would rather play politics with this issue, but I hope that they reconsider. It is more important that we unite to pass a bill that will both protect our Nation's children and produce convictions rather than tying up prosecutorial resources litigating the constitutionality of the tools we give the Justice Department to use. This legislation will accomplish those goals.

Two weeks ago I convened a hearing on this issue to hear from the Justice Department, the National Center for Missing and Exploited Children, CMEC, and constitutional scholars. The constitutional scholars testified that the provisions of S. 2520 were likely to withstand the inevitable court challenges ahead. Unfortunately, they could not say the same of the Administration's proposal and H.R. 4623. Professor Frederick Schauer from Harvard, who served on the Meese Commission on pornography and authored its findings, as well as Professor Anne Coughlin from the University of Virginia both agreed that the Administration's bill and H.R. 4623 crossed over the First Amendment line after the Supreme Court's decision in Ashcroft v. Free Speech Coalition, 122 S. Ct. 1389. Even the ACLU has passed along views from its First Amendment expert that S. 2520 is ''well crafted and should survive constitutional scrutiny.''

That point is crucially important, because it does no one any good to pass a ''quick fix'' law that will land us right back where we started in five years, with no valid law on the books to protect our Nation's children from exploitation. We owe our children more than a press conference on this issue, we owe them a law that lasts.

I am not alone in that view. Testimony at the Judiciary Committee hearing made this point clearly. Professor Schauer testified in support of the basic provisions of the PROTECT Act, but warned us about the Administration's proposal. Incidently, this same constitutional law scholar testified in favor of the Child Pornography Prevention Act, CPPA, in 1996, but he also correctly warned us then about the precise parts of that law that would be struck down. Here is what he said this time around:

> [W]hether it is open to academic or congressional criticism, Justice Kennedy's opinion for a 7–2 Court still represents the definitive and authoritative interpretation of the First Amendment in the child pornography context, and thus represents the law. Legislation inconsistent with Free Speech Coalition would not only be inconsistent with current constitutional law, therefore, but would also represent a tactical mistake in an attempt to combat the horror of child pornography. As the six year course of litigation under the previous Act so well demonstrates, constitutionally suspect legislation under existing Supreme Court interpretations of the First Amendment, whatever we may think of the wisdom and accuracy of those interpretations, puts the process of prosecuting the creators of child pornography on hold while the appellate courts proceed at their own slow pace. There is room in our legislative world for legislation that is largely symbolic, but for Congress to enact symbolic but likely unconstitutional legislation would have the principal effect of postponing for conceivably six more years the ability to prosecute those creators of child pornography whose prosecution is consistent with the Supreme Court's view of the First Amendment.

After our Judiciary Committee hearing, Senator HATCH and I continued to work to improve our bill to address concerns that had been raised. We worked to come up with a Hatch-Leahy substitute amendment for consideration by the Judiciary Committee that included technical corrections and improvements to the original text of S. 2520 that we could both agree upon. These included addressing some issues raised by the National Center for Missing and Exploited Children, CMEC, concerning the scope of the victim shield provision to limit that provision to ''non-physical'' information.

The changes in the proposed Hatch-Leahy substitute also included adopting the House bill's measures allowing the CMEC to share information from its tip line directly with State and local law enforcement officers, instead of always passing the information through the FBI. Although the Administration did not originally ask for this change, the CMEC has reported that the FBI is either unwilling or unable to share information from the child exploitation tip line in a timely manner with state and local law enforcement. As the Chairman of the Committee charged with overseeing the FBI, I was disappointed to hear this appraisal of the FBI. To remedy this situation, and in the spirit of compromise and reconciling this legislation with the House passed bill, the substitute to S. 2520 incorporates this change.

I note that Senator HATCH would not agree to accept my proposal that we also include a provision that would ensure that tips to the child exploitation tip lines come from ''non governmental sources'' so that government agents could not ''tickle'' the tip line to try to avoid the legal requirements of the Electronic Communications Privacy Act. I did not insist on this important provision because, with time running out in this Congress, we must all compromise if we want to pass a bill, and I want to pass this bill.

In any event, I placed S. 2520 on the Judiciary Committee agenda for its meeting on October 8, 2002. Unfortunately, due to procedural issues, including the two hour rule that was invoked because of the debate on Iraq, and procedural maneuvering that centered around judicial nominations, members from the other side of the aisle objected to the consideration of this and all other legislative proposals before the Judiciary Committee. The Judiciary Committee was, consequently, unable to consider the bipartisan substitute circulated by Senator HATCH, and to which I agreed.

The substitute for which I now seek unanimous consent is identical to the proposed Committee substitute that Senator HATCH circulated with two exceptions. First, the substitute removes three lines that were not in the original language of S. 2520 as introduced by Senator HATCH and that were inadvertently included in the version of the substitute circulated by Senator HATCH. Indeed, I am advised that Senator HATCH was prepared to strike these 3 lines had the Judiciary Committee considered the substitute. The Leahy amendment simply corrects this inadvertent error, which was totally understandable in the rush of business.

The second change the substitute makes in order to assure swift passage of this measure is to render the new affirmative defense created in S. 2520 available to defendants who can prove

that actual adults, and no children, were used to create the visual images involved. This change would provide no help to defendants seeking to assert a ''virtual porn'' defense, which would still be blocked both for the new category of material created by the statute and any obscene child pornography. But in the case of a defendant who can, for instance, actually produce in court the 25-year old that is shown in the allegedly obscene material and prove that it is not, in fact, child pornography, or even virtual child pornography, the defense would be available. Indeed, Justice O'Connor in her concurring opinion in the Free Speech case specifically concluded that the prior law's prohibition on such ''youthful adult'' pornography was overbroad. As the testimony at our Committee hearing made clear, we should be careful not to repeat this mistake.

Other than that, this substitute is the exactly same as the substitute circulated by Senator HATCH before the Judiciary Committee's meeting on October 8, 2002. The definitions of child pornography are the same; the new tools for prosecutors to catch and punish those who exploit children are the same; the new tools given to the Center for Missing and Exploited Children are the same. This is, for all intent and purposes, the same as the Hatch-Leahy substitute.

This is a bipartisan compromise that will protect our children and honor the Constitution. I urge members from the other side of the aisle to join us. Do not hold this bill hostage as part of some effort at political payback or a ''tit for tat'' strategy. Let this bill pass the Senate and give law enforcement the tools they need to protect our children in the internet age.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## HELP AMERICA VOTE ACT OF 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 3295, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany (H.R. 3295), a bill to establish a program to provide funds to States to replace punchcard voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.

Mr. DODD. I ask unanimous consent the conference report be considered as read.

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

Under the previous order, there will now be 20 minutes of debate on the conference report.

Mr. DODD. I presume that time is equally divided between Senator MCCONNELL and myself.

The PRESIDING OFFICER. That is correct.

Mr. DODD. We spoke at some length yesterday, and my colleague from Missouri was very involved. I am prepared to reserve my time until Senator BOND and Senator MCCONNELL have time to talk about this report.

Mr. MCCONNELL. I yield 8 minutes to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today with a sense of relief and satisfaction that we have come to the end of this marathon to do something I believe everybody in this body and in the other body believe is vitally important. We need to change the system to make it easier to vote and tougher to cheat. I begin by offering my sincere thanks and congratulations to Senator DODD, to Senator MCCONNELL on our side, for their great work, to our good friends on the House side, Chairman NEY and Congressman HOYER. We have gotten to know them much better over the last months as we have worked together. This has been truly an heroic effort.

The 2000 election opened the eyes of many Americans to the flaws and failures of our election machinery, our voting systems, and even how we determine what a vote is.

We learned of hanging chads and inactive lists. We discovered our military's votes were mishandled and lost. We learned of legal voters turned away, while dead voters cast ballots. We discovered that many people voted twice, while too many weren't even counted once.

This final compromise bill—and it is a compromise in the truest sense of the word—tries to address each of the fundamental problems we have discovered.

For starters, this bill provides $3.9 billion in funding over the next 5 years to help States and localities improve and update their voting systems. In addition to providing this financial help, we also provide specific minimum requirements for the voting systems so that we can be assured that the machinery meets minimum error rates and that voters are given the opportunity to correct any errors that they have made prior to their vote being cast.

This bill also provides funding to help ensure the disabled have access to the polling place and that the voting system is fully accessible to those with disabilities. A very special thanks to the Senator from Connecticut for this unwavering commitment to those goals.

We also create a new Election Administration Commission to be a clearinghouse for the latest technologies and improvements, as well as the agency who will be responsible for funneling the federal funds to States and localities. This reflects a great deal of effort by the distinguished Senator from Kentucky.

Then the bill attempts to address one of my key concerns, and that of course is the issue of vote fraud.

Now, I like dogs and I have respect for the dearly departed, but I do not think we should allow them to vote. Protecting the integrity of the ballot box is important to all Americans, but especially to Missouri because of our State's sad history of widespread vote fraud. This legislation recognizes that illegal votes dilute the value of legally cast votes—a kind of disenfranchisement no less serious than not being able to cast a ballot.

If your vote is canceled by the vote of a dog or a dead person, it is as if you did not have a right to vote. Much has been said about this. We have even heard from some colleagues in groups that vote fraud does not really exist. We have been told by professors and other learned folks in ivory towers that vote fraud really only exists in movies. Well, gang, come down out of your ivory towers. We can explain it to you. We know better.

In just the past month we learned of voter scams in Pennsylvania, and now we are learning of an ongoing FBI investigation in South Dakota where the media reports:

> Every vote counts—unless ballots are being cast by people who don't exist, are dead, or who don't even live in South Dakota. A major case involving those voter fraud issues has been under investigation by the FBI for the past month.

If vote fraud is happening in South Dakota, it could be happening everywhere. In fact, in a report just released, which reviewed voter file information across State lines, nearly 700,000 people were registered in more than one State and over 3,000 double-voted in the 2000 election. That is 3,000 vote fraud penalties, felonies, waiting to be prosecuted. I hope local, State, and Federal officials involved will aggressively pursue these crimes.

But, as I have said numerous times since I began this quest with Senators DODD and MCCONNELL many months ago, I believe that an election reform bill must have two goals—make it easier to vote but tougher to cheat.

Lets discuss for a moment a few of our registered voters: Barnabas Miller of California, Parker Carroll of North Carolina, Packie Lamont of Washington, D.C., Cocoa Fernandez of Florida, Holly Briscoe of Maryland, Maria Princess Salas of Texas and Ritzy Mekler of Missouri.

They are a new breed of American voter. Barnabas and Cocoa are poodles. Parker is a Labrador. Maria Princess is a Chihuahua, Holly is a Jack Russell Terrier, and Ritzy is a Springer-Spaniel.

So has our voting system really gone to the dogs? And what can we do about it? This final bill takes this issue

square on, and I am very pleased that this final agreement retains and strengthens the anti-vote fraud provisions we spend so much time fighting to include:

New voters who choose to register by mail must provide proof of identity at some point in the process, whether at initial registration, when they vote in person or by mail. Among the kinds of acceptable forms of identification: utility bill, government check, bank statement, or drivers license—no dog licenses, please. In lieu of the individual providing proof of identity, States may also electronically verify an individual's identity against existing State databases. This should go a long way toward solving the fraud occuring in South Dakota.

States will be required to maintain a statewide voter registration list.

Mail-in registration cards will now require applicants specifically to affirm their American citizenship.

The bill makes it a Federal crime to conspire to commit voter fraud. Those behind illegal vote fraud activities will be subject to penalties, not just the poor operatives who signed the fraudulent applications.

Voters who do not appear on a registration list must be allowed to cast a provisional ballot. Voters without proper identification are also allowed to vote provisionally, but no provisional ballot will be counted until it is properly verified as a legal vote under state law.

If a poll is held open beyond the time provided by State law, votes cast after that time would be provisional and held separately.

Finally, voters will be required to include either their driver's license number or the last four digits of their social security number on their voter registration form. Again, this reform will also help in uncovering the fraud that is occuring in South Dakota.

I believe that these meaningful reforms will go a long way to helping states clean up voter rolls, and thus clean-up elections.

Will Rogers once said, ''I love a dog. He does nothing for political reasons.'' Our election laws should keep it that way.

Mr. President, the Help America Vote Act contains many important provisions that will improve the equipment voters use to cast ballots at the polls. It also will take major steps to prevent fraud, which disenfranchises voters by cancelling the votes of legal voters with illegal votes. This bill follows in the path of the Voting Rights Act, the National Voter Registration Act and other Federal voting statutes the enhance the voting rights of all Americans and protect the exercise of their franchise. These important provisions deserve further review so their meaning and the intent of Congress in including the provisions in the bill is clearly understood.

By passage of this legislation, Congress has made a statement that vote fraud exists in this country. The many reported cases and incidents of registration and vote fraud revealed in testimony before Congress, in our debates and in the press make it imperative that we implement such standards that are clearly within the Constitutional power and prerogatives of Congress.

A principle concern of Congress addressed in this bill is the abuse of mail registration cards, created by Congress as part of the National Voter Registration Act, for the purpose of committing vote fraud. The creation by Congress of the mail registration cards opened an new avenue for vote fraud in many States. NVRA requires States and localities to accept registration cards through the mail while limiting the ability of states and localities to authenticate or verify the registrations. Accordingly, the mail-in registration cards have become a means of unscrupulous individuals to register the names of deceased, ineligible or simply non-existent people to vote.

In my home State of Missouri, there is abundant evidence of these cards being used for the purpose of getting phony names, the names of the deceased and even the names of pets on voter rolls. Someone even registered the deceased mother of the prosecuting attorney of the City of St. Louis. Names have been registered to drophouses, businesses, union halls, Mailbox Etc. and vacant lots. From there the people behind the fraud can request an absentee ballot in the name of the voter or attempt to go to the polls and cast a vote under the assumed name.

Congress agreed that while the mail-in cards have made registration more accessible, the policy has also created increased opportunities for fraud. To address this, we created an identification requirement for first-time voters who register by mail. The security of the registration and voting process is of paramount concern to Congress and the identification provision and the fraud provisions in this bill are necessary to guarantee the integrity of our public elections and to protect the vote of individual citizens from being devalued by fraud. Every false registration and every fraudulent ballot cast harms the system by cancelling votes cast by legitimate voters. It undermines the confidence of the public that their vote counts and therefore undermines public confidence in the integrity of the electoral process.

Under this new Federal requirement, those who choose to register by mail will have to show identification before the first time they vote in that jurisdiction. If the voter is registering to vote in a State that has a statewide voter registration system complying with the requirements of this bill, the voter will have to show identification before the first time they vote in that state. The voter has to show identification at some point between the time they register and the time they vote. To comply with the identification requirement, the voter can include a copy of the identification with their registration card, a copy of the identification can be included with an absentee ballot or it can be shown when the voter goes to the polling place. The option of the voter to vote absentee or to vote at the polls is not limited but the objective of Congress is fulfilled by voters who register by mail verifying the identify of the voter at some point before they cast their first vote.

It must be noted, that in drafting the bill, the authors of the Senate bill conducted extensive research. It was the conclusion of the authors based on the research that it is in the capacity of the chief state election official and the overwhelming majority of election jurisdictions to track the names of those who register by mail. With that information, the election jurisdictions will have accurate and ample information to determine which voters will be required under the terms of this statute to present identification at the polls. It has been argued that there is likely to be confusion at the polls because states will not have the information as to first time voters. This concern was carefully weighed by the bill's authors and the conferees and it was agreed that the evidence does not support the assertion.

Regarding the numerous criticisms of this section: this provision will not result in voters being denied the right to vote. Voters who do not have the identification required will be given the opportunity to cast a fail safe ballot. Voters who are at the polls will cast a provisional ballot and those who vote by mail will have their ballots subject to additional review to determine validity of the registration.

This provision does not single out those who register by mail in an improper manner, rather it builds on the existing structure Congress created in the National Voter Registration Act. When creating mail registration, Congress recognized the potential for fraud and authorized states to require mail registrants to vote in person the first time they vote. The approach proved to be inadequate so in this bill we took additional steps. The approach we took, however, was already paved in the passage of the National Voter Registration Act.

This provision is not discriminatory; the documents required for identification are widely available. The Department of Transportation statistics report that more than 90 percent of Americans of voting age have a drivers license. But to be certain no one will be negatively impacted, the conferees included carefully crafted and balanced identification requirements. The required pieces of identification include items widely available to all citizens, including the disabled, the poor, new citizens, students and minorities.

For example, positive identification is required to apply and receive food stamps. When applying for food stamps, the required identification is

very similar to that required in this bill, including a driver's license or some other identification that allows the state to verify the identify of the applicant for the purpose of preventing fraud. Provision and verification of an existing social security number is required before a person can qualify for Federal temporary assistance. The steps taken in this bill are in line with the steps taken by the Federal Government to prevent fraud in welfare assistance. Surely clean elections, accurate results and faith in the election process is as an important of an objective as preventing welfare fraud. The conferees also agree that the provision is something that can be readily complied with by the disabled. As we know, many of the disabled are in the work environment, therefore will be in possession of a paycheck or tax return or other government document bearing the name and address of the voter. As stated, Federal benefits require an identification. For those who use state or federal services, they again will have identification or another government document related to the provision of the service. Again, great steps have been taken to ensure that all Americans can comply with this provision.

The aged, disabled, the poor and members of minority groups are most often the target of fraudulent registration and absentee ballot fraud schemes that take advantage of the lack of security in the system, their ability to register to vote and cast a ballot will be enhanced most by this legislation.

The identification requirements do not run afoul of the Voting Rights Act. In fact, Assistant Attorney General for Civil Rights Ralph Boyd in a letter to the Senate stated that the identification provision does not violate the Voting Rights Act. The identification requirement gives the voter choices as to where and at what point in the process to produce identification. The ability of the states to apply this provision in an arbitrary or discriminatory manner is limited by giving the choice to the voter. Furthermore, Congress explicitly provided that the identification requirements are to be administered in a uniform and nondiscriminatory manner. Election officials must ask all people for identification when the legislation calls for it.

The first time voter ID requirements for those who register by mail are obviously not discriminatory since they apply to all voters regardless of race, color or ethnic origin and must be applied in a uniform and nondiscriminatory manner.

It must be noted that one form of identification required is a current valid photo identification. It is the intent of the conferees that this identification be issued by a government entity or a legitimate recognized employer. The conferees agree that the identification should not be that of a party organization, a political organization, a club or a retail establishment. The conferees intend that the photo identification be something that is extremely difficult to falsify or procure under false pretenses.

Congress intends the Help America Vote Act to work along side the National Voter Registration Act. However, the identification provision, section 303(b) Requirements for Voters Who Register By Mail, may be read by some courts or other parties to require action or conduct prohibited by NVRA.

It is the intent of Congress that voters who register by mail show identification. If a court reads this obligation to conflict with any other statute, it is the intent of Congress that section 303(b) of the Help America Vote Act control in such a situation. Congressional intent is reflected by the presence of section 906, which clearly states that this section will be controlling.

The conferees recognize that many States have taken steps to address fraud. A number of those steps may go beyond that set in this bill. It is the agreement of the conferees that this bill in no way limits the ability of the states from taking steps beyond those required in this bill. For instance, several States require those who register by mail to vote in person the first time they vote. This bill does not limit a State from taking this additional step to address fraud. Each of the steps taken in this bill to address fraud shall be considered to be a minimum standard.

This legislation sets an additional Federal mandate. All people registering to vote for a Federal election will be required to provide a driver's license number or the last four digits of their social security number on the registration card when they register to vote. If an applicant has neither, the registrant should indicate so and the State will provide a number at the time the application is processed. No registration can be processed unless this information is included.

The authors of this bill found that voter rolls across the country are inaccurate or in very poor order, the condition in many jurisdictions, particularly the large jurisdictions, are in a state of crisis. Voter lists are swollen with the names of people who are no longer eligible to vote in that jurisdiction, are deceased or are disqualified from voting for another reason. It has been found that 650,000 in this country are registered in more than one State. As of October of 2002, 60,000 people were registered in Florida and at least one other state. In St. Louis County, some 30,000 people were registered to vote in the county and at least one other county in the State.

The conferees agree that a unique identification number attributed to each registered voter will be an extremely useful tool for State and local election officials in managing and maintaining clean and accurate voter lists. It is the agreement of the conferees that election officials must have such a tool. The conferees want the number to be truly unique and something election officials can use to determine on a periodic basis if a voter is still eligible to vote in that jurisdiction. The social security number and driver's license number are issued by government entities and are truly unique to the voter. They are the most unique numbers available, that is why the conferees require the voter to give the number.

Again, it is the intent of the conferees to impose a new Federal mandate for voter registration.

Under this bill, the use of the full social security number is not required, a partial social security number is required. That requirement does not conflict with the terms of the Federal privacy act. The privacy act states that people cannot be required to give their social security number except for limited purposes. Registering to vote is not one of the exceptions. But the privacy act protection is limited to the full social security number, there.

The conferees do not want this requirement to conflict with the privacy act, therefore, language was included in the bill to clarify the privacy act with regard to the partial social security number. The bill clarifies that the partial social security number is not covered by the privacy act, so asking for four digits will not conflict in any way.

Finally, It is important to note that states that utilize full social security numbers for voter registration applicants can continue to do so after passage of this legislation. This new registration requirement is a minimum standard. If a state requires applicants to provide more information—such as their entire nine-digit social security number—this legislation will not override that state requirement.

Section three of the legislation is known as the minimum standards section. It includes minimum standards for federal election to be adopted by the states. The first of the mandates concerns the voting system, which includes the type of voting machine or method used by a jurisdiction. This section will require the voting system to meet minimum standards. However, the legislation does not seek to ban the use of a particular type of system and it does not instruct a jurisdiction as to what type of system to use. The intent of the bill is to improve the system used; it is not the intent of the legislation to prohibit a jurisdiction from using any type of system or to ban a voting system.

Under this minimum standard, the voting system in every jurisdiction will have three requirements. First, the voter has to be permitted to verify the votes they cast. This requirement gives the voter the opportunity to review the ballot after it is filled out and before it is cast so that the voter himself can determine if he made a mistake in filling out the ballot. The second requirement

gives the voter the right to a replacement ballot. The intent of this provision follows on the verification provisions; if a voter finds that he has made a mistake he can ask a poll worker for a replacement ballot for the voter to fill out and cast. The first ballot, of course, will be invalidated by the poll workers. This provision also applies to mail-in voting and absentee voting. It does not require a state or jurisdiction to do anything other than provide a voter the opportunity to get a replacement ballot. It is incumbent upon the voter to do so before any deadline for submitting the absentee or mail ballot.

The next voting machine related requirement has to do with over votes, voters who cast more than one vote in a single race and spoil their ballot. Certain voting technologies, such as the DRE, precinct-based opti-scan and lever machines, notify the voter that they have voted more than once in a single race. If the technology can notify the voter, this section requires that it is employed and voters be notified. There are certain technologies that do not notify the voters of overvoters, such as paper ballots, central count systems, punch-card systems and absentee ballots. To satisfy the requirement, jurisdictions that use this system will be required to have in place a voter education system to inform the voter of the consequences of overvoting and the remedies that are available should they overvote. This is a compromise and it is consistent with the clear intent of the authors of this bill not to eliminate any type of voting system and allow jurisdictions to choose the system that is best for that jurisdiction.

The legislation also requires every jurisdiction in every State to offer voters who claim to be registered in a jurisdiction but do not appear on the voter rolls for that jurisdiction the right to cast a provisional ballot. If the voter provides the required information and attests to their belief of being properly registered, the voter will be given a provisional ballot. No voter will be turned away from the polls because of a mistake or oversight at the administrative level.

There are several points I want to make as to how the provisional vote is to operate. I also want to clarify the intent of the authors as to the extent and limit of the right conferred on the voter by this section.

The provisional ballot will be extended to those who arrive at the polls to find that their name does not appear on the register of voters. The statute states that the poll worker shall inform the voter of the right to vote by provisional ballot. That right, however, is extended to those who believe that they are registered to vote and are registered to vote in that particular jurisdiction.

It is not the intent of the authors of this bill to extend the right to vote by provisional ballot to everyone who shows up at the polls and is not registered or for those who are not eligible to vote in the election. The intent is to provide protection to those who in fact registered but do not appear on the register because of an administrative mistake or oversight.

Before one can get a provisional ballot, the voter must sign an affidavit attesting to the fact that he believes he registered to vote in that jurisdiction and that he is eligible to vote in that election. So in addition to the registration question, the voter must also state that he is not disqualified from voting in the election, such a reason may include felony status or the voter has already cast an absentee vote in the race.

Once the voter turns over his ballot, it will not be tabulated until the information provided by the voter as to his registration status is verified. In verifying the information about the voter, the language of the statute states that the information provided shall be transmitted to a state or local election official for verification of the information. This language reflects the intent of the authors of the bill that the registration and eligibility of the voter be verified by an election official before the ballot is counted. It is also the intent of the authors that the verification be done by someone other than the poll workers and that the ballot be segregated from other ballots until that information is verified. The authors went to lengths to ensure that the ballot is not simply counted once cast, rather a review of the information is to be conducted on the status of the voter.

Furthermore, ballots will be counted according to state law. If it is determined that the voter is registered in a neighboring jurisdiction and state law requires the voter to vote in the jurisdiction in which he is registered, meaning the vote was not cast in accordance with State law, the vote will not count. It was contemplated by the authors of the statute that under such circumstances, the vote will not count. It is not the intent of the authors to overturn State laws regarding registration or state laws regarding the jurisdiction in which a ballot must be cast to be counted.

Additionally, it is inevitable that voters will mistakenly arrive at the wrong polling place. If it is determined by the poll workers that the voter is registered but has been assigned to a different polling place, it is the intent of the authors of this bill that the poll worker can direct the voter to the correct polling place. In most States, the law is specific on the polling place where the voter is to cast his ballot. Again, this bill upholds state law on that subject.

The legislation also speaks to efforts, through litigation or otherwise, to extend polling hours beyond those set by law. Under this bill, those who vote in an election as a result of an order extending polling hours, they will be required to cast a provisional ballot. This section only covers those who vote as a result of the order, it does not cover those who are in line before the polls close but cast their ballot after the closing time.

Those who vote as a result of the order will cast a provisional ballot and the ballots are to be held separately from other provisional ballots cast in that race.

As we have seen before in elections, lower courts have issued orders to extend polling hours only to have their order overturned later in the day. But prior to passage of this bill, once ballots are cast, we have no way of retrieving those ballots and candidates will be credited with votes that should never have been cast. With the method required by this legislation, the ballots of those voting based on the order will be segregated and identifiable. If the order is overturned, the parties involved in the election and perhaps the courts can then determine how to reconcile those ballots. It only seems fair that if the order is overturned and a higher court decides that the polling hours should not have been extended, then the ballots cast as a result of that order should not count for or against any of the candidates.

The legislation also requires states to set up a computerized, statewide voter registration system to maintain the names of all registered, eligible voters. It has been discovered that in states across the country, registration lists contains the names of people who have left the jurisdiction, who are not eligible to vote because of their status as a felon, who are deceased or who are not eligible to vote in that jurisdiction for any number of reasons.

As I prepared to draft this legislation, I reviewed the voting lists in two jurisdictions in my State, St. Louis City and St. Louis County. In the city, I found that one in ten voters were also registered somewhere else in the State and at the time of the November 2000 election, there were more registered voters than there were city residents of voting age. In St. Louis County, I found nearly 35,000 people who were registered somewhere else in the State. It was not unusual to find people who were registered four times in the state.

It is well documented that registration lists around the country as in disarray; they are bloated and contain the names of thousands of people that no longer belong on the list. In part, this is because we live in an increasingly mobile society. It is also because congress made it more difficult for localities to maintain clean lists when Motor Voter was passed.

Under this law, States will be required to maintain a State system and therefore the central database of information containing the names of all registered voters in the state.

In most States, registration will be maintained for the first time on a statewide basis rather than jurisdiction by jurisdiction. This will not affect the obligation on the States to

conduct list maintenance according to the provisions of the National Voter Registration Act. First, for those States who are exempt from motor voter, this will not affect that exemption and it will not affect the way they maintain their voter lists. All other States must comply with NVRA maintenance provisions. This legislation does not limit the circumstances under which States can remove names from voter lists. The notice provisions must still be complied with, although they have been altered by the terms of this legislation.

The requirement for a state-wide registration system will enhance the integrity of our election process, making it easier for citizens to vote and have their ballots counted, while clearing ineligible and false registrations from the voter rolls.

The Help America Vote Act also includes two new crimes directed at those who commit vote fraud. This should be taken as further evidence of the extent of the concern of the conferees and Congress at large about voter fraud and the lengths that should be gone to stop voter fraud. One section in particular section, 905(a), requires additional clarification.

This section is as well intended to work with NVRA. Under NVRA, people who use the mail registration card for the purpose of committing vote fraud are subject to a criminal penalty. The reading of NVRA appears to limit that to the person who actually commits the act, whether it be sign the false card, mail the false card or turn it in to the election officials. Section 905(a) of the Help America Vote Act, is intended to extend that reach of the statute to cover those who organize the fraudulent use of mail registration cards or who conspire with others to use the mail registration cards to commit vote fraud. Therefore, it is clear it is the intent of Congress to extend the reach of the law to get the conspirators and the ring leaders in committing vote fraud.

Mr. President, I close expressing my sincere appreciation to the staff. On Senator DODD's staff: Shawn Maher, Kennie Gill, and Ronnie Gillespie. On Senator MCCONNELL's staff: Brian Lewis, Leon Sequeira, and Chris Moore. On the staff of Congressman NEY: Paul Vinovich, Chet Kalis, Roman Buhler, Matt Peterson, Pat Leahy. On Congressman HOYER's staff: Keith Abouchar, Lennie Shambon, and Bill Cable.

Mr. MCCONNELL. Mr. President, I thank Senator DODD for that statement which clearly reflects the intent of the authors of the bill on these important sections. If the Senator would yield, I would like to ask him some questions regarding various sections of this bill.

This conference report has a section on alternative language accessibility of voting systems, but the bill does not expand the language accessibility beyond what is already required under the Voting Rights Act. Is that the understanding of the conferees on alternate language accessibility?

Mr. BOND. That is correct. The Voting Rights Act requires certain voting materials to be available to the language groups delineated in the Voting Rights Act statute. The language in the bill simply States that the statute should be enforced. It is the intent of the authors to display our belief that enforcement of the Voting Rights Act is important but it is not the intent of the authors to expand that right.

Mr. MCCONNELL. If the Senator would yield, I have a few more questions.

This bill makes significant changes in the voter registration process for Federal elections. These changes are designed to clean up our Nation's voter registration lists and reduce fraudulent registrations and voting. Congress has a compelling interest in protecting the integrity of the Federal election process. This legislation will further that interest by helping to ensure accurate voter rolls, which is the first step in ensuring fair elections. The senior Senator from Missouri was a conferee on this bill and he has seen many instances of duplicate voter registrations and voter fraud in his State. I would like to ask the Senator from Missouri if his understanding of the function and purpose of these new provisions is consistent with my understanding and the intent of the conferees on this conference report.

The conference report on H.R. 3295 requires that individuals who register to vote on or after January 1, 2004, for Federal elections must provide their driver's license number on the registration form. If the individual has not been issued a valid driver's license number, then that individual must provide the last four digits of his or her social security number on the registration form. In the unlikely event that an individual has neither been issued a driver's license number, nor a social security number, the State shall issue that individual a random registration number.

The State will then verify the registration information provided by the individual with information in the State's department of motor vehicle database. The State's department of motor vehicle database will be also be cross-checked against Social Security Administration records. It is important to note that States that utilize full social security numbers for voter registration applicants can continue to do so after passage of this legislation. This new registration requirement is a minimum standard. If a State requires applicants to provide more information—such as their entire nine-digit social security number—this legislation will not override that State requirement.

Furthermore, the new computerized statewide registration systems that we require States to implement will also help safeguard voter registration lists against fraud. A State's use of a statewide voter registration list will not, however, override State registration requirements. Thus, even though a voter's registration information has been entered into the statewide list that does not mean a voter will never have to re-register if that voter moves to a different jurisdiction within the State. The intent of the conferees is to provide a centralized list of registered voters to help guard against fraud. The intent is not to create one-time registration for voters and force States to let individuals vote from locations other than the precinct in which the voter is registered.

I ask the Senator from Missouri if my explanation of these provisions reflects the intent of the conferees on this legislation?

Mr. BOND. I agree with the Senator from Kentucky. His understanding of these new voter registration provisions is correct. These provisions were designed to create more accurate voter lists and help ensure the integrity of elections. Recent studies have found that there are more than 720,000 people registered in more than one State. Duplicate registrations provide the opportunity for unscrupulous people to commit fraud and undermine honest elections by, in effect, invalidating legally cast ballots.

Voter fraud can occur in many ways: submitting registration forms in the name of deceased or fictitious people is one of the most common. But some folks even fill out registration cards in the name of their pet. In my home State of Missouri and in several other States and localities across the country, we have seen serious documented cases of fraudulent voter registrations. I have spoken many times of the fraud in St. Louis in the 2000 election and this is an ongoing and indeed, a nationwide, problem. Just last week, we learned that the FBI is investigating widespread voter fraud in South Dakota and Pennsylvania.

Based on the extensive documentation we have seen, there can be no doubt that voter fraud is a serious and real problem in Federal elections. The use of driver's license numbers and full or partial social security numbers will help elections officials to verify the identity and eligibility of individuals and reduce fraudulent voter registrations from being added to our voter rolls.

I should also note that these provisions apply to all registrants for Federal elections regardless of the registrant's race, color or ethnic origin. It is not a burdensome or discriminatory requirement in any way. In fact, several States already require individuals to provide this type of information on voter registration applications. Some States require even more information from applicants, such as their full nine-digit social security number. We have seen that States that require additional identifying information from registrants have substantially fewer

duplicate and fraudulent registrations on their voter rolls.

So, again, I agree with the Senator of Kentucky and am pleased to report the conferees agreed that voter fraud is a serious problem and included these provisions to help reduce that fraud and clean up the Nation's voter rolls.

Mr. MCCONNELL. I would also like to ask my fellow conferee, the Senator from Missouri, about another voter registration provision in this legislation. It is my understanding that some voter registration applications currently in use are ambiguous with regard to questions about an applicant's citizenship status. Because of these ambiguous questions and instructions for answering the questions, the conferees concluded that registration forms should provide additional guidance to registration applicants and election officials who process voter registrations.

This legislation requires that voter registration applications contain a question asking whether the applicant is a U.S. citizen and boxes for the applicant to answer the question by checking ''yes'' or ''no.'' If neither box is checked, the election official must return the application to the individual with instructions to complete the form. In effect, we have created a second-chance registration opportunity. The individual's registration application cannot be processed and the individual cannot be registered unless the citizenship question is answered—and answered affirmatively. The registration form shall also inform the applicant of this procedure I have just described.

Mr. BOND. The Senator from Kentucky has accurately described the intent and effect of this provision. I would also add, as I am sure the Senator from Kentucky recalls, we learned that many jurisdictions in this country have experienced continual confusion over citizenship questions on registration forms. Some jurisdictions simply discard registration applications or do not process the application when an individual does not answer the citizenship question. Other jurisdictions register individuals even though the individual did not answer the citizenship question. Both of these scenarios threaten the integrity of Federal elections. By requiring that incomplete registration cards be returned to applicants, we help ensure that those who innocently overlooked part of the registration form will be provided a second opportunity to complete it.

As previously Stated, Congress has a compelling interest in protecting the integrity of the Federal election process. The conferees on H.R. 3295 believe that through this additional instruction about the citizenship question, both voter registration applicants and elections officials will take the appropriate actions to ensure those who are entitled to register are actually registered. Through this clarification and requirement that individuals affirmatively declare their U.S. citizenship, we help ensure that only eligible voters vote in Federal elections.

Mr. MCCONNELL. I would also like to ask the senior Senator from Missouri about language in section 301 of the conference report. Section 301(a)(1), regarding Voting System Standards, says a voting system shall permit a voter to verify in a private and independent manner the votes selected. Section 301(a)(1) also says a voting system shall provide a voter an opportunity in a private and independent manner to change his or her ballot before the ballot is cast and counted.

Am I correct that the conferees included the language ''in a private and independent manner'' to ensure that individuals can verify and change their votes free from intimidation or coercion from poll workers, election officials or others?

Mr. BOND. The Senator from Kentucky is correct. The language ''in a private and independent manner'' was added to the Voting System Standards requirements to underscore the conferees' belief that voters should not be harassed or intimidated at the polling place. Section 301(a)(1)(C) of the conference report also emphasizes that the privacy of the voter and confidentiality of the ballot is paramount. If a voter chooses to review his ballot and or make changes to his ballot, he should be able to do so free from the interference of others.

Mr. MCCONNELL. I have a couple of more questions for the Senator from Missouri. The Conference Report on H.R. 3295 contains a new requirement that voters in Federal elections have the opportunity to cast a provisional ballot in cases where that person's name does not appear on the list of eligible voters at a polling site and the voter declares that he or she is properly registered to vote at that polling site. I would like to ask the senior Senator from Missouri about the provisional ballot requirement.

Am I correct that this legislation does not require a State or locality to count a provisional ballot cast by an individual who is not properly registered in the jurisdiction where the individual attempts to vote? And furthermore, this legislation does not require a State or locality to permit a voter who is not registered in a jurisdiction to vote from that jurisdiction?

And am I also correct that a provisional ballot will be provided to a voter if a poll worker or other individual, pursuant to State law, challenges a voter's eligibility to cast a ballot?

Mr. BOND. I agree completely with the Senator's description of this provision. Congress has said only that voters in Federal elections should be given a provisional ballot if they claim to be registered in a particular jurisdiction and that jurisdiction does not have the voter's name on the list of registered voters. The voter's ballot will be counted only if it is subsequently determined that the voter was in fact properly registered and eligible to vote in that jurisdiction.

In other words, the provisional ballot will be counted only if it is determined that the voter was properly registered, but the voter's name was erroneously absent from the list of registered voters. This provision is in no way intended to require any State or locality to allow voters to vote from any place other than the polling site where the voter is registered.

Further, as the Senator from Kentucky correctly pointed out, if State law permits the challenge of provisional voters by someone other than election officials, this legislation does not prevent that particular State practice.

Mr. MCCONNELL. I thank the distinguished Senator from Missouri for his insightful answers to my questions and for his tireless work on this conference report. I urge my colleagues to vote for the conference report.

Today is a monumental day for the United States Senate. After 22 months of hard work, we are finally ready to vote, and hopefully overwhelmingly approve, election reform legislation. The House-Senate conference committee has presented this body with an outstanding piece of legislation.

This conference report will usher in tremendous improvements to the elections process across this country and the Federal Government will share the costs. Through the establishment of an independent bipartisan commission, States will receive the best objective information on improving election systems.

The conference report will ensure that those who are legally registered and eligible to vote are able to do so, and do so only once. The new requirements for the creation of statewide voter registration databases, voter registration and mail-in registrants voting for the first times are the core of the new protections against fraudulent registration and fraudulent voting.

I thank the State and local organizations that have been there with us from the beginning and a special thank you to Doug Lewis from the Election Center. Mr. President, I ask unanimous consent to have printed in the RECORD a list of those organizations whose expertise and support was invaluable throughout the process.

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

(See exhibit 1.)

Mr. MCCONNELL. Once again I would like to thank and congratulate Senators' DODD and BOND and Congressmen NEY and HOYER and the rest of the election reform conferees.

I strongly urge my colleagues to join me in supporting this historic conference report.

In my remarks yesterday I thanked the various staff members on both sides of the aisle for their outstanding work.

Also I ask unanimous consent an editorial in today's Wall Street Journal

called ''Dead Men Voting'' about the scandal unfolding in South Dakota be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 16, 2002]

VOTER FRAUD WANDERS OFF THE RESERVATION

(By John H. Fund)

Today the Senate will approve and send to President Bush a landmark bill that will upgrade voting machines and begin to curb the voter fraud that is creeping into too many close elections. It can't come soon enough. Last week, a massive vote-fraud scandal broke out in a Senate race in Tom Daschel's home state of South Dakota that could determine control of that body.

The FBI and state authorities are investigating hundreds of possible cases of voter registration and absentee ballot fraud. Attorney General Mark Barnett, a Republican, says the probe centers on or near Indian reservations. ''All of those counties are being flooded with new voters, ''says Adele Enright, the Democratic auditor of Dewey County. ''We just got a huge envelope of 350 absentee ballot applications postmarked from the Sioux Falls office of the Democratic Party.''

Steve Aberle, the Dewey County state's attorney, says, many of the applications are in the same handwriting. At least one voter, Richard Maxon, says his signature was forged. Mr. Aberle, a Democrat with relatives in the Cheyenne River Tribe, says many Native Americans have wanted little to do with ''the white man's government.'' But this year many tribal elections have been scheduled for Nov. 5, the same day as the critical election for Democrat Tim Johnson's Senate seat. A Democratic Senatorial Campaign Committee memo last month noted that the ''party has been working closely with the Native population to register voters and Senator Johnson has set up campaign offices on every reservation.''

More and more counties are uncovering fraud. Rapid City officials are investigating two brothers who may have forged registrations. Denise Red Horse of Ziebach County died Sept. 3 in a car crash. But both Ziebach and Dewey counties found separate absentee-ballot applications from her dated Sept. 21 in bundles of applications mailed from Democratic headquarters. Maka Duta, who worked for the Democratic Party collecting registrations in Ziebach, bought a county history book that contains many local names. Some are turning up in the pile of new registrations. At least nine absentee ballot requests have been returned by the post office. Mable Romero says she receive a registration card for her three-year-old granddaughter, Ashley. Some voters claim to have been offered cash to register to vote. In both Dewey and Ziebach counties, the number of registered voters easily exceeds the number of residents over 18 counted by the 2000 census.

Renee Dross, an election clerk for Shannon County, says her office has received some 1,100 new voter registrations in a county with only 10,000 people. ''Many were clearly signed by the same person,'' she says. Some registrants actually live in neighboring Nebraska. As in most states, South Dakotans are on an ''honor system'' and don't show photo ID to register or vote. Only the unprecedented flood of applications raised any suspicions.

State Democrats told the Christian Science Monitor they expect 10,000 new votes from the Indian reservations this year. In 1996, Sen. Johnson won by only 8,600 votes. Russell LaFountain, the director of Native Vote 2008, says his organizers are encouraging ''strong absentee balloting.'' Pine Ridge Reservation residents told me that 11 workers are being paid $14 an hour to contact voters. The statewide Indian voter project is run by Brian Drapeaux and Rich Gordon, two former staffers for Sen. Daschle. Democratic officials say they've fired Ms. Duta and claim they were the first to bring the fraud to light. Ms. Enright, the Dewey County auditor, says that claim isn't true and is ''pure spin.''

Voter fraud isn't unknown on reservations. Democrats have often given out free tickets to Election Day picnics for voters on the Pine Ridge Reservation, where 63% of people live below the poverty level. In 1998, that prompted U.S. Attorney Karen Schreier, a Democrat, and Attorney General Barnett, a Republican, to write an unusual joint letter to county auditors noting that ''simply offering to provide'' food or gifts ''in exchange for showing up to vote is clearly against the law.'' Amazingly, Kate Looby, the Democratic candidate for secretary of state this year, has criticized laws barring the holding of picnics for those who vote. She also wants to drop restrictions on absentee voting.

Making voting easy is desirable, but only if legitimate voters don't have their civil right cancelled out by those who shouldn't vote. In 1980, only about 5% of voters nationwide cast absentee or early ballots. Now nearly 20% do. ''Absentee voting is the preferred choice of those who commit voter fraud,'' says Larry Sabato, a professor at the University of Virginia. He suggests media outlets set up ''campaign corruption hotlines'' and begin taking voter fraud seriously. The Miami Herald won a Pulitzer Prize in 1998 after its stories on how 56 absentee-ballot ''vote brokers'' forged ballots in a Miami election. The sitting mayor was removed from office.

In Texas, Democrat state Rep. Debra Danburg, who chairs the state House elections panel, has tried without success to reform absentee-ballot laws that are so loose she says they make ''elderly voters a target group for fraud.'' Eric Mountain of the Dallas County district attorney's office says some campaigns have paid vote brokers $10 to $15 a ballot. Many seniors are visited at home and persuaded to have someone mark an absentee ballot for them. Others have absentee ballots stolen from their mailboxes.

The law Congress is passing addresses some of the problems the federal government created with the 1994 Motor Voter Law. Let's hope the latest scandal in South Dakota—uncovered only due to incredibly sloppy cheating—prompts states to examine their own absentee-ballot laws so they will stop being treated as an engraved invitation to fraud.

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EXHIBIT 1

Thank you to the following organizations for their significant contributions and steadfast support:

Election Center;

National Association of Secretaries of State;

National Association of Counties;

National Conference of State Legislatures;

National Association of State Election Directors; and

National Association of County Recorders, Election Officials and Clerks.

CHALLENGE BALLOTS

Ms. COLLINS. Maine has same day registration so a voter can register at the polls or at a public office nearby and vote on the same day. If someone challenges the voter's right on that day, the ballot is marked as a challenged ballot. If a voter goes to the polls to vote and does not have identification or does not appear on the voting rolls, the presiding election official will challenge the voter, and his or her ballot will be treated as a challenged vote. The presiding election official keeps a list of voters challenged and the reason why they were challenged. After the time for voting expires, the presiding election official seals the list. The challenged votes are counted on election day. In the even of a recount, and if the challenged ballots could make a difference in the outcome of the election, the ballots and list are examined by the appropriate authority. The distinguished Chairman and Ranking Member of the Senate Committee on Rules have done excellent work crafting the important bill before us. I would ask them whether, then, Maine's system complies with this Election Reform Act?

Mr. DODD. I thank the Senator from Maine for her excellent question and for her steadfast support for election reform efforts. Let me assure her that Maine's system does comply with the Election Reform Act. Senator MCCONNELL, the distinguished Ranking Member of the Rules Committee, do you agree?

Mr. MCCONNELL. I thank the distinguished Chairman, and I also thank Senator COLLINS for her excellent question and for her steadfast support for election reform efforts. Let me also assure her that I agree with Senator DODD that Maine's system does comply with the Election Reform Act.

Ms. COLLINS. I want to thank the Senior Senator from Connecticut and the Senior Senator from Kentucky for their assistance and congratulate them on the impending passage of this bill.

ELECTION REFORM REIMBURSEMENT

Mr. ALLEN. Mr. President, I have a question about the impact of provisions of this bill for the Ranking Member of the Rules Committee, the Senator from Kentucky, Mr. MCCONNELL and the Senator from Missouri, Mr. BOND, who has been involved in the conference committee that reconciled the House and Senate versions of H.R. 3295.

I understand that this bill does allow localities that have upgraded voting equipment in the past two years to be reimbursed retroactively, and I support this decision. We ought to reward, rather than penalize, those States and localities that have aggressively moved ahead since November 2000 to improve the processes and procedures for voting and elections.

In Sections 261–263, having to do with payments to States and units of local government to assure accessibility for individuals with disabilities, however, it is not clear whether the payments made may be made retroactively, and this concerns me. I expect that this was the intent. This is important, however, because in Virginia, and, I believe in several other States such as North Carolina and Rhode Island, the State Board of Elections and the localities

have made a concerted effort to improve polling place accessibility over the past two years. And I believe that for this November's elections Virginia will be very close to 100 percent of all polling places being 100 percent accessible. I would hate to have to tell my State and local officials that because they have stepped up to the plate and already made these polling places accessible over the past two years that they are ineligible to receive payment for the improvements they have made. So, I ask the Senators from Kentucky and Missouri if they can assure me that States such as Virginia, which have made polling place accessibility improvements during the past 24 months, are eligible for payment from the Secretary of Health and Human Services for their costs of making polling places accessible for individuals with disabilities that were incurred during that 24-month period?

Mr. MCCONNELL. The Senator from Virginia is correct. States are eligible for reimbursement from the Secretary of Health and Human Services for costs incurred during the 24 months prior to the enactment of this bill of making polling places accessible to individuals with disabilities.

Mr. BOND. I agree with the Senator from Kentucky, Mr. MCCONNELL.

Mr. HATCH. Mr. President, I rise today to speak in support of the conference report to the ''Help American Vote Act of 2002.''

First of all, I'd like to thank Chairman DODD and Senator MCCONNELL, for their leadership and extraordinary efforts that have led us to final consideration of this legislation today. Also, I'd like to note that arriving at this point has not been easy for the members of the Conference, nor for their staffs, and I appreciate the hard work by everyone that led to this compromise.

That being said, I would be remiss if I failed to mention my concern about the impact that enactment of this legislation could have on States and localities, most of whom are experiencing extreme budget shortfalls. I raised this issue when we first debated this legislation in the Senate and I am disappointed that it has not been addressed in the conference report.

Title III of the Help America Vote Act of 2002 includes a series of new uniform and nondiscriminatory requirements for election technology and administration. These requirements include voter verification of votes cast, a paper record for auditability and recounts, and accessibility for invividuals with disabilities. If enacted, these requirements would apply to each voting system used in an election for Federal office. There is no question that these provisions have far-reaching consequences.

Mr. President, I appreciate the intent underlying this legislation, which is that the system must be uniform in nature across the entire country, if it is to be successful in accomplishing the goal of election reform.

I also appreciate the Conference Committee's stated desire that the program be fully funded. That being said, I must ask my colleagues the difficult question: What if it isn't fully funded? We must consider the consequences if a future Congress fails to provide adequate funding for this legislation.

Mr. President, I stated my objections to the unfunded mandates in this conference report back in February when we first considered this legislation. Today, I am once again stating my strong objection to even the mere possibility that the burden of funding these mandates might fall upon the States.

Having expressed this concern, I also want to mention that this conference report makes several necessary and important changes to our current system of voting, which is burdened with problems ranging from claims of voter fraud to a lack of accessible voting devices for many disabled Americans. This conference report also includes an important Hatch-Leahy Internet voting study that will lay the groundwork for integrating new technology into the political process.

As Americans, we have the right to participate in the greatest democracy in the world, and most will agree that the act of voting is the bedrock of our democratic society. Americans take pride in the role they play in shaping issues and determining their leaders, and yet, we see that voter participation in recent years has decreased among people of every age, race, and gender. I find these statistics both disappointing and tragic because, as Thomas Jefferson stated, ''that government is the strongest of which every man himself feels a part.''

Why is voter turnout so low? Of the 21.3 million people who registered but did not vote in the 1996 election, more than one in five reported that they did not vote because they could not take time off of work or school or because they were too busy. Can technological advances, like the Internet, increase participation in the electoral process by making voter registration easier or by simplifying the method of voting itself? As the elected representatives of the people, we should consider every option available that might help involve more of our country's citizens in America's democratic process. Federal, State and local governments are duty bound to encourage all eligible Americans to exercise their right to vote.

In the past, attempts have been made to increase voter registration and turnout. Unfortunately, these attempts have met with limited success. The Motor Voter Act of 1993, for example, attempted to increase voter participation by permitting the registration of voters in conjunction with the issuance of driver's licenses. According to recent U.S. Census Bureau reports, 28 percent of the 19.5 million people who have registered to vote since 1995 have done so at their local Department of Motor Vehicles. Notwithstanding this simplified voter registration procedure, voter participation continues to decline. Although registering to vote at the DMV generally is more convenient than other methods of registration, a substantial portion of registered voters nevertheless continue to fail to register to vote and fail to go to the polls on election day.

Voting via the Internet has been suggested as one possible solution to the problem. The Internet has revolutionized the way people communicate and conduct business by permitting millions of people to access the world instantaneously, at the click of a mouse. The Internet has already increased voter awareness on issues of public policy as well as on candidates and their views. In the future, the Internet may very well increase voter registration and participation, and thereby strengthen our country's electoral process.

Mr. President, as many of us have seen in the recent past, more and more States are looking at ways to utilize the Internet in the political process. Proposals include online voter registration, online access to voter information, and online voting. State and local officials around the country are anxious to use the Internet to foster civic action. I think that this is a positive step. In fact, today many States already allow for portions of the voter registration process to be completed online. For example, the Arizona State Democratic Party allowed online voting in the 2000 presidential primary and nearly 36,000 Arizona Democrats took advantage of this opportunity. We can anticipate that this trend toward online voting will continue.

Real questions remain, however, as to the feasibility of securely using the Internet for these functions. How can we be sure that the person who registers to vote online is whom he or she claims to be? How can we ensure that an Internet voting process is free from fraud? How much will this technology cost? There are also important sociological and political questions to consider. For example, will options like online registration and voting increase political participation? Can the Internet be equitably used in the political process?

We must be carefully evalate the issues that will arise as the civic privilege of voting meets with technological advances. The original study I proposed would have created a special commission to conduct the study, which would have comprised of various experts ranging from First Amendment and election law experts to technical experts on the Internet and cyber-security. While this type of Commission in not part of this final conference report, it is my hope that the Commission will nonetheless call upon advisors with special expertise in these areas.

Proponents of ''electronic voting'' (so-called e-voting'') contend that there are numerous advantages to the

emerging ''cyber'' political participation, including the immediate disclosure of campaign contributions, an increase in the number of grassroots volunteers, and the creation of a more accessible forum for political advertising.

Skeptics assert, to the contrary, that e-voting would only serve to decrease ''real'' electoral participation, place personal privacy at risk, and pave the way for election fraud. The late Senator Sam Ervin opposed simplifying voter registration and voting, stating that he did not ''believe [in] making is easy for apathetic, lazy people'' to vote.

As we seek to ensure equal access to the voting place and integrity of the voting process, it would be irresponsible for us to ignore the potential effects, both good and bad, that new technology may have on the political process. As I stand before you today, Mr. President, I do not know whether online voter registration and e-voting will halt the decline in voter participation. I do not know whether online voting registration and e-voting even is wise. I firmly believe, however, that these issues deserve serious examination as we seek to ensure that our democratic republic engages as many citizens as is possible. I am pleased that the Hatch-Leahy provision will enable the study of forward-looking measures that will ensure our ability to properly integrate new technology in the political process.

In closing, Mr. President, I reiterate my concern that this Conference Report is an unfunded mandate on already overburdened states. However, I must look past that serious concern, and vote for this conference report because of the important changes it makes to our current system.

No American who has exercised the right to vote should ever have to wonder if his or her properly cast vote will be counted. We must preserve the integrity of the voting process and I, again, commend the efforts of those who worked this compromise. Further, I believe that the Hatch-Leahy Internet voting study is an important step forward in ensuring the legitimacy of the voting process, and serves as a major enhancement to the conference report.

I urge my colleagues to join me in voting for this measure.

Mr. DURBIN. Mr. President, I would like to commend the Senate for passing the Help America Vote Act of 2002 today. This landmark legislation will help the Nation avoid another debacle like the one that occurred during the Presidential election in November of 2000. In that election, thousands of ballots in Florida and in my home State of Illinois went uncounted for a variety of reasons. In fact, over 120,000 voters in Cook County and thousands more throughout the rest of the State did their civic duty and cast a vote during the last Federal election, only to have their ballots discounted because of problems with machinery and inaccuracies on the rolls of registered voters. This is unacceptable in the United States of America, where we take pride in our freedom to cast a vote for our leaders.

With the Help America Vote Act of 2002, Congress has finally agreed on a bipartisan solution to these problems. The conference report contains several items to improve the administration of elections for Federal office. First, it requires that voting systems meet certain minimum requirements, including notifying voters of overvotes, allowing voters the opportunity to correct their ballots, and having a manual audit capacity. The voting system must give disabled voters the ability to vote ''in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.'' In addition, voting systems must operate under a maximum error rate as currently established by the Federal Election Commission. These national requirements for voting systems should significantly improve the ability of all voters to cast ballots that accurately reflect their intentions.

Next, the legislation provides a failsafe mechanism for voting on election day. It requires that all states allow voters to cast a provisional ballot at their chosen polling place if the voter's name isn't on the list of eligible voters, or an election official, for whatever reason, declares a voter ineligible. Included in the right to vote provisionally is the right to have one's eligibility to vote promptly verified by the State and then to have one's ballot counted in that election, according to State law. Finally, provisional voters have the right to know whether their vote was in fact counted, and if not, why it wasn't. These measures seem dictated by common sense and fairness. Yet, many States, including Illinois, do not guarantee voters such rights today.

To secure the rights afforded by this legislation, the Department of Justice can ask the Federal courts to act. In addition, States are required to establish an administrative procedure open to any person who believes a violation of any of the requirements has occurred, is occurring or will occur. States are free to add additional safeguards to protect these rights and are encouraged to provide the most effective remedy available to enforce them.

Another key component of this legislation is the requirement that States implement an up-to-date, computerized, interactive, statewide list of all registered voters that is accessible to election officials in every jurisdiction. This list is intended to help keep voter rolls current and accurate and to reduce, if not eliminate, confusion about a voter's registration and identification when a voter arrives at the polling place. This section also provides safeguards to preserve the confidentiality of voter identification information and to protect against improper purging of names from the list. Make no mistake: In order to remove a voter's name from the list of registered voters, for any reason, election officials must comply with all of the preexisting requirements of the National Voter Registration Act of 1993. This act doesn't change that.

To further the study and improvement of voting and the conduct of elections nationwide, the legislation creates an Election Assistance Commission, which will serve as a central clearinghouse on election administration issues. Advised by State and local officials, this commission will, among other things, provide for the testing and certification of voting systems. Ultimately, the commission should identify and report to Congress on continuing problems with election administration and potential solutions.

To facilitate voting by Americans living abroad, particularly those serving their country in the Armed Forces, the Act enhances the provision of election information, extends the duration of an application for an absentee ballot, and requires states to accept early submissions of ballots by such voters.

Finally, the conference report authorizes $3.9 billion in Federal funding over the next few years to replace antiquated voting systems, to educate voters on procedures and on their rights, to train election officials, poll workers and volunteers, to improve polling place accessibility for individuals with disabilities, to promote research on voting technology, and to otherwise comply with the requirements of the act. Of this amount, $650 million is to be made available on an expedited basis, in part for the immediate replacement of punchcard voting systems, the bane of the 2000 Presidential election. This should be particularly helpful for Illinois, where the overwhelming majority of voters still vote by means of this troublesome technology. In fact, Illinois will be eligible for up to $45 million of this early money. The bulk of funds - $3 billion over the next 3 years - is authorized specifically to help States meet the requirements set forth in this act. Illinois stands to receive up to $155 million under this section. When these sums are appropriated, states will at long last have the resources to provide citizens with the best means available to exercise their right to vote.

Still, this legislation is not without its shortcomings. These include new limitations on the way first-time and newly registering voters are permitted to identify themselves, which could create obstacles for some groups; the lack of an explicit, strong federal remedy through which voters can individually vindicate the rights granted them in this legislation; and the absence of a guarantee that the funds authorized by this legislation will actually be appropriated by Congress and the President. Thus, Congress has an ongoing responsibility to provide the funds called for in this Act and to monitor the implementation of its provisions over the next several years.

Nonetheless, on balance, this legislation embodies a good faith, bipartisan attempt to ensure that every eligible vote in an election for Federal office is accurately cast and counted and I support its worthy goals.

Mr. KENNEDY. The ''Help America Vote Act'' is timely and important bipartisan legislation to strengthen our Nation's election system and I urge the Senate to approve it.

The right to vote is the cornerstone of our democracy. As Chief Justice Earl Warren said in 1964: ''The right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.''

Over the past century and a half, a number of constitutional amendments and major laws have been acted to expand and help protect this fundamental right, including the 15th Amendment in 1870 prohibiting voting discrimination because of race; the 19th Amendment in 1920 prohibiting voting discrimination because of gender; the Voting Rights Act of 1965 outlawing racially discriminatory voting practices; the 26th Amendment in 1971 lowering the voting age to 18; the Voting Rights Act Amendments of 1982 which expanded the protections against racial discrimination in the Voting Rights Act; and, the National Voter Registration Act of 1993—the ''Motor Voter'' law—which simplified voter registration procedures.

Now, the passage of the ''Help America Vote Act'' will add another important chapter to our continuing efforts to protect and strengthen the right to vote.

The 2000 election taught the entire nation a valuable lesson. We learned that every vote does matter—but that every vote is not always counted. Too often and in too many communities across the nation, individuals who went to the polls on election day were denied the right to vote or did not have their votes counted. The reasons varied—such as confusing ballots, outdated or malfunctioning equipment, inadequately trained poll workers, and the lack of access for the disabled. But the outcome was the same—the voices of well over one million Americans were not heard. The legislation before us today will help to ensure that this unacceptable result does not happen again.

The bill includes three core components. It establishes uniform requirements for voting systems, provisional voting, and computerized voter registration lists, which all States must meet in Federal elections. It creates a new four-member, bi-partisan, independent Federal agency—the Election Administration Commission—to provide guidance to the States, conduct studies and issue reports on Federal election issues, and administer a new Federal grant program. Third, it authorizes $3.9 billion in grants over the next three years to assist States and localities in meeting the new requirements, modernizing their voting systems, and making polling places accessible to the disabled.

These are all important and needed reforms and I strongly support them. Their effectiveness will depend on the participation of all levels of government, including adequate appropriations by Congress, and vigorous implementation of the reforms at the State and local level.

At the same time, however, I have serious concerns that some provisions of this legislation create new Federal requirements that could make it more difficult for certain groups, particularly racial and ethnic minorities, the poor, the elderly, and people with disabilities to register and to exercise their right to vote.

The bill requires first time-voters who register by mail to provide specific forms of identification. It requires the invalidation of a registration when a voter inadvertently forgets to check off a duplicative ''citizenship box.'' It requires that, when registering to vote, voters must either provide their driver's license number, or, if they lack one, the last four digits of their Social Security number. We all have a strong interest in preventing voter fraud, but these requirements may not be an effective way to verify voter identity and, at the same time, they are very likely to create unnecessary barriers for voters.

Congress, the new Election Administration Commission created by the bill, and the Department of Justice must be vigilant in ensuring that these provisions do not restrict voting by certain groups and that they are enforced in a ''uniform and nondiscriminatory manner,'' as the legislation requires. We know the potential harsh impact of these provisions on those groups who have historically been denied full participation in elections, and we must do all we can to prevent any such impact. To implement the bill in good faith, Congress and the Bush Administration should see that individuals who respect these basic voting rights concerns are named to the new Commission.

With proper support and enforcement, the ''Help America Vote Act'' can significantly increase political participation for every American. We all share the great goal of protecting the most fundamental of all rights in our democracy—the right to vote.

Mr. KERRY. Mr. President, it has been nearly 2 years since the presidential election left many Americans disenfranchised. In that time, this country has faced other tremendous crises, and perhaps the fervor with which people supported election reform two years ago has waned somewhat. But I believe that after all we have faced as a country, it is even more important that we preserve and improve the integrity of our democracy by ensuring that every eligible voter who wants to vote is able to vote.

We can be thankful that we are past the days of poll taxes, literacy tests, and other discriminatory practices that kept voters away from the polls. But if there is even an inadvertent flaw in the design or administration of our voting systems that prevents Americans from having their votes counted, it is our utmost responsibility to ensure that we remedy the situation.

There is simply no excuse for the most technologically savvy Nation in the world to be using voting equipment that is 30 years old. And it is disturbing, to say the least, that much of the oldest and least reliable equipment is found in the poorest counties across the country. Often, people of color make up the majority of the population in those counties. None of us should ever again be in the position of having to explain to urban, minority voters why a portion of their votes didn't get counted, while their white suburban neighbors, using better equipment, could rest assured that there were no voting irregularities in their precincts that would have caused their votes to be discarded.

If we can't promise all of our citizens that their votes will count equally, then all of the past work this Nation has done to guarantee the right to vote to women, people of color and the poor will have been squandered.

I have some serious concerns about a number of provisions in this legislation. But, because I believe we must use every tool available to us to uphold our citizens' right to vote, I have decided to support this conference report. On balance, I believe this bill will enable more people to exercise their fundamental right to vote by setting uniform, minimum standards for Federal elections, by providing voters with a chance to check for and correct ballot errors, and by providing for provisional ballots. These provisions, along with funding to replace outmoded voting systems, provide substantial improvements to the current system.

Unfortunately, the compromise has significant shortcomings that my colleagues on the other side of the aisle insisted upon, ostensibly to reduce voter fraud, but which may make registration and voting difficult for first-time voters. The bill's requirement that first-time voters who register by mail provide specified forms of identification at the polls may disenfranchise a large number of voters, especially people with disabilities, racial and ethnic minorities, students, and the poor, who are far less likely to have photo identification than other voters.

I am also concerned about new language that will invalidate an individual's registration if the person registering forgets to check off a box declaring that he or she is a U.S. citizen. Because voters already must affirm their citizenship when they sign the registration form, it is unnecessary to require that this box be checked for registration. Many elderly voters, visually impaired voters and voters with low levels of literacy may inadvertently fail to check the box and will, as

a result, disproportionately be kept off the registration rolls. This legislation is supposed to be an effort to make voting easier for qualified voters, and this provision adds an unnecessary, complicating step.

This bill also requires that, in order to register, voters provide a driver's license number or the last four digits of their Social Security number, and those numbers must be verified. This provision directly conflicts with the protections of the National Voter Registration Act, which prohibit the use of a driver's license or Social Security number to authenticate a voter's registration. Although I understand the desire to reduce instances of voter fraud, I believe these provisions are overly burdensome and unfair to many voters. This provision also has serious privacy implications.

I hope that the problems with the conference report are fixed in the very near future, and I would strongly support efforts to rectify these disenfranchising provisions before the next election. However, as a whole, this bill solves more election-related problems than it creates. If it is properly implemented by state elections agencies, Congress's intent to improve the voting system will be satisfied. This is an important piece of legislation that must be enacted now if we are to have any improvements in place before the next national election.

Mr. MCCAIN. Mr. President, I would like to urge my colleagues to support the conference report to H.R. 3295, the ''Help America Vote Act of 2002.'' I congratulate the conferees on their dedicated and persistent effort in reaching a compromise agreement on this issue. I believe that this historic legislation will play a major role in correcting many of the problems that the country suffered during the Year 2000 elections.

In my judgment, this legislation is inextricably linked with the campaign finance reform bill that became law earlier this year. Both of these pieces of legislation are aimed at the heart of any successful democracy: restoring the voters' trust in their government. The new campaign finance reform law is intended to reduce the influences of special interests by eliminating the large flow of unregulated soft money. This election reform legislation is designed to assure voters that votes will be counted accurately, and that legally registered voters will not be disenfranchised. I am especially proud that this legislation will ensure for the first time in history that voters who are blind or visually-impaired will be able to cast a vote privately and confidentially.

However, I would urge my colleagues not to treat this legislation as the conclusion of our work on the issue of election reform. The Congress must ensure that this legislation is implemented fairly and effectively. I know that concerns have been raised about the identification requirements for first-time voters who have registered by mail. While I applaud the goal of eliminating instances of fraud, it is important that these provisions be implemented equitably to prevent the disenfranchisement of minority or disabled voters.

In addition, I also would like to make a few recommendations regarding the implementation of this legislation. As the states develop their plans for meeting the new federal voting requirements and receiving grant funding, I would urge them to solicit advice on solutions to address the needs of disabled voters and others who have historically faced impediments at polling places. I also urge the Secretary of Health and Human Services to consult closely with the Election Assistance Commission on the grant program to help states making polling places accessible to disabled voters. The applications for grant funding and reports on the uses of these funds may be helpful to the Commission as it studies accessibility-related issues and develops voluntary voting system guidelines. It is also important to emphasize that concerns have been raised about the legislation's enforcement provisions. I appreciate that the Department of Justice has a role in bringing civil actions against states that are not in compliance with the mandatory requirements. We will have to be diligent in ensuring that these enforcement provisions are implemented.

On this historic day, I look forward to passage of this significant piece of legislation. As the recent events in Florida show, our voters still face major challenges in getting their votes counted at the polling place. This legislation will present solutions to these problems and reassure the American public that the best system of government ever created continues to function in its 226th year.

Mr. BYRD. Mr. President, the right to vote is one of the fundamental components of our Republic. It is the central means by which the American people can influence the direction of government, and thereby the future of the nation. But, as we saw in the 2000 Presidential election, just casting one's ballot is not the end of the process. Votes must be verified and counted, and done so quickly and accurately so that the American people have confidence in our elections. Preserving the integrity of our voting system is critical to preserving our representative form of government.

Over the years, I have watched as the percentage of eligible voters who actually take the time to go to the polls and cast votes has declined. I find it beyond disappointing that American citizens would fail to exercise this precious right—in fact, this important responsibility. Yet, I well understand how the spectacle of last year's elections and the irregularities that were widely reported can exacerbate a common misconception that one's vote does not count, a belief that has permitted far too many minds in our nation. The federal government can do more to reignite a passion for citizen participation, and we must do so if we are to ensure that our Constitutional form of government will survive for future generations.

This bill establishes grant programs that will provide states with the resources to replace outdated voting machines and train poll workers. It establishes minimum federal voting standards for states, but leaves responsibility for election administration at the local level.

The bill includes a number of safeguards designed to improve voter access, including provisional ballot requirements, being able to correct improperly marked ballots, and funding for equipment to allow a disabled voter to cast a private vote without assistance. In an effort to avoid a repeat of the Florida debacle of 2000, this bill mandates that states create uniform standards for counting ballots.

I congratulate the members of the conference committee for their efforts to bring this bill to conclusion. I support this reform because it is an important first step in restoring confidence in our election process.

● Mr. ALLARD. Mr. President, I want to show my support for the election reform proposal that will shortly be approved. There are a litany of provisions too numerous to outline that are extremely positive steps toward ironing out very serious problems in our current voting system. My thanks go out to Senators MCCONNELL and DODD, their counterparts in the House, and all of the other conferees who fought long and hard during the last few months to help ensure the electorates' right to vote.

Secondly, and with much more remorse, I believe that many of the shortcomings that our men and women in the military face as potential overseas voters have not been fully addressed in the underlying conference proposal. I have stood in this body many times since the 2000 election and have pushed for election reforms that would show those who defend our way of life that their vote will not be cast-off for technicalities through no fault of their own. Of course, I would be remiss if I failed to mention that some focus was paid to military voters in this bill. I am pleased that early submission will no longer be grounds for refusal of registration or absentee ballots. The focus on requiring the Department of Defense to have more support for Voting Assistance Officers and emphasis on including postmarks on all ballots mailed is also favorably noted. However, the House has thrown up roadblocks to other important overseas voter measures, while the Senate as an institution has continued to show leadership in this effort. I hope that we will continue to do so in the future.

That being said, it is time now to look ahead. My support for the election reform bill will not sway my feelings that there are still many egregious errors in the process of overseas military

voting. I promise to continue the fight and protect the rights of those men and women who would give their lives for the country that they dearly love. The underlying election reform bill is a step in the right direction, and I hope that congress can continue to follow that path.●

Mr. WELLSTONE. Mr. President, I am pleased that today Congress addressed the debacle that occurred to diminish democracy during our last Presidential election in Florida and other States. Access to the polls is a fundamental right; it is essential to our democracy. The 2000 elections raised to the national stage problems that have been all too common and all too familiar to many voters around the country. Systems of administering elections are in many places flawed, arbitrary, and discriminatory. I believe it is appropriate, even necessary, for Congress to impose high voter participation standards on States while providing the resources to meet those standards.

The Help America Vote Act contains a number of important reforms of America's elections. The conference report authorizes funds to States to reform their election systems. It sets uniform, minimum standards for Federal elections. It will ensure the accuracy of state voter registration databases. It requires provisional balloting so registered voters are not turned away from polling places. And it will help ensure that disabled voters may cast their ballots independently and privately. The legislation is an important step forward, and I support it.

However, I have reservations about provisions which have the potential, if not monitored and implemented carefully, to make voter registration more onerous for some voters. In particular, provisions that require voters to register using a driver's license number or Social Security number could cause problems. While the act would require States to assign voters a number if they do not have either of these forms of identification, I worry that some States may abuse this provision to make it harder for certain citizens, particularly new citizens and low income voters, to become registered.

One technical clarification I want to make about that provision: In Minnesota we have same day voter registration. It is my understanding that this act would require the State to issue a voter ID number to a nonregistered voter who seeks to register on the day of the election, if the voter has a Social Security number or driver's license but does not have either number physically with him or her at the polling place on election day.

The act requires new voters to check a box on the voter registration form to indicate they are a citizen. Since new voters are already required to attest that they are citizens on voter registration forms under current law, this seems to be a needless, redundant requirement which puts a hurdle, however small, in the way of new voters especially new citizens. These provisions are probably unnecessary.

Finally, this legislation will only be fully effective if Congress and the administration step up the plate to fund it. I will urge my colleagues to fully fund this program.

On balance, this bill is a step forward. I hope reality lives up to its promise.

Mrs. CLINTON. Mr. President, I want to express my views on the Help America Vote Act of 2002.

The Help America Vote Act of 2002 has many strong provisions that will improve our Federal election system. This legislation requires that election districts across the nation provide provisional voting and post sample ballots and other voter information. It allows voters the opportunity to verify and change their vote before casting their vote. The act implements a statewide voter registration system to help reduce fraud and ensures that individuals are not wrongly refused the right to vote. It authorizes $3.9 billion in Federal funding to help states improve voting systems, make the polls more accessible to the disabled, train poll workers, and educate the electorate.

Despite these positive provisions, however, I cannot vote for this bill because the voting rights of New Yorkers will be negatively affected by this legislation.

For many years, the State of New York has had provisional voting and what is called signature verification. In the 1980s, New York City put in place a digitized signature verification system. When a New Yorker registers to vote, his or her signature is scanned into a computer and placed in the election board's files. Then on election day, the voter signs the book of registered voters in that election district. If the signatures do not match, the poll worker has the right to prevent the voter from casting a ballot on the machine, but the voter is permitted to cast a provisional ballot. The board of elections later determines whether the provisional ballot is valid and should therefore be counted.

Because of New York State's system, there is no need for a voter to present a form of identification at the poll. In fact, the poll worker manual in New York explicitly states that poll workers cannot ask prospective voters for identification. This system was implemented in New York City and across the State of New York more than a decade ago. This system has worked in New York and should be a model for the Nation.

Unfortunately, the Help America Vote Act would reduce the rights of New Yorkers who are first-time voters in a federal election by requiring them to present a valid photo identification, utility bill, bank statement or government identification that verifies the name and address of the voter. If a first-time voter filled out a registration form and included either her driver's license number or the last four digits of her Social Security number, then she would not have to present a form of identification to a poll worker before voting. While this may serve as a step in the right direction for other States, this is a new restriction for New York.

This provision will repress voter participation among those New Yorkers who are in fact eligible to vote. Moreover, it will disproportionately affect ethnic and racial minorities, recently naturalized American citizens, language minorities, the poor, the homeless, the millions of eligible New York voters who do not have a driver's license, and those individuals who otherwise would have exercised their right to vote without these new provisions.

Many civil rights groups who oppose this legislation have compared these provisions to poll taxes and literacy tests that were used to repress voter participation in the past. I do not believe this is an unfair analog because I believe this bill may indeed reduce voter participation. When voter participation numbers hover at 50 percent, I believe that we should make every effort to increase voter participation, not reduce it.

I know this bill will pass the Senate today and will shortly become law, no matter what I do. But despite the many provisions in the bill that may increase voter participation in some states across the country who do not currently have provisional voting, I cannot support this legislation because it will negatively affect the rights of voters in the state that I am proud to represent—the State of New York.

New York is a state with 19 million people and 11 million voters; a state that is home to the world's cultural and financial capitals. It is the gateway for millions of people from different countries and ethnicities. New York represents one of the best things about our country—it's diversity. In America, the birthplace of modern democracy, we should do all we can to ensure that the right of every voter is not unduly hindered unnecessarily. Unfortunately, I believe the provisions in the Help America Vote Act will do just that.

I applaud the work of Senator DODD, as chairman of the Senate Committee on Rules and Administration, for all of his work on the bill, and the other members of the election reform conference committee. I also want to give a special thanks to the Rules Committee staff of Senator DODD, especially Kennie Gill and Veronica Gillespie, who have worked from the first inception of the Senate's election reform bill to the final words in this election reform conference report. I know many members of the conference committee and their staffs have done their best to produce legislation that will try to improve our federal election system.

I am also proud to have worked with Senator DODD on a provision included in the conference report that calls

upon the new Election Assistance Commission to study and report to Congress on the extent of residual votes. These are over votes, under votes, or ''spoiled'' votes that are created when a voter, unintentionally, makes a mistake in casting her ballot, either because she doesn't understand the ballot or the voting machinery I have fought hard to support the voting rights of the disenfranchised voter. But I cannot in good conscience, representing the State of New York, support legislation I believe will hurt the voting rights of New Yorkers. I will continue, however, to do all I can to ensure that our Federal election system and our democracy will be as strong as possible.

Mr. NELSON of Florida. Mr. President, Federal election reform is long overdue.

Two years ago, the election system's collapse became a public shame in my State. A lot of high-minded debate about the need to reform the system immediately followed the election, but since then this legislation has moved at a snail's pace.

Only now, three weeks before the next election, are we poised to send a reform bill to the President to upgrade voting equipment, require provisional balloting and improve election administration. It's a shame that it has taken so long to remedy such a serious failure. A failure which cast into doubt the winner of the most important elected office in the world.

As a result of the delays, these desperately needed improvements will come too late for the upcoming election. That's unfortunate, because in spite of the positive reforms made at the state level in Florida, some precincts experienced problems during the August primary election that might have been avoided, or at least mitigated, under the federal reforms.

Similar problems could occur again and the failures are not likely to be isolated to Florida when the general election is held in November. Our goal now must be to implement the changes in time for the 2004 elections.

Unfortunately, the administration has already chosen to slow down the reform process by rejecting a $600 million appropriation passed by Congress earlier this year in anticipation of final passage of the authorizing legislation.

The administration unforgivably failed to accept the funds and the money must now be appropriated again. That process could take precious months that would otherwise be used by the States to prepare for the 2004 elections.

There's no excuse for the administration's failure to accept Congress' down payment, especially after promising to support these reforms.

I hope President Bush will reaffirm his support for election reform by asking Congress to include the full $3.8 billion authorized by this bill in the next continuing resolution or, at the latest, as part of a supplemental appropriation early next year. We shouldn't hesitate another day to send this money to the States so that they have every minute possible to prepare for 2004.

A strong election system requires top-notch equipment, informed and able poll workers, a provisional voting system and outstanding voter education programs. But it also requires sensible registration and voting procedures that prevent fraud without disenfranchising voters.

Despite my support for this legislation, I am concerned that the bill's anti-fraud provisions may unfairly burden minority, elderly and disabled voters. Eliminating voting fraud is absolutely essential, but the mechanisms used to prevent fraud should not be so complicated, or intrusive, that they discourage or prevent voting by qualified people who may not, as a consequence of their lifestyle, have the specific documentation required by this bill.

I support modifying these provisions to allow potential registrants or voters to use additional documentation to prove their identity or to attest, under penalty of perjury, that they are in fact who they say there are. I understand that the conference committee would not approve such a change and I do not believe the entire bill should be sacrificed.

In light of this problem, I intend to follow closely this legislation's implementation with a specific eye on how the anti-fraud provisions work in practice. If the photo identification requirements and registration procedures set out by this legislation cause more harm than good I will support their repeal.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Kentucky controls 1 minute 30 seconds.

Mr. MCCONNELL. I thank the Senator from Missouri for his solid work. Disenfranchised by this bill are dogs such as Gidget—Salish's Potomac Fervour—pictured here in front of the Capitol. A solid Republican, Gidget will nevertheless never know the joy of participating in the election process. I am advised she could have been a fine voter—with a vigorous appetite for punchcards and aptitude for touchscreens. These skills will now have to be channeled into canine agility trials, instead of the election process. I congratulate the Senator from Missouri for that. That is one of the many fine results of this outstanding piece of legislation which, regretfully, is one of the few pieces of legislation the second session of the 107 Congress has passed.

We will have passed only 2 of our 13 appropriations bills. We have no budget and no terrorism reinsurance bill. It has really been a dismal record. But we do have something to be thankful for today, which is that we are about to pass an extraordinarily important piece of legislation on an overwhelmingly bipartisan basis. This is, indeed, the way the Senate should work.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time? The Senator from Connecticut.

Mr. DODD. Mr. President, in my remarks yesterday I commended my colleagues who have been involved in this. I want to do so again, Senator MCCONNELL and Senator BOND.

I also commended my new found friend from the House, BOB NEY, who did a remarkable job as the Chairman of the House Administration Committee. STENY HOYER has been involved in these issues for a long time, and I have known him for a long time. I will not take the time today, as I did yesterday, to thank him as profusely—but it is deeply felt. We would not have arrived here without a lot of people working very hard on this. I thank all of them, the leadership here and others who brought us to this particular point.

I mentioned yesterday the juxtaposition of the events that unfolded on November 7, 2000, and the events as they are unfolding today on October 16, 2002. When you consider the scenes that dominated the news media for days and days after the November 7 elections, with bulging eyeballs glaring and butterfly ballots and hanging chads and people bellowing at each other and outside auditors at registrars of voters offices in Florida, here we are today in the relative calm of this institution, about to adopt, I hope overwhelmingly, legislation that addresses many of the concerns that were raised as a result of the events in Florida.

But they were not just in Florida, as I said. There were other States as well, and it has been going on for some time. So this is an important day, one that will not demand or receive the kind of attention, obviously, that the events that provoked it did, almost 2 years ago shy 3 weeks in November-December of the year 2000.

So it is an important landmark. We are breaking new ground. This is the first time in more than 200 years that the Federal Government is going to take a very protective involvement in the conduct of elections. The Constitution insisted that both States and the Federal Government be involved in the election process in this country, but we have only been involved marginally at best. In the 1965 Voting Rights Act, of course, we prohibited certain activities in the States such as poll taxes and literacy tests. But over 213 years have gone by since we have had a proactive involvement in terms of what also must be done. This legislation lays that out and asserts new rights.

As I said before, this is truly the first civil rights act of the 21st century, insisting that all people who show up to vote will have a chance to do so, if only provisionally. My colleagues have had fun talking about dogs who may have voted. There were human beings who

were not allowed to vote, between 4 million and 6 million of them in the last election. While it is humorous to talk about the dogs who may have voted, it is not very funny to talk about the people who showed up and didn't and were denied the opportunity to do so.

This legislation, we hope, is going to solve at least part of that problem beginning in the year 2004, where every person who shows up to cast a ballot in every precinct in America is going to be allowed to cast a ballot and never again be asked to step out of line and go home. That ballot will be cast provisionally where there is a debate about whether or not they have a right to do so, but the right to cast a ballot is never again going to be denied to a person who shows up—the right to cast a ballot in America.

That is not an insignificant achievement. We also said for those who are blind and disabled, some 20 million who never showed up the last time to vote because they have not been able to cast a ballot independently and privately, those days are over with. Henceforth, beginning in 2006 or before, if the States can get it done earlier, people are going to be allowed to cast a ballot privately and independently. The idea in this country that you could use Braille and have sidewalks accessible to the handicapped, but ballots in America were not—the only State in the country that has made a difference in that is the State represented by the present Presiding Officer, the State of Rhode Island. As a result of your former secretary of state, who himself suffers from a disability as a result of having been injured, he understood it and went out and did it. The other States are now going to do it in this country.

There are new rights here: The right to look at your ballot, correct your ballot before it is finally cast. I know these are radical ideas, but these are important provisions. No longer will you have to leave a voting place wondering whether you might have voted twice—two people for the same office, as happened in butterfly ballots in Florida. You are going to be able to go back and check your ballot before it is actually cast. So those rights in here are important.

Statewide voter registration will be facilitated for the first time. If you move within a State—say from Lexington to Frankfurt, or if you move from Hartford to Bridgeport, or if you move from some county in Missouri to another, you are not going to have to register again if you are in the same State and the State has statewide voter registration. Statewide voter registration will do an awful lot to relieve a lot of burdens on voters as they move. And many people do in this country. We are a mobile society today.

We also include provisions which Senator BOND insisted on in terms of responsibility. We are going to make sure we do our best to see to it that people who register to vote are who they say they are, so we don't have people registering fictitious people and casting ballots for them. To Senator BOND's credit, we worked very hard on that.

There will be for the first time a permanent Federal Election Assistance Commission, so we don't have to wait for another disaster in some State and then occupy the time and attention of this institution responding to it. On an ongoing basis, it will be a place where the States, counties, municipalities, and the Federal Government can work together when it comes to election issues.

Of the $3.9 billion, 95 percent of the improvements will be borne by the Federal Government because we are requiring it to be done. I don't believe in unfunded mandates. I wanted 100 percent. We had to compromise at 95. We are now going to participate and support our States and localities in making the changes they need to make in order to make our system work that much better.

I am thankful to all of our colleagues for their support and help during the debate yesterday, I inserted a number of letters into the RECORD which expressed support for this conference report. Today I ask unanimous consent to include in the RECORD letters which express concerns about specific provisions of this legislation, including letters from the National Council of La Raza, the League of Women Voters, the American Civil Liberties Union, the Leadership Conference on Civil Rights, and People for the American Way.

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

NATIONAL COUNCIL OF LA RAZA,
*Washington, DC, October 9, 2002.*

NCLR URGES CONGRESS TO VOTE NO ON THE ''HELP AMERICA VOTE ACT'' (H.R. 3295)

DEAR MEMBER OF CONGRESS: The National Council of La Raza (NCLR), the largest national Latino civil rights organization, opposes the ''Help America Vote Act'' (H.R. 3295), because it will disproportionately affect Latino voters, suppresses voter registration and turnout, and in some instances will roll back civil rights laws.

Furthermore, we note with concern the continuing uncertainty of the appropriations process, which means that no one, including the authors of the compromise bill, can guarantee funding sufficient to implement the bill.

NCLR is an umbrella organization with over 280 local affiliated community-based organizations and a broader network of 33,000 individual associate members. In addition to providing capacity-building assistance to our affiliates and essential information to our individual associates, NCLR serves as a voice for all Hispanic subgroups in all regions of the country.

NCLR urges you to join us in opposing the ''Help America Vote Act'' (H.R. 3295) because the ''compromise'' bill:

Requires first-time voters who register by mail to provide specific forms of identification at the polls. This provision will have a discriminatory impact on a large number of voters, especially people with disabilities, racial and ethnic minorities, students, the elderly, and the poor, who are substantially less likely to have photo identification than other voters. Additionally, having states implement this requirement prior to the 2004 presidential election, without the statewide list in place, is a dangerous experiment that runs the risk of creating additional chaos at the polls.

Contains weak enforcement provisions. Voters who are denied their right to vote because of this law cannot turn to the federal courts for a remedy. Rather, disenfranchised voters must either wait for the Department of Justice to take action or ask the same state election system that disenfranchised them to determine that there is a violation and provide a remedy for the problem.

Contains new language that will require any registration to be invalidated if the person registering forgets to check off boxes declaring that he or she is a U.S. citizen. Because voters already must affirm their citizenship when they sign the registration form, it is unnecessary to require that this box be checked for registration. Many elderly and low-income voters, as well as voters with low levels of literacy, who find filling out forms difficult, may inadvertently make the mistake of failing to check the box and will, as a result, disproportionately be kept off the registration rolls; and

Contains an intrusive, error-prone requirement that voters provide a driver's license Number or, in the event they do not have one, the last four digits of their Social Security number. Election officials must independently verify the number before registering someone, and any individual who has either number but fails to provide it will not be registered. This provision directly conflicts with the protections of the National Voter Registration Act, which prohibits the use of a driver's license or Social Security Number to authenticate a voter's registration.

For almost two years NCLR worked diligently with both Republicans and Democrats in the House and in the Senate on election reform legislation, to address the need for good election reform legislation. Today we oppose this bill because the Latino community cannot accept a bill that does more harm than good, and urge you to vote against it. Please be advised that NCLR will recommend that votes related to this bill and final passage be included in the National Hispanic Leadership Agenda Scorecard.

Sincerely,

RAUL YZAGUIRRE,
*President.*

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THE LEAGUE OF WOMEN VOTERS,
*Washington, DC, October 9, 2002.*

ELECTION REFORM LEGISLATION IN U.S. CONGRESS—LEAGUE CAUTIONS: LEGISLATION IS A GAMBLE, IMPLEMENTATION KEY

WASHINGTON, DC.—''The compromise election reform legislation being considered this week by the U.S. Congress makes important reforms in the voting process but erects new bureaucratic hurdles for voters,'' stated Kay J. Maxwell, president of the league of Women Voters of the United States. ''The Help America Vote bill is a tradeoff, providing stronger protections in our voting systems while taking away safeguards in voter registration.''

''There are many good things in this bill, but it also undermines existing voter protections,'' Maxwell noted. ''On the positive side, lawmakers are creating new federal standards and providing the states with funds to buy new voting machines that work, to better train and recruit poll workers, to create statewide voter registration databases, and put provisional balloting systems in place,'' said Maxwell.

''But the League cannot overlook the fact that this bill places voter protections at risk by cutting back existing federal standards for voter registration. It weakens and undercuts several of the hard-fought voter protections established in current law,'' Maxwell stated. ''We are also concerned that the discriminatory identification provision in this legislation will erect barriers to voting. The identification requirements place additional burdens on poll workers and may create a mess at the polls in 2004,'' cautioned Maxwell.

''This bill is a gamble,'' said Maxwell, ''and implementation will be the key in determining whether it succeeds or fails. We hope that states take seriously the larger role they now have in administering federal elections. They must step up to their constitutional responsibility to run elections effectively,'' stated Maxwell. ''The League at the national, state and local levels will work closely with state and local election officials and citizens across this country to ensure that all the provisions of this bill are carried out to enfranchise rather than disenfranchise voters,'' concluded Maxwell.

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AMERICAN CIVIL LIBERTIES UNION,
WASHINGTON NATIONAL OFFICE,
*Washington, DC, October 9, 2002.*

Re H.R. 3295/Help America Vote Act.

DEAR MEMBER OF CONGRESS: The American Civil Liberties Union (ACLU) urges you to oppose the conference report on HR 3295, Help America Vote Act, because the agreement contains provisions that would lead to discrimination and ultimately result in disenfranchising many voters. This legislative cure to the severe voting rights problems seen in the 2000 Presidential election could be even worse than the disease.

In many respects, the conference report rolls back many of the voting rights victories achieved over the past three decades through the Voting Rights Act of 1965 and the National Voting Registration Act of 1993. Instead of making sure that the voting process is as inclusive as possible, this agreement would exclude people, negatively impacting the elderly, the disabled, racial and ethnic minorities, students, and the poor. Not only would this bill make it more difficult to vote, it would make it more difficult to register to vote.

While the conference report purports to address the voting problems apparent during the 2000 Presidential election, its solutions are illusory. For example, the legislation establishes minimum standards for the performance of voting machinery, but provides an exemption for punch card machines, the most controversial and problematic technology used during the 2000 presidential election, for over-vote notification. Although this legislation requires election officials to permit voters whose name does not appear on the voter registration list to cast a provisional ballot, it gives complete discretion to the state to decide when and if provisional ballots will be counted, even in federal elections. As we have seen in the past, these ballots can determine the outcome of an election.

This election reform legislation is the only major piece of civil rights legislation the Senate and House have taken up in the 107th Congress. We urge you to carefully consider the negative implications associated with the provisions that will undermine critical advances the United States has made in voting rights. While this legislation would authorize much needed funding to states and local governments to improve their election systems, it simultaneously imposes requirements that will effectively suppress voter participation. New machines are meaningless if policies are enacted that prevent people from voting on them.

Outlined below are two problematic provisions contained within the conference report that threaten to exacerbate the very problems that the legislation is intended to correct, to ensure that every citizen eligible to vote can vote. They are the driver's license and social security number requirement to register to vote and the photo identification requirement to vote.

DRIVER'S LICENSE AND SOCIAL SECURITY REQUIRED TO REGISTER TO VOTE

The conference report imposes additional requirements in order for citizens to register to vote. Under this legislation, the voter would be required to provide a driver's license number or, in the event they do not have one, the last four digits of their social security number. Any voter who has either number but does not provide it—even for privacy reasons—would not be registered.

When the voter provides either their driver's license number or the last four digits of their social security number, the state must verify the accuracy of the data provided. This includes checking data against state motor vehicle and Social Security Administration (SSA) databases, to verify the voter's name, date of birth and social security number. But, there are many reasons why the data provided by an eligible voter may not match the data in a motor vehicle or SSA database, even though it is the same person. For example, women may have married or divorced without changing their name in the SSA database. Many Latinos use both their mother and father's surname, or both their father's and spouse's surnames, which SSA may list incorrectly—resulting in a false ''no-match.'' A simple juxtaposition of a number could result in a ''no-match,'' whether due to the fault of the applicant, or an SSA employee who enters the number into the database incorrectly. This could result in either purging or the invalidation of a voter's registration application.

Also, this conference report would remove social security number disclosure (last four digits) from the protection of the Privacy Act of 1974, which makes it unlawful for local, state or federal agencies to deny someone a right provided by law for refusing to disclose their social security number. Congress did not limit the protection in Sec 7(a) of the Privacy Act to parts of the social security number. All nine digits of the social security number are part of the ''social security account number'' and are therefore protected. It was the use of the social security number for identification purposes that Congress was restricting. There can be no doubt that the requirement that voters disclose the last four digits of their social security in order to register to vote is an attempt to use the numbers as an identifier. If Congress intended to protect only five (5) of the nine (9) digits it would have written legislation that explicitly did so. Permitting a state to require parts of the social security account number creates an exception that would frustrate the intent of Congress. Furthermore, it is incorrect to suggest that by merely requiring a voter to disclose the last four digits of their social security number that their privacy is somehow protected.

In addition, forced disclosure of social security numbers threatens a citizens' privacy and could lead to identity fraud, where imposters armed with a person's name and social security number can raid back accounts, establish fraudulent credit cards and even ruin a voter's credit. The Social Security Administration Office of Inspector General has registered a 500 percent increase in allegations of Social Security fraud in the past several years—from 11,000 in 1998 to 65,000 in fiscal year 2001.

PHOTO IDENTIFICATION REQUIRED TO VOTE

The second major setback in the conference report is the photo identification requirement. As with the other methods of disenfranchisement in American history, such as literacy tests and poll taxes, the photo identification requirement would present barriers to voting and have a chilling effect on voter participation. There are voters who simply do not have identification and requiring them to purchase photo identification would be tantamount to requiring them to pay a poll tax. As a disproportionate number of racial and ethnic minority voters, the homeless, as well as voters with disabilities and certain religious objectors, do not have photo identification nor the financial means to acquire it, the burden of this requirement would fall disproportionately and unfairly upon them, perhaps even violating the Voting Rights Act, 42 U.S.C. §1973.

Further, the limited alternatives to photo identification provided in the bill—including a government check or government document, utility bill, or bank statement that shows the name and address of the voter—place the poor in no better position. Certain populations of battered women and homeless people, for example, cannot produce any of the required documents, because they often do not live in a house or apartment and if they do, the utility bills are not in their name, they do not have a bank account, and they may not receive a government check. American citizens should not be denied their constitutional right to vote because they do not have these documents, particularly when there are other alternatives to these requirements such as attestation or signature clauses which are currently used effectively by many states to prevent fraud.

The Department of Justice (DOJ) has consistently raised objections to imposing photo identification as a prerequisite for voting because such requirements are likely to have a disproportionately adverse impact on black voters and will lessen their political participation opportunities. In 1994, DOJ found that African-American persons in Louisiana were four to five times less likely than white persons to have driver's licenses or other picture identification cards. In addition, the Federal Elections Commission noted in its 1997 report to Congress that photo identification entails major expenses, both initially and in maintenance, and presents an undue and potentially discriminatory burden on citizens in exercising their basic right to vote.

Effective federal legislation should not erect new obstacles or weaken existing voting rights laws. Eliminating these discriminatory provisions is the most certain and complete way to guarantee that all states meet the requirements outlined by the Supreme Court in *Bush* v. *Gore*, 121 S. Ct. 525 (2000). Voters should not have to resort to the courts to ensure compliance with the ''one person-one vote'' rule.

We recognize that reform of our nation's electoral systems is critical. But it cannot be done in a manner that unduly prevents legitimate voters from exercising their constitutional right to vote. For the reasons indicated above, we urge you to vote ''no'' on final passage and will score a vote in favor of this legislation as a vote against voting rights. If you have questions, please contact ACLU Legislative Counsel LaShawn Warren.

Sincerely,

LAURA W. MURPHY,
*Director.*
LASHAWN Y. WARREN,
*Legislative Counsel.*

LEADERSHIP CONFERENCE ON
CIVIL RIGHTS,
*Washington, DC, October 9, 2002.*

DEAR SENATOR: On behalf of the Leadership Conference on Civil Rights, nation's oldest, largest and most diverse civil rights coalition, we write to provide our assessment of the final conference report on H.R. 3295, the ''Help America Vote Act of 2002.'' In a number of significant respects, the House-Senate election reform agreement is an important step forward in improving election procedures and administration throughout the nation. However, we do have several remaining concerns about the report language that prevent us from being able to endorse the final package.

Given the fact the millions of American citizens were denied their basic right to cast a vote and to have that vote counted in the 2000 election, the enactment of meaningful election reform has been the Leadership Conference's highest legislative priority. We greatly appreciate the efforts of Sens. Christopher Dodd (D–CT), Richard Durbin (D–IL), Charles Schumer (D–NY) as well as Reps. Bob Ney (R–OH), Steny Hoyer (D–MD), John Conyers (D–MI), Charlie Gonzalez (D–TX) and others to reach a bipartisan agreement on comprehensive election reform. Among its beneficial provisions, the conference agreement will:

Set uniform, minimum standards for federal elections nationwide, including providing voters with a chance to check for and correct ballot errors;

Ensure accuracy of state voter registration databases by implementing uniform, statewide computerized lists;

Provide provisional ballots, which allow voters who are erroneously left off the voter registration lists to vote and be counted once eligibility can be verified;

Help eliminate outmoded punch-card and lever voting systems, and upgrade voting systems and equipment in every state; and

Provide funding to ensure that voters with disabilities are able to cast ballots privately and independently.

The conference report language, however, does contain several troubling provisions:

First, the report contains a requirement that all persons seeking to register must provide the state with a drivers license number or, in the event they do not have one, the last four digits of their social security number. Any person who has either number but does not provide it—even for privacy reasons—will not be registered. Once a voter provides either number, the state must verify the accuracy of the data provided by checking it against state motor vehicle or Social Security Administration (SSA) databases. This system set out by the conference report is both cumbersome and prone to error. There are many legitimate reasons why the data provided by an eligible voter may not match the data in a motor vehicle or SSA database. For example, a woman may marry or divorce without updating her last name in the database; many Latinos use two last names, which the SSA may list incorrectly; some Asians list their last name first; and in entering their date of birth, some people enter the date followed by the month, the opposite of U.S. customs. Even a simpler juxtaposition of a number could result in a ''no-match.''

Second, amendments that have been made to the ID requirement fail to reduce its disenfranchising impact upon first-time voters. While the conference report includes minor improvements, these provisions fall far short of reducing the disproportionate negative impact of the ID provision.

In order to reduce its harmful impact on first-time voters, the ID requirement should have been linked to the requirement that a state have a computerized voter list in place. Instead, while the compromise bill requires mail-in registrants to meet the ID requirements in the 2004 election-cycle, it gives states a waiver until 2006 to create the statewide computerized lists. As a result, voters in states without state-wide lists will have to comply with the ID provision anytime they move within the state. Thus, the burden of the ID requirement will fall more heavily on renters, who change residences more often than homeowners, and who generally have lower incomes.

Third, the conference report would invalidate the registration of any voter who does not check off a new box on the registration form declaring that he or she is a U.S. citizen. Many elderly voters and voters with low levels of literacy, who find filling out forms difficult, will be likely to inadvertently fail to check the boxes and will, as a result, disproportionately be kept off the registration rolls.

Provisional ballots will not solve the above problems. Even if a voter is allowed to file a provisional ballot, it will not be counted because he or she was never ''properly'' registered, due to these onerous registration and verification requirements.

We hope you will keep the above issues in mind when deciding how you will vote on the conference report to H.R. 3295. If you have any questions, please feel free to contact Rob Randhava, LCCR Policy Analyst, at 202/466–6058 or Nancy Zirkin, LCCR Deputy Director/Director of Public Policy. Thank you for your consideration.

Sincerely,

DR. DOROTHY I. HEIGHT,
*Chairperson.*
WADE HENDERSON,
*Executive Director.*

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PEOPLE FOR THE AMERICAN WAY,
*Washington, DC, October 10, 2002.*

DEAR MEMBER OF CONGRESS: On behalf of the 600,000 members and supporters of People For the American Way (PFAW), we are writing to express our views on the conference report to HR 3295, the Help America Vote Act.

We are pleased by many of the bill's provisions, which we believe will significantly improve our nation's election system. The legislation will allow registered individuals to cast provisional ballots even if their names are mistakenly excluded from voter registration lists at their polling places. It will require states to develop centralized, statewide voter registration list to ensure the accuracy of their voter registration records. It will also require states to provide at least one voting machine per polling place that is accessible to the disabled, and ensure that their voting machines allow voters to verify and correct their votes before casting them. Finally, the legislation authorizes $3.8 billion in critically needed funds to fix antiquated voting systems and to meet the minimum standards set forth in the bill.

At the same time, we are concerned by other provisions that may erect new barriers to voting. These provisions include the identification requirements for first time voters who register by mail and the provision (added by the conference committee) that allows election officials to return voter registration forms as incomplete if the ''citizenship box'' is left blank by the voter.

Since the effectiveness of this legislation depends on uniform and non-discriminatory enforcement, PFAW will be vigilant in our efforts to educate the public about new requirements and will monitor the application of these provisions in the states. We will be advocating for full funding of programs authorized by the bill in order to ensure that the bill does not contain empty promises. Concurrently, we will begin to identify areas where we can strengthen the progress made by this bill, and work with our allies on legislation to correct deficiencies.

Finally, through PFAW Foundation's election protection program, now operating in six states, we will intensify efforts to educate voters to ensure that individuals know and understand their new rights and responsibilities. People For the American Way Foundation will also take other action as appropriate to protect voters' rights.

Sincerely,

RALPH G. NEAS,
*President.*
STEPHENIE FOSTER,
*Director of Public Policy.*

Mr. DODD. The concerns of these groups are reflected in three of the provisions of the conference report: (1) the first-time mail registration requirements of section 303(b); (2) the requirement that the drivers license, or last 4 digits of the voter's Social Security number, be provided on the registration form under section 303(a)(5); and (3) the citizenship check-off box requirements of section 303(b)(4). I intend to address each of these issues in turn.

Let me state from the start that each of these groups was significantly involved in the development of the original Dodd-Conyers legislation, and all continued to provide valuable input and comments as we worked to develop a bipartisan compromise in the Senate last December and then perfect that compromise in conference with the House this summer and fall. Many of these same groups expressed reservations at the time about the Senate compromise and withheld support for the bill when it passed the Senate. Each of these organizations played a pivotal role in the formation of this legislation and I continue to personally value their perspective and input.

Let me state for the record, that as the principal Senate author of this conference report, it has consistently been my goal and position that this legislation be uniform and nondiscriminatory in both intent and result without regard to color or class, gender or age, disability or native language, party or precinct. While I understand the collective, and individual, concerns of these organizations, the ultimate test of this legislation will be in its implementation by the States and I am confident that a fair reading of its provisions will produce the desired result. With that, let me offer my perspective on several issues raised by these organizations.

First, with regard to the anti-fraud provisions, I share the concern that the hearings and studies by numerous organizations, including the Senate Rules Committee, over the past two years did not unearth any evidence of widespread voter fraud. However, even the anecdotal evidence of dogs and deceased persons registering, and perhaps even voting, and registration lists with duplicate names in several different jurisdictions illustrate the frailties of current registration procedures. While I continue to believe that the most effective anti-fraud provision in the Senate-passed bill, and in this conference

report, remains the requirement that States establish a centralized computerized registration list, I also recognize that but for the provision of section 303(b) affecting first-time voters who register by mail, this legislation and all the good it contains would not have made it this far.

While I appreciate the sensitivities of these organizations to the potential that the first-time mail registrant voter requirement of section 303(b) will fall disproportionately on minorities and low income individuals, I am not convinced that the sound interpretation of this legislation will ultimately result in the disenfranchisement of such voters. In order to better establish empirical data on the prevalence of such fraud, the conference report directs the new Commission to make periodic studies and reports, with recommendations to Congress, on nationwide statistics on voter fraud and methods of identifying, deterring and investigating such fraud.

More importantly, the Commission is directed to conduct a special study, to be completed within 18 months of the effective date of the first-time voter provision, on the impact such requirement has on these voters and voter registration in general. The Commission is directed to also study the additional requirement that new registrants provide the last four digits of their Social Security number at registration if they do not have a valid drivers license number. If the results of these studies indicate either a lack of empirical evidence that widespread voter fraud exists, or that these new anti-fraud provisions are disenfranchising voters, particularly minority and low-income voters, Congress will be in a position to modify or repeal these provisions.

In the meantime, changes made to the conference report will work to mitigate, and perhaps even obviate, the need for States to implement the first-time mail registrant voter requirement.

To make clear that Congress intends that the first-time voter provision of section 303(b) must not result in a disparate impact on minority voters, the conferees agreed to add language to this section to require that it be implemented in a uniform and nondiscriminatory manner. The conference report also contains a new notice provision, section 303(b)(4)(iv), which requires that the NVRA registration form contain a statement informing the applicant that if they register by mail, appropriate information must be included in order to avoid the additional identification requirements upon voting for the first time. As in the Senate-passed bill, if any voter is challenged as not being eligible to vote, including for reasons that he or she is a first-time mail registrant voter without proper identification, such voter is entitled to vote by provisional ballot, and that ballot is counted according to State law.

As I stated yesterday, nothing in this bill establishes a Federal definition of when a voter is registered or how a vote is counted. If a challenged voter submits a provisional ballot, the State may still determine that the voter is eligible to vote and so count that ballot, notwithstanding that the first-time mail registrant voter did not provide additional identification required under section 303(b). Whether a provisional ballot is counted or not depends solely on State law, and the conferees clarified this by adding language in section 302(a)(4) stating that a voter's eligibility to vote is determined under State law.

More importantly, however, is the combination of the existing language in the Senate-passed bill (offered by Senator WYDEN) and the provision, modified from the Senate-passed bill, which requires new registrants to provide a drivers license number upon registration, or the last 4 digits of their Social Security number if they do not have a drivers license number.

The Wyden amendment included in the Senate-passed bill, and retained without modification in the conference report, provides a means by which first-time mail registrant voters can avoid the additional verification requirements of section 303(b) altogether. At the choice of the individual, under section 303(b)(3), a first-time mail registrant voter can opt to submit their drivers license number, or at least the last 4 digits of their Social Security number, on the mail-in voter registration form in order for the State to match the information against a State database, such as the motor vehicle authority database. If such information matches, the additional identification requirements of section 303(b)(1) do not apply to that individual.

Under the new requirements added in conference as section 303(a)(5), effective in 2004 (unless waived until 2006), all new applicants must provide at the time of registration, a valid drivers license number, or if the individual does not have such, the last 4 digits of their Social Security number (or if they have neither, the State shall assign them a unique identifying number). States must then attempt to match such information, thereby satisfying the provisions of section 303(b)(3) which renders the first-time mail applicant provisions of section 303(b)(1) inapplicable. By operation of section 303(a)(5) added in conference, in conjunction with the existing language of the Senate-passed bill (as added by Senator WYDEN) in section 303(b)(3), the first-time voter identification requirement is obviated and essentially rendered moot, thereby avoiding the potential disenfranchisement of minority voters.

Secondly, with respect to the provisions of section 303(a)(5) which require verification of voter registration information, it is important to remember that nothing in this conference report establishes a Federal definition, or standard, for when a voter is duly registered. That authority continues to reside solely with State and local election officials pursuant to State law. Nor does this conference report require States to enact legislation changing voter eligibility requirements to conform to the Act. As I pointed out yesterday, Chairman NEY, the principal author of this conference report on behalf of the House, stated last week that this bill provides for basic requirements that States shall meet, but leaves to the discretion of the States how they meet those requirements in order to tailor solutions to their own unique problems. This section is not an exception to that rule.

Section 303(a)(5) is a modification to provisions added to the Senate bill during floor debate which authorized States to request a voter's 9 digit Social Security number. Concerns had been expressed, which I shared, that even allowing States the discretion to require the full Social Security number potentially ran afoul of Privacy Act protections. While this provision goes further than I would have wished, it is simply not an accurate reading of this section to conclude that a lack of a match—or a ''no-match'' will result in the invalidation of a voter's registration application or the purging of the voter's name.

First, with respect to purging, this provision applies only prospectively to new applicants and as such cannot be used to purge names of existing voters from the rolls. More importantly, however, the language of the conference report, and the Statement of Managers on this point specifically, make it abundantly clear that any purging of names must conform to existing NVRA requirements. There is no provision in the current NVRA which would authorize purging for lack of a match of either a drivers license number or the last 4 digits of a Social Security number.

As for the argument that this provision will result in the invalidation of a voter's application, that conclusion is simply not supported by a reading of all the relevant provisions. Effective in 2004 (or 2006 if a waiver of section 303(a) is requested by the State), this section prohibits States from accepting or processing a voter registration application unless it contains the voter's drivers license number. However, there is no similar prohibition on local election officials who presumably will continue to have the authority to process voter applications until the State implements the centralized computerized registration list and becomes responsible for maintaining the official list of eligible voters under section 303(a)(1).

In the meantime, if an applicant has not been issued a current and valid drivers license, then the applicant must provide the last 4 digits of his or her Social Security number. If the applicant has neither number, the State shall issue the individual a number which becomes the voter's unique identifier (as required for the centralized computerize registration list). The chief state election official must also

enter into agreements with the State motor vehicle authority and the Commissioner of Social Security in order to match information supplied by the voter with these databases.

However, nothing in this section prohibits a State from accepting or processing an application with incomplete or inaccurate information. Section 303(a)(5)(A)(iii) specifically reserves to the States the determination as to whether the information supplied by the voter is sufficient to meet the disclosure requirements of this provision. So, for example, if a voter transposes his or her Social Security number, or provides less than a full drivers license number, the State can nonetheless determine that such information is sufficient to meet the verification requirements, in accordance with State law. Consequently, a State may establish what information is sufficient for verification, preserving the sole authority of the State to determine eligibility requirements for voters. Furthermore, nothing in this conference report requires a State to enact any specific legislation for determining eligibility to vote.

Moreover, nothing in this section prohibits a State from registering an applicant once the verification process takes place, notwithstanding that the applicant provided inaccurate or incomplete information at the time of registration (as anticipated by section 303(a)(5)(A)(iii)) or that the matching process did not verify the information. The provision requires only that a verification process be established but it does not define when an applicant is a duly registered voter. Again, this conference report does not establish Federal registration eligibility requirements those are found only in the U.S. Constitution. Section 303(a)(5)(A)(iii) makes it clear that State law is the ultimate determinant of whether the information supplied under this section is sufficient for determining if an applicant is duly registered under State law.

Finally, with respect to the issue of the citizenship check-off box on the voter application form under section 303(b)(4), the Senate-passed bill contained the requirement that the NVRA registration form include two new questions and a check-off box for voters to mark to indicate their answers to questions regarding age and citizenship eligibility. The conference agreement added a new provision in section 303(b)(4)(B) which requires that if a voter does not check-off the citizenship box, the appropriate election official must notify the applicant of the omission and provide the applicant an opportunity to complete the form in time for processing to be completed to allow the voter to participate in the next Federal election.

It is simply inaccurate to state that any registration application is required to be invalidated under this section if an applicant forgets to check-off the citizenship box. Nothing in this provision makes the completion of the check-off box a condition of Federal eligibility. The conference report does not establish Federal eligibility requirements for voting. NVRA only requires that an applicant sign the registration form attesting to his or her eligibility, including citizenship. The check-off box is a tool for registrars to use to verify citizenship, but nothing in the conference report requires a check-off or invalidates the form if the box is left blank.

In fact, this provision will ensure that if a voter did not check-off the citizenship box, his or her registration form cannot be discarded as invalid on its face. Ultimately, the registrar determines whether or not the voter has met the citizenship requirement notwithstanding whether or not the box is checked. A signed attestation as to citizenship eligibility is still sufficient under NVRA. Jurisdictions that currently use citizenship check-off boxes may continue to process such information pursuant to State law, but in fact will not be able to invalidate a form based on the lack of a check-off without notification to the voter first.

With respect to each of these three issues, it is important to note that each of these provisions will likely require some adjustment to the NVRA registration form. The new Election Assistance Commission specifically does not have rulemaking authority with the exception of the authority permitted, and currently exercised by the Federal Election Commission, under section 9(a) of the NVRA (42 U.S.C. 1973gg–7(a)) to prescribe such regulations necessary to develop the mail registration form used in Federal elections. Consequently, it is anticipated that the new Commission will be required to revise the current NVRA registration form in order to effectuate the requirements under this Act, including: notice requirements for first-time voters under section 303(b)(4)(iv); the collection of a drivers license number or last 4 digits of a Social Security number under sections 303(a)(5) and 303(b)(3); and the age and citizenship check-off boxes under section 303(b)(4), in addition to any other changes in the Federal registration application form that the Commission views as necessary to implement this Act. This exercise will afford interested parties an opportunity to ensure that these requirements do not result in the disenfranchisement of applicant voters.

As a final observation, let me state that while the enforcement provisions of the Senate-passed bill included tough preclearance-type reviews of grant applications by the Department of Justice, the conference report contains an important new administrative grievance procedure intended to provide voters, and others aggrieved by violation of the requirements of this Act, a timely and convenient means of redressing alleged violations. Each State that receives funds under Title I must establish a state-based administrative procedure for reviewing alleged grievances under Title III of this Act. If the State does not render a decision within 90 days of receiving a complaint, the proceeding is moved to an alternative dispute resolution process which must resolved the issue within 60 days.

While I would have preferred that we extend the private right of action afforded private parties under NVRA, the House simply would not entertain such an enforcement provisions. Nor would they accept Federal judicial review of any adverse decision by a State administrative body. However, the state-based administrative procedure must meet basic due process requirements and afford an aggrieved party a hearing on the record if they so choose.

It is important to note that this state-based administrative proceeding is in addition to any other rights the aggrieved has and is limited only to the adjudication of violations of the requirements under Title III of this Act. This enforcement scheme in no ways replaces or alters the adjudication provisions of any other civil rights or voting rights law.

As with all provisions of this legislation, the proof is in the implementation of these requirements by the States. But nothing in this conference report requires States or localities to change any voter eligibility requirements nor does this Act in any way infringe upon the sole authority of State and local election officials to determine who is a duly registered voter. I agree that it will require diligence and education of State and local election officials to ensure that these provisions do not serve to disenfranchise voters and I stand ready to monitor actions by the States to ensure that they do not undermine the purposes of this Act: to make it easier to vote, but harder to defraud the system.

Mr. President, the conference report that we are about to adopt is a true compromise. It is a melding of the House-passed and Senate-passed bills. While there was much in common in the legislation that passed each House, there were significant differences also. I commend my House counterparts, Chairman BOB NEY and Congressman STENY HOYER, for their willingness to spend countless hours and several long nights to hammer out the differences in these two approaches in order to reach the conference report we present to the Senate for adoption today.

On at least one occasion, Chairman NEY, Congressman HOYER and I, along with our staff, worked literally around the clock for twelve hours in order to reach consensus, with the final agreement being reached long after the midnight hour. Such effort is just one indication of the level of commitment that the House conferees demonstrated in reaching a consensus on this historic legislation, and I thank them for their dedication to seeing this process through to a satisfactory conclusion. The American people owe them a debt

of gratitude for their efforts to ensure that henceforth, in Federal elections, every eligible voter will be able to vote and have their vote counted.

The original House and Senate bills addressed the problems that came to light in the November 2000 presidential election in similar ways. While the Senate bill set out minimum requirements of the States to meet over the next four years, and funded those requirements at 100 percent of costs, the House bill used Federal funds as an incentive to encourage States to take preferred action, either by following Federal standards or by adopting standards of their own. Both bills however, preserved the traditional authority of State and local election officials to determine the specific means of meeting those requirements or standards. Both bills also preserved the authority of State and local election officials to be the sole determinants of whether an applicant is a duly registered voter. And both bills preserved the authority of State law to determine when a vote has been cast and whether a vote, once cast, will ultimately be counted.

My counterpart in the House, Chairman NEY, said it best last week during the House debate on the conference report, and I agree with his assessment. Let me quote Chairman NEY:

One size fits all solutions do not work and only lead to inefficiencies. States and locales must retain the power and the flexibility to tailor solutions to their own unique problems. This legislation will pose certain basic requirements that all jurisdictions will have to meet, but they will retain the flexibility to meet the requirements in the most effective manner.

That is the hallmark of this legislation, it requires that States and localities meet basic requirements in the type of voting system they use in Federal elections, in the offering of provisional ballots, in the creation of a centralized computerized registration list and the collection of data for that list, and in the verification of identification for new registrants. But in the implementation of these requirements, the sole determination is left to the State as to what type of voting system a jurisdiction chooses to use, and whether a provisional ballot is ultimately counted pursuant to State law, and whether an individual registrant is determined under State law to be duly registered and entered into the centralized registration list.

I am gratified that the conferees agreed to include in this conference report what this Senator believes are the most important provisions of the Senate bill: the requirements for voting system standards, provisional balloting, and the creation of statewide computerized registration lists. The conference report retains the core requirements and language of the Senate-passed bill, most of which were contained in the original bill reported by the Senate Rules Committee just fourteen months ago in August of 2001 as S. 565. These requirements were the fundamental elements of the Senate-passed bill and are an equally integral component of the conference report. These provisions include required standards that all voting systems used in Federal elections must meet; the offering of provisional ballots so that no voter is ever turned away from the polls again; and the creation of an official centralized computerized registration list to include the names of all eligible voters and procedures for ensuring the accuracy of that list, as well as provisions for verifying the identity of certain new registrants.

Title III of the conference report contains the three basic requirements for voting system standards and administrative procedures to be used in Federal elections.

Section 301 establishes six standards that all voting systems used in Federal elections after January 1, 2006 must meet:

(1) While maintaining voter privacy and ballot confidentiality, permit voters to verify their selections on the ballot, notify voters of over-votes, and permit voters to change their votes and correct any errors before casting the ballot. The conference report retains the provisions of section 101 of the Senate-passed bill that created an alternative means of notifying voters of over-votes for jurisdictions using paper ballots, punch card, or central-count voting systems (including absentee and mail-in ballots). Such jurisdictions may instead use voter education and instruction programs for notification of over-votes only. However, all voting systems, including these paper ballot systems, must provide voters with so-called ''second-chance'' voting, i.e., the ability to verify the voter's selection and the ability to correct or change the ballot prior to it being cast. The conference report also clarifies that this requirement cannot be used to render a paper ballot invalid or unable to be modified in order to meet the requirements.

Notification to the voter of an over-vote is essential because it provides an eligible voter a ''second chance'' opportunity to correct his or her ballot before it is cast and tabulated. Any such notification must be accomplished in a private and independent manner. With regard to the notification, it is the voting system itself, or the educational document, and not a poll worker or election official, which notifies the voter of an over-vote. The sanctity of a private ballot is so fundamental to our system of elections, that the language of this compromise contains a specific requirement that any notification under this section preserve the privacy of the voter and the confidentiality of the ballot. The Caltech-MIT study noted that secrecy and anonymity of the ballot provide important checks on coercion and fraud in the form of widespread vote buying.

Paper ballot systems include those systems where the individual votes a paper ballot that is tabulated by hand. Central count systems include mail-in absentee ballots and mail-in balloting, such as that used extensively in Oregon and Washington state, and other states where a paper ballot is voted and then sent off to a central location to be tabulated by an optical scanning or punch card system. A mail-in ballot or mail-in absentee ballot is treated as a paper ballot for purposes of notification of an over-vote under section 301 of the conference report, as is a ballot counted on a central count voting system. However, if an individual votes in person on a central count system, as is used in some states that allow early voting or in-person absentee voting, for that voter, such system is required to actually notify the voter of the over-vote.

As for the other types of voting systems, namely lever machines, precinct-based optical scanning systems, and direct recording electronic systems, or DREs, the voting system itself must meet the standard. Specifically, the functionality of the voting system shall permit the voter to verify the votes selected, provide the voter with an opportunity to change or correct the ballot before it is cast or tabulated, and actually notify the voter if he or she casts more than one vote for a single-candidate office.

The conference report recognizes the inherent differences between paper ballot systems and mechanical or electronic voting systems. The conferees retained the reasonable balance struck in the Senate-passed bill between ensuring that no voting system is eliminated as long as the requirement that all voters have the opportunity to verify their ballot and a ''second-chance'' to correct any error on the ballot or change the ballot, before it is cast and counted. Although this compromise provides an alternative method of notifying voters of over-votes for punch card and paper ballot systems, nothing in this legislation precludes jurisdictions from going beyond what is required, so long as such methods are not inconsistent with the Federal requirements under Title III or any law described in section 906 of Title IX of this Act.

The conference report is silent on the issue of notification to the voter of an under-vote and neither requires nor prohibits such notification. However, the Election Assistance Commission is charged with studying the feasibility of notifying voters of under-votes.

(2) Each voting system must produce a permanent paper record for the voting system that can be manually audited. Such record must be available as an official record for recounts, however, there is no intent to mandate that the paper record serve as the official record. Whether this record becomes the official record is left to the discretion of the States. As the Chairman of the Rules Committee, let me advise my colleagues of the importance of this feature in the unlikely event that a petition of election contest is filed with the Senate. Often, in order to resolve such contests, the Rules Committee must have access to an audit

trail in order to determine which candidate received the most votes. This standard will ensure that the Senate and the House will have access to reliable records in the case of election contests.

(3) Consistent with the Senate-passed provision, each voting system must provide to individuals with disabilities, including the blind and visually impaired, the same accessibility to voting as other voters. Jurisdictions may meet this standard through the use of at least one DRE, or other properly equipped voting system, at each polling place. However, any system purchased on or after January 1, 2007, if purchased with Federal funds made available under Title II of the Act, must meet the accessibility standard.

The accessibility standard for individuals with disabilities is perhaps one of the most important provisions of this legislation. Ten million blind voters did not vote in the 2000 elections in part because they cannot read the ballots used in their jurisdiction. With 21st century technology, this is simply unacceptable.

The Senate Rules Committee received a great deal of disturbing testimony regarding the disenfranchisement of Americans with disabilities. Mr. James Dickson, Vice President of the American Association of People with Disabilities, testified that our nation has a '' . . . crisis of access to the polling places.'' Twenty-one million Americans with disabilities did not vote in the last election—the single largest demographic groups of non-voters.

To statutorily address this ''crisis of access,'' the conference report contains the provisions of the Senate-passed bill requiring that by the Federal elections of 2006, all voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired. Most importantly, that accommodation must be provided in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters. Accessibility is required for individuals with all disabilities, not just physical disabilities.

In order to assist the States and localities in meeting this standard by 2006, the conference report retains the Senate-passed provision that allows jurisdictions to satisfy this standard through the use of at least one direct recording electronic (DRE) voting system, or any other voting system that is equipped to accommodate individuals with disabilities, in every polling place. It must be noted, moreover, that the compromise does not require that a jurisdiction purchase a DRE to meet the accessibility requirement since jurisdictions may also choose to modify existing systems to meet the needs of the disabled voter.

A DRE used to meet the accessibility standard under this requirement is not intended to be used solely by individuals with disabilities. Obviously, any eligible voter should have access to such a machine, and in fact, may find voting on such a system to be preferable to other systems used in that polling place. Nothing in this conference report is intended to suggest that because each polling place must have an accessible machine, that machine is for the exclusive use of individuals with disabilities, nor that such machine, or individuals who use such system, should be separated from other voters. Such treatment would be contrary to the requirement in section 301(a)(3)(A) that such individuals be given the same opportunity for access and participation (including privacy and independence).

In addition, the Caltech-MIT study suggests that DREs have the potential to allow for more flexible user interface to accommodate multiple language ballots. Consequently, such DRE voting systems can also be used to meet the accessibility requirements for language minorities under the Voting Rights Act, and this conference report, as well.

It has been suggested that this may be a wasteful requirement for jurisdictions that have no known disabled voters. Let me make clear that the purpose of this requirement is to ensure that the disabled have an equal opportunity to cast a vote and have that vote counted, just as all other non-disabled Americans, with privacy and independence. It is simply not acceptable that individuals with disabilities should have to hide in their homes and not participate with other Americans on election day simply because no one knows that they exist. It is equally unacceptable to suggest that individuals with disabilities must come forward and declare their disability in order to participate in democracy through the polling place.

(4) Each voting system must provide alternative language accessibility as required by law. This is a slight modification to the Senate-passed bill in order to make clear that the alternative language requirements must conform to existing Voting Rights Act requirements.

The Voting Rights Act mandates that covered jurisdictions must provide translated voting materials, such as bilingual ballots, voter registration forms, voting instructions, other voting materials, oral translation services and interpreters to ensure accessibility to the right to cast a vote and have that vote counted. Nothing in this Act overturns or undermines the Voting Rights Act.

The alternative language accessibility standard follows the procedures for determining when a language minority (e.g., only the four general groups currently recognized by VRA: Asian Americans, people of Spanish heritage, Native Americans and native Alaskans) must be accommodated under section 203 of the Voting Rights Act. This conference report leaves in place the numerical triggers under the Voting Rights Act, which require states and political subdivisions that meet the triggers of non-English speaking citizens of voting age to provide language assistance services at the polls for American voters. On July 26, 2002, the Department of Justice released new jurisdictions and languages covered under the language assistance provisions of the Voting Rights Act based on Census 2000 figures.

The conference report provides safeguards to ensure an equal opportunity for all eligible language minorities to cast a vote and have that vote counted. This is accomplished with uniform and nondiscriminatory requirements that ensure alternative language accessibility to voting systems, provisional balloting, and inclusion as a registered voter in the statewide voter registration lists. In addition, this compromise provides for the Election Assistance Commission to study and make recommendations as to whether the voting systems are, in fact, capable of accommodating all voters with a limited proficiency in the English language.

(5) Each voting system must comply with an ''out-of-the-box'' error rate standard as established in section 3.2.1 of the Federal voting system standards issued by the Federal Election Commission and in effect on the date of enactment. While the specific error rate will not change, it is anticipated that over time, should technology provide for an improved error rate, Congress will amend this provision to reflect changing technology. Neither the conference report, nor the Senate-passed bill, establishes performance error rates, or residual error rates, for particular types of voting systems, as recommended by the Carter-Ford Commission. However, the conference report does require that the new Commission study the best methods for establishing voting system performance benchmarks, expressed as a percentage of residual vote in the Federal contest at the top of the ballot. If such benchmarks can be established with reliability, a future Congress may decide to add a performance benchmark, or performance error rate, to the voting system standards.

Finally, (6) the conference report contains an additional standard, taken from the House-passed bill, requiring each State to adopt uniform standards defining what constitutes a vote and what will be counted as a vote for each certified voting system. This provision is an improvement over the Senate bill and will ensure that voters using similar machines will have their votes counted in a uniform and nondiscriminatory manner within a State.

Under this additional standard, States must define what constitutes a ''legal'' vote on a specific voting system with a companion definition of when that ''legal'' vote will be counted on that specific voting system. These two state-based definitions will provide another incremental step toward ensuring that votes are cast and counted

in a uniform, non-discriminatory manner and should help ensure against a repeat of the 4–6 million votes that were cast but not counted in the 2000 general election according to the Caltech-MIT study. Such state-based definitions will erase the inconsistent standards, practices, or procedures within states and localities that have diluted votes cast in certain communities. Now, no matter where the voter lives and votes, that voter will have an equal opportunity to cast his or her vote and an equal opportunity to have his or her vote counted.

The effective date for the voting system standards remains for any Federal election held in a jurisdiction after January 1, 2006. It is important to note, that with regard to effective dates, the actual date on which the standards under the voting system requirement must be implemented will vary from jurisdiction to jurisdiction depending upon when the first Federal election occurs in 2006. A federal election includes a general, primary, special, or runoff election for federal office.

Section 302 establishes the second requirement that all States and jurisdictions must meet beginning for Federal elections after January 1, 2004: the requirement that jurisdictions provide for provisional voting for any voter who is challenged as ineligible but who attests, in writing, that they are registered and eligible to vote. This provision ensures that never again can a voter who appears at the polls in order to vote and desires to vote can be turned away, for any reason. The conference report follows the Senate bill in laying out the steps that such provisional balloting must follow.

First, any voter who declares that they are registered to vote in a Federal election in a jurisdiction but are not on the official list of registered voters or are otherwise alleged to be ineligible, must be offered and permitted to cast a provisional ballot. Any challenge to the voter's eligibility qualifies the voter for a provisional ballot, including, but not limited to:

The voter's name does not appear on the official registration list; or

The voter's name, or other registration information, appears inaccurately on the registration list; or

The voter does not meet the requirements of section 303(a) because there is a question about, or they cannot provide, the number on their drivers license or the last 4-digits of their Social Security number, or the State/jurisdiction refuses to assign a unique identifier number that the voter could use for voter registration purposes; or

A voter is a first time voter who registered by mail and does not meet the requirements of section 303(b) because they do not have any of the specified identification, such as a photo-ID, utility bill, bank statement, paycheck or other government document required to be shown under this Act; or

There are questions about the voter's eligibility to vote, even if their name appears on the official registration list; or

The voter believes he or she has registered within the States' registration deadline but their names does not appear on the official registration list; or

The voter has recently moved but his or her name does not appear on the official registration list; or

There are questions about the voters' eligibility to vote based upon section 303(c) that requires if polling hours are extended as a result of a court order, any ballot cast in a federal election during that extension be provisional and be held separately from other provisional ballots; or

There are questions about the voters' eligibility to vote based upon reassignment pursuant to state re-districting laws; or for any other reason.

Any and all of the above voters may, under the conference report, cast a provisional ballot. Not only must the State provide access to the provisional ballot, but the State or local election official has a legal obligation under this Act to provide notice to each individual voter, who has had his or her ability to cast a regular ballot questioned, that they may cast a provisional ballot in that Federal election at that polling place.

To receive and cast a provisional ballot, all the individual must do is execute a written affirmation that he or she is a registered voter in that jurisdiction and is eligible to vote in that election. If an individual is motivated enough to go to the polls and sign an affidavit, under perjury of law, that he or she is eligible to vote in that election, then the state or local election official shall protect that individual's right to cast a provisional ballot. That right is so fundamental, as is evidenced by its widespread use across this Nation, that we must ensure that it is offered to all Americans, not in an identical process, but in a uniform and nondiscriminatory manner.

Once executed, the affidavit is handed over to the appropriate election official who must promptly verify the information and issue a provisional ballot. It is important to note that in some jurisdictions, the verification of voter eligibility will take place prior to the issuance of a ballot based upon the information in the written affidavit. In other jurisdictions, the ballot will be issued and then laid aside for verification later. Both procedures are equally valid under this compromise, which provides flexibility to states to meet the needs of their communities in slightly differing ways. States that offer same-day registration procedures similarly meet the requirements of section 302 provided the individual attests, in writing, to their eligibility and the State otherwise determines, pursuant to State law, that the voter is eligible to vote.

Any provisional ballot must be promptly verified and counted if the individual is eligible under State law to vote in the jurisdiction. Nothing in this conference report establishes a rule for when a provisional ballot is counted or not counted. Once a provisional ballot is cast, it is within the sole authority of the State or local election official to determine whether or not that ballot should be counted, according to State law. Consequently, even if a voter does not meet the new Federal requirements for first-time voters to verify their identity, or for new registrants to provide their drivers license number, or the last four digits of their Social Security number, if that voter otherwise meets the requirements as set out in State law for eligibility, the State shall count that ballot pursuant to State law.

Finally, at the time that the voter casts a provisional ballot, the appropriate State or local election official shall give the individual written notice of how that voter can ascertain whether or not his or her ballot was counted through a free access system (such as a web site or toll-free telephone number). This is a particularly important provision as it ensures that a provisional voter will be able to cure any registration defect in time to become a regular voter in the next election. This provision, combined with the requirement in section 303 for establishing a centralized computerized registration list, will ensure that no eligible voter will be denied the right to vote and that State and local election officials will have access to accurate and up-to-date voting records.

All States must meet this requirement on provisional ballots for Federal elections in order to comply with this Act. However, those States which are described in section 4(b) of the National Voter Registration Act of 1993 (NVRA) and are currently exempt from the provisions of the NVRA or those States that permit same-day registration or require no registration may meet the requirements for provisional balloting through their current registration systems.

The Caltech-MIT report estimates that the aggressive use of provisional ballots could cut the lost votes due to registration problems in half. The Carter-Ford Commission recommended going even farther than this legislation in less time, recommending state-wide voter registration. The Commission noted, ''No American qualified to vote anywhere in her or his State should be turned away from a polling place in that State.'' While the conference report does not require state-wide registration, nothing in the conference report prohibits, or is intended to discourage, States from enacting such a provision.

In addition to the provisions requiring provisional balloting, section 302 also contains the requirement in the Senate-passed bill that a sample ballot and other voter information be posted at polling places on election day. In order to ensure that voters are aware of the provisional balloting process,

the registration and voting requirements for first-time voters who register by mail, including the option of providing a drivers license number or at least the last four digits of a Social Security number, along with other new state standards, practices and procedures, such notice and information are required to be posted at polling places on election day. In this information age, the expectation is that targeted state education programs will compliment any required posted information to best educate the voters and train poll workers, volunteers, and election officials

Finally, the conference report contains a modified version of the requirement that, if polling hours are extended as a result of a court order, any ballot cast in a Federal election during that extension be by provisional ballot. The Senate-passed bill could have been read to apply to any voter who votes after the polls close, and not just voters who vote pursuant to a court or other order. Consequently, the conference report clarifies that only voters who vote pursuant to such order vote by provisional ballot and such provisional ballots shall be held separately from other provisional ballots.

Section 303 of the conference report includes the provisions of the Senate-passed bill requiring that all States establish a centralized computerized registration list of all eligible voters. This requirement is the single greatest deterrent to election fraud, whether by unscrupulous poll workers or officials, voters, or outside individuals and organizations. The ability to capture every eligible voter in one centrally managed database with requirements for privacy and security of the information will help ensure the integrity of registration lists and ensure both the accuracy and authenticity of those lists.

The Carter-Ford Commission explicitly recommended that every state adopt a system of statewide voter registration. The Caltech-MIT report similarly recommended the development of better databases with a numerical identifier for each voter. The Constitution Project also called for the development of a state-wide computerized voter registration system that can be routinely updated and is accessible at polling places on election day.

The conference report contains much of the Senate-passed language on this provision with important additions to highlight the official, centrally managed nature of this list. Once implemented in 2004 (or 2006 if the State seeks a waiver for good cause), voters should never again have to be turned away from the polls because their name was not updated on the list. Never again should poll workers have to wait hours to get through a central phone line in order to verify a voter's registration. And once such a list is in place, every first-time mail registrant voter should be able to verify their identity through the matching of a drivers license number or at least the last 4 digits of a Social Security number.

The conference report retains the Senate-passed provisions of section 303(a)(2) regarding list maintenance of the computerized list. Those provisions provide that any name that is removed from the list must be removed in accordance with provision of the National Voter Registration Act (NVRA), the so-called ''Motor-Voter'' law. This requirement will ensure that voters cannot be purged from the list unless they have not responded to a notice mailed by the appropriate election official and then have not voted in the subsequent two Federal general elections. Moreover, this provision ensures that voters who appear at the polls during this period and wish to vote will be allowed to as provided for in section 8(3) of the Motor-Voter law (42 U.S.C. 1973gg-6).

As a practical matter, once the computerized list has been developed and implemented, list maintenance will be almost automatic. While many of us have read of allegations of massive duplicate registrations, the fact is that even though alleged duplicate names appear on more than one jurisdiction's list, the vast majority of voters only live in one place and only vote in one place. In a highly mobile society likes ours, voters move constantly. And while voters may remember to change their mailing address with the post office, with utility companies, and with the bank and credit card companies, they may not even think about changing their address with the local election official until it comes time to vote. At the end of the day, this conference report ensures that mobile voters are not disenfranchised.

The conference report also added a new minimum standard for ensuring the accuracy of the centralized computerized registration list. That provision, section 303(a)(4), was drawn from a provision contained in the House-passed measure, but with an important clarification. Consistent with section 303(a)(2), this provision parallels language in the NVRA that requires States to make a reasonable effort to remove registrants who are ineligible to vote, consistent with the provisions of NVRA, specifically the requirement that such voters fail to respond to a notice and then fail to vote in the subsequent two general Federal elections. Further, no voter may be removed from the list solely by reason of a failure to vote. As is stated in the Statement of Managers, this provision is completely consistent with NVRA.

Section 303(a)(5) of the conference report is a new provision that is a modification to provisions added to the Senate bill during floor debate that authorized States to request a voter's 9 digit Social Security number. Effective in 2004 (or 2006 if a waiver of section 303(a) is requested by the State), this section prohibits States from accepting or processing a voter registration application unless it contains the voter's drivers license number. However, there is no similar prohibition on local election officials who presumably will continue to have the authority to process voter applications until the State implements the centralized computerized registration list and becomes responsible for maintaining the official list of eligible voters under section 303(a)(1).

In the meantime, if an applicant has not been issued a current and valid drivers license, then the applicant must provide the last 4 digits of his or her Social Security number. If the applicant has neither number, the State shall issue the individual a number that becomes the voter's unique identifier (as required for the centralized computerize registration list). The chief state election official must also enter into agreements with the State motor vehicle authority and the Commissioner of Social Security in order to match information supplied by the voter with these databases.

However, nothing in this section prohibits a State from accepting or processing an application with incomplete or inaccurate information. Section 303(a)(5)(A)(iii) specifically reserves to the States the determination as to whether the information supplied by the voter is sufficient to meet the disclosure requirements of this provision. So, for example, if a voter transposes his or her Social Security number, or provides less than a full drivers license number, the State can nonetheless determine that such information is sufficient to meet the verification requirements based on whatever information they already possess, in accordance with State law. Consequently, a State may establish what information is sufficient for verification, preserving the sole authority of the State to determine eligibility requirements for voters. Furthermore, nothing in this conference report requires a State to enact any specific legislation for determining eligibility to vote. In fact, State motor vehicle records are generally accurate and current and State and local election officials should affirmatively use these records to correct or complete the information wherever possible.

Moreover, nothing in this section prohibits a State from registering an applicant once the verification process takes place, notwithstanding that the applicant provided inaccurate or incomplete information at the time of registration (as anticipated by section 303(a)(5)(A)(iii)) or that the matching process did not verify the information. The provision requires only that a verification process be established but it does not define when an applicant is a duly registered voter. Again, this conference report does not establish Federal registration eligibility requirements those are found only in the U.S. Constitution. Section 303(a)(5)(A)(iii) makes it clear that State law is the ultimate determinant of whether the information supplied under this section is sufficient for determining if an applicant is duly registered under State law.

The conference report also retains the provision championed by Senator BOND which will require that voters who register by mail must provide additional verification of their identity the first time that they appear to vote in person or by absentee ballot. To make clear that Congress intends that the first-time voter provision of section 303(b) must not result in a disparate impact on minority voters, the conferees agreed to add language to this section to require that it be implemented in a uniform and nondiscriminatory manner. The conference report also contains a new notice provision, section 303(b)(4)(iv), which requires that the NVRA registration form contain a statement informing the applicant that if they register by mail, appropriate information must be included in order to avoid the additional identification requirements upon voting for the first time. As in the Senate-passed bill, if any voter is challenged as not being eligible to vote, including for reasons that he or she is a first-time mail registrant voter without proper identification, such voter is entitled to vote by provisional ballot, and that ballot is counted according to State law.

In the case of an individual who registers by mail, the first time the individual goes to vote in person in a jurisdiction, he or she must present to the appropriate election official one of the following pieces of identification: a current valid photo-ID; or a copy of any of the following documents: a current utility bill; a bank statement; a government check; a paycheck; or another government document with the voter's name and address. This compromise does not specify any particular type of acceptable photo identification. It is clear, however, that a driver's license, a photo-ID issued by the a DMV, a student ID, or a work ID that has a photograph of the individual would be sufficient. Additionally, states may continue to define its own form of acceptable photo-ID so long as such definitions are inclusive and not have the unintended consequences of targeting the persons with disabilities, poor, elderly, students, racial and ethnic minorities and otherwise legitimate voters.

The conference report also preserves the existing exemptions under the NVRA law under section 1973gg-4(c)(2) of title 42 in the implementation of this compromise. A state may not by law require a person to vote in-person if that first-time voter is: (1) entitled to vote by absentee ballot under section 1973ff-1 of title 42 of the Uniformed and Overseas Citizens Absentee Voting Act; (2) provided the right to vote otherwise than in-person under section 1973ee-1(b)(2)(b)(ii) and 1973ee-3(b)(2)(b)(ii) of the Voting Accessibility for the Elderly and Handicapped act; and (3) entitled to vote otherwise than in-person under any other federal law. These exemptions have the practical affect of preserving existing laws that provide the long-standing practice of states permitting eligible uniform service and overseas voters to continue to vote by absentee ballot without this first-time voters requirement attaching. Similarly, these exemptions have the practical affect of preserving the rights of persons with disabilities not to be required to show-up in-person to vote or to be required to provide copies of photo-IDs or documents by mail.

As I stated yesterday, nothing in this bill establishes a Federal definition of when a voter is registered or how a vote is counted. If a challenged voter submits a provisional ballot, the State may still determine that the voter is eligible to vote and so count that ballot, notwithstanding that the first-time mail registrant voter did not provide additional identification required under section 303(b). Whether a provisional ballot is counted or not depends solely on State law, and the conferees clarified this by adding language in section 302(a)(4) stating that a voter's eligibility to vote is determined under State law.

More importantly, however, is the combination of the existing language in the Senate-passed bill (offered by Senator WYDEN) and the provision, modified from the Senate-passed bill, which requires new registrants to provide a drivers license number upon registration, or the last 4 digits of their Social Security number if they do not have a drivers license number.

The Wyden amendment included in the Senate-passed bill, and retained without modification in the conference report, provides a means by which first-time mail registrant voters can avoid the additional verification requirements of section 303(b) altogether. At the choice of the individual, under section 303(b)(3), a first-time mail registrant voter can opt to submit their drivers license number, or at least the last 4 digits of their Social Security number, on the mail-in voter registration form in order for the State to match the information against a State database, such as the motor vehicle authority database. If such information matches, the additional identification requirements of section 303(b)(1) do not apply to that individual.

Under the new requirements added in conference as section 303(a)(5), effective in 2004 (unless waived until 2006), all new applicants must provide at the time of registration, a valid drivers license number, or if the individual does not have such, the last 4 digits of their Social Security number (or if they have neither, the State shall assign them a unique identifying number). States must then attempt to match such information, thereby satisfying the provisions of section 303(b)(3) which renders the first-time mail applicant provisions of section 303(b)(1) inapplicable. By operation of section 303(a)(5) added in conference, in conjunction with the existing language of the Senate-passed bill (as added by Senator WYDEN) in section 303(b)(3), the first-time voter identification requirement is obviated and essentially rendered moot, thereby avoiding the potential disenfranchisement of minority voters.

The conference report also retains the Senate-passed provision that adds questions and check-off boxes to the NVRA registration form regarding age and citizenship. Under section 303(b)(4), the Senate-passed bill contained the requirement that the NVRA registration form include two new questions and a check-off box for voters to mark to indicate their answers to questions regarding age and citizenship eligibility. The Senate-passed bill was silent as to the result of an unmarked box and left to States to determine whether such an omission was a fatal defect in the registration form.

In order to clarify that States may not just summarily discard such incomplete forms, the conferees agreed to include language requiring that the registrar notify the voter of an incomplete form. Such notice must be provided in time for the registration application to be completed and processed prior to the next Federal election. However, nothing in this provision requires that the application be invalidated under this section if an applicant forgets to check-off the citizenship box. Nor does anything in this provision make the completion of the check-off box a condition of Federal eligibility. The conference report does not establish Federal eligibility requirements for voting. NVRA only requires that an applicant sign the registration form attesting to his or her eligibility, including citizenship. The check-off box is a tool for registrars to use to verify citizenship, but nothing in the conference report requires the check-off to be complete to process the registration form or invalidates the form if the box is left blank.

In fact, this provision will ensure that if a voter did not check-off the citizenship box, his or her registration form cannot be discarded as invalid on its face. Ultimately, the registrar determines whether or not the voter has met the citizenship requirement notwithstanding whether or not the box is checked. A signed attestation as to citizenship eligibility is still sufficient under NVRA. Jurisdictions that currently use citizenship check-off boxes may continue to process such information pursuant to State law, but in fact will not be able to invalidate a form based on the lack of a check-off without notification to the voter first.

This compromise provides state and local election officials with the necessary additional tools to make the ultimate decision regarding eligibility of voters to register to vote, eligibility of the voter to cast a regular vote and the eligibility of vote to be counted. Nothing in this compromise usurps the state or local election official's sole authority to make the final determination with respect to whether or not an applicant is duly registered, whether the voter can cast a regular vote, or whether that vote is duly counted.

In the case of any missing information on a mail-in registration form, the election official may process it as he or she determines is appropriate under State law. That applies equally to the requirement for the citizenship check-off box, the requirement to provide one's drivers license number or the last 4 digit of the Social Security number, or any other provision of this Act. This means that State law governs whether the form is returned, whether and how the voter is contacted regarding the omission or whether the form is discarded. Current law under the NVRA does not require that voters be registered—only that the voter be given the opportunity to register through a wider variety of State and local offices, including the DMV (thus the title, ''Motor-Voter''). Current law under the NVRA does not supercede the sole authority of State and local election officials to determine whether or not an applicant is duly registered. Similarly, this compromise does not supercede state law with respect to registration. After this law is enacted, there will still be no Federal law that overrides state law and preempts the field with respect to voter registration.

Again, as with almost every aspect of this compromise, state implementation of the individual provisions of this compromise is key and will determine if the franchise is preserved and protected for all eligible American voters and if the integrity and security of the elections system is protected from corruption. Once again almost all the civil rights organizations and civil liberties coalitions, but particularly our language minority communities, raised legitimate concerns about the potential discriminatory solution to the check-off questions. At the end of the day, it will be the State and local election officials who will interpret what the omission on a citizenship box and an age box mean with respect to registration, consistent with State law, standards, practices or procedures. These State laws must implement all of these requirements in a uniform and nondiscriminatory manner. There is no cover of law under this compromise for any State or locality to establish a standard, practice or procedure that permits the check-off boxes to act as anti-registration vehicles by voiding otherwise legal registrations under state law.

In implementing these requirements, the States will have to rely on voluntary guidelines and voluntary guidance issued by the new Federal Election Assistance Commission. While the conference report includes the House prohibition on rule making authority for the new Commission, the conferees included an important modification to this language. Section 209 provides an exception to the no rule making authority to the extent permitted under section 9(a) of NVRA (42 U.S.C. 1973gg–7(a)).

With respect to the provisions of the requirements affecting notification to first-time mail registrant voters, the submission of a drivers license number or the last 4 digits of a Social Security number, or the change in the citizenship check-off box, some adjustment to the NVRA registration form will be necessary. The exception provided to the no rule making authority would allow the new Commission to proscribe such regulations necessary to develop the mail registration form used in Federal elections.

Consequently, it is anticipated that the new Commission will be required to revise the current NVRA registration form in order to effectuate the requirements under this Act, including: notice requirements for first-time voters under section 303(b)(4)(iv); the collection of a drivers license number or last 4 digits of a Social Security number under sections 303(a)(5) and 303(b)(3); and the age and citizenship check-off boxes under section 303(b)(4), in addition to any other changes in the Federal registration application form that the Commission views as necessary to implement this Act. This exercise will afford interested parties an opportunity to ensure that these requirements do not result in the disenfranchisement of applicant voters.

With regard to effective dates, the conference report continues to harmonize the effective date of the computerized registration list with the 2004 effective date for provisional balloting. However, since it was widely acknowledged that some States may have legitimate difficulty in implementing the statewide registration list by January 1, 2004, a certification of good cause will be sufficient to request a waiver of the effective date until January 1, 2006. This waiver recognizes the administrative burden of the provision on both States and voters and so provides adequate time for jurisdictions to come into compliance and educate voters. This compromise also establishes a uniform effective date of January 1, 2003 for first-time voter registration subject to the first-time voter provision. This assures that all eligible voters, regardless of where they live or vote, will know that if they register to vote after that date, they will have to meet the new requirements for first-time mail-registrant voters.

Finally, the conference report strikes a middle ground between the House-passed and Senate-passed bills with regard to how funds will be directed to the States to meet the requirements and fund other election reform initiatives. The conference report provides initial funds by means of a combination of targeted buy-outs of punch cards and lever systems, as well as a formula grant program, with a guaranteed $5 million payment per each State. The requirements payments are similarly disbursed through a formula based on the relative voting age population of the State, with a minimum guaranteed payment of one-half of one percent per fiscal year.

Borrowing from the Senate-passed bill, in order to receive requirements payments, States must first submit a State plan outlining how they will spend such funds to meet the requirements of Title III and otherwise meet the requirements of the Act. Such a plan is developed by a committee headed by the chief state election official, with community input and public review for a 30 day comment period. Once the plan is submitted to the Commission, it is published in the Federal Register and a State must wait 45 days after submitting the initial plan before it can apply for a requirements payment.

While the enforcement provisions of the Senate-passed bill included tough pre-clearance reviews of grant applications by the Department of Justice, the conference report contains an important new administrative grievance procedure intended to provide voters, and others aggrieved by violation of the requirements of this Act, a timely and convenient means of redressing alleged violations. Each State that receives funds under Title I must establish a state-based administrative procedure for reviewing alleged grievances under Title III of this Act. Such procedure must allow for a party to request a hearing on the record and if the State does not render a decision within 90 days of receiving a complaint, the proceeding is moved to an alternative dispute resolution process that must resolve the issue within 60 days.

Voters have the legal right to turn to their State to seek a remedy if their right to register or vote or have their vote counted has been violated. Aggrieved persons have a legal right to file the complaint and are entitled to a hearing on the record. If the State determines that there is a violation, then the State is required to order a remedy. If the State does not make a final determination within 90 days of the date that the complaint is filed, then the complainant may seek to initiate the alternative dispute resolution procedures (ADR). Under the enforcement provisions of this compromise, the State shall create a procedure to use ADR if they fail to meet the 90 day deadline for resolution of the complaint. The ADR procedure is an important guarantee within the state complaint process. However, the ADR procedure shall not be implemented to supplant any administrative judicial review which States already provide under State law.

The complaint procedures, set up under this conference report, are in addition to, and are not intended to override or preempt, the procedures by which a State guarantees judicial review of state administrative procedures. The determination made by the State under this conference report shall be subject to the existing State laws which may, or may not, allow for judicial review of administrative decision making. Furthermore, this conference report is not intended to in any way limit or prohibit a state from creating, if they do not already have one,

a provision to allow state courts to review the administrative decisions made in accordance with this bill.

Most importantly, this conference report preserves and protects existing voting rights laws, which provide for enforcement by private individuals who have either been denied the right to vote or had that right infringed. The conference report is designed to protect the enforcement provisions of many laws, including the Voting Rights Act and the National Voter Registration Act. Therefore, nothing in this legislation limits the enforcement measures or avenues of redress available to persons under those critical civil rights laws enumerated in Section 906 of Title IX of this Act.

While I would have preferred that we extend the private right of action afforded private parties under the NVRA, the House simply would not entertain such an enforcement provisions. Nor would they accept Federal judicial review of any adverse decision by a State administrative body. However, the state-based administrative procedure must meet basic due process requirements, including a hearing on the record if the aggrieved individual so chooses.

It is important to note that this state-based administrative proceeding is in addition to any other rights the aggrieved has and is limited only to the adjudication of violations of the requirements under Title III of this Act. This enforcement scheme in no ways replaces or alters the adjudication or enforcement provisions of any other civil rights or voting rights law.

As with all provisions of this legislation, the proof is in the implementation of these requirements by the States. But nothing in this conference report requires States or localities to change any voter eligibility requirements nor does this Act in any way infringe upon the sole authority of State and local election officials to determine who is a duly registered voter. It will require diligence and education of State and local election officials to ensure that these provisions do not serve to disenfranchise voters undermine the purposes of this Act: to make it easier to vote, but harder to defraud the system.

As is the case with any historic legislation that goes to the core of our democracy, a number of organizations participated in this effort. Yesterday, I recognized the efforts of over 60 staff members who participated in this effort. As is often the case when trying to develop a comprehensive list, there is a danger that someone's name will be inadvertently omitted. Unfortunately, that did occur and I would be remiss in not recognizing the significant efforts of Stuart Gottlieb of my staff. In addition to staff, I want to list the numerous organizations that have assisted in the development of this legislation. While not every organization supported every provision in this measure, each organization provided us with thoughtful input and suggestions and were of considerable help in the formation of this legislation over. The list of organizations that have provided invaluable assistance to this effort over the last 23 months is almost too lengthy to include here. But it is important to note the breadth and depth of the input that went into crafting this historic legislation. At the risk of again inadvertently leaving someone out, I want to recognize and thank the following organizations which have provided their expertise to this effort:

American Association for People With Disabilities.
American Association of Retired Persons (AARP).
American Civil Liberties Union.
American Federation of State, County and Municipal Employees.
American Foundation for the Blind.
American Institute of Graphic Arts.
Asian American Legal Defense and Education Fund.
Brennan Center for Justice.
Center for Constitutional Rights.
Common Cause.
Commission on Civil Rights.
Caltech-MIT Voting Technology Project.
Constitution Project.
Disability Rights Education Defense Fund, Inc.
Election Center.
International Union, United Automobile, Aerospace & Agricultural Implement Workers of America.
Judge David L. Bazelon Center for Mental Health Law.
Lawyers Committee for Civil Rights Under Law.
Leadership Conference on Civil Rights.
League of Women Voters.
Mexican American Legal Defense & Education Fund.
National Asian Pacific American Legal Consortium.
National Association for the Advancement of Colored People.
National Association for the Advancement of Colored People( NAACP) Legal Defense & Education Fund, Inc.
National Association of Counties.
National Association of Latino Elected and Appointed Officials (NALEO) Education Fund.
National Association of Protection & Advocacy Systems.
National Association of Secretaries of State.
National Association of State Election Directors.
National Coalition on Black Civic Participation.
National Commission on Federal Election Reform (Carter-Ford Commission).
National Congress of American Indians.
National Conference of State Legislatures.
National Council of La Raza.
National Federation of the Blind.
National Puerto Rican Coalition, Inc.
Paralyzed Veterans of America.
People for the American Way.
Public Citizen.
Puerto Rican Legal Defense and Education Fund.
United Cerebral Palsy Associations.
United States Public Interest Research Group.

On balance, this is a good bill. It is an historic bill. It is landmark legislation. Members of the House of Representatives referred to this legislation last week as the first civil rights bill of the 21st century. It is worthy of such a title and I am honored to have been able to be a part of the effort to bring this important legislation to pass. In the view of this Senator, at the end of this historic process, the Congress will have made a lasting contribution to the continued health and stability of this democracy for the people, by the people and of the people. I urge my colleagues to vote for the conference report.

I ask unanimous consent that a series of editorials from Greensboro, as well as from Sarasota, the New York Times, Wall Street Journal, Hartford Courant, New Haven Register, and others be printed in the RECORD.

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

[From the Hartford Courant, Oct. 16, 2002]

SCORE ONE FOR SEN. DODD

Congress' accomplishments have been few and far between over the past year. But count as one of them the imminent passage of bipartisan election reform legislation that chief sponsor Sen. Christopher J. Dodd of Connecticut calls ''the first civil rights act of the 21st century.''

Mr. Dodd is proud of this measure, and rightly so.

It addresses many of the procedural and technological flaws that cast a cloud over the 2000 presidential election in Florida and other states. Badly designed ballots that confused voters, punch-card ballots that were difficult to count, eligible voters who were turned away from the polls and other problems disenfranchised many voters in Florida and elsewhere.

Congress promised to act quickly to address the irregularities, but Senate and House versions ran aground in the conference committee for months.

But earlier this month, after intense negotiations between House and Senate conferees of both parties, Mr. Dodd announced agreement on a bill that is expected to pass and be signed by President Bush, Senate action is scheduled today. Here, in part, is what the legislation will do:

The federal government is authorized to spend $3.8 billion over the next three years to help states replace and renovate voting equipment, train poll workers, educate voters, upgrade voter lists and make polling places more accessible to the disabled. Connecticut will be able to tap some of that money, perhaps to complete its statewide voter registration list and to buy new equipment if state officials decide to replace the ancient mechanical voting machines.

A voter who does not appear on a registration list cannot be turned away from the polls, but must be allowed to cast a provisional ballot. The ballot would be counted if election officials later confirmed that the voter was eligible.

Voters must be given a chance to correct any errors on their ballots before they are finally cast.

States will be required to develop uniform standards for counting ballots so that procedures don't vary from county to county or precinct to precinct.

Anyone registering to vote after January 2004 must provide a driver's license number or the last four digits of his or her Social Security number for verification.

Some Democrats were uncomfortable with the identification requirements, saying they would discourage first-time voters, the poor and immigrants. Requiring ID's to cut down

on fraud is sensible, however. Some Republicans were opposed to Washington interfering in local elections. But clearly, minimum statewide standards are needed. This is an acceptable compromise.

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[From the Washington Post, Oct. 10, 2002]

FIXING DEMOCRACY'S MACHINERY

As recently as a month ago, hope of fixing serious flaws in the nation's creaky voting system appeared doomed on Capitol Hill. House and Senate negotiators, stalled over some seemingly modest sticking points, appeared to have lost their stamina for repairing glitches that have kept thousands of Americans from exercising their right to participate in the political process. Election reform was poised to become one more casualty of the partisan gridlock that has stymied this Congress for much of the year. But last month's chaotic Florida primary was a bracing reminder that the nation's damaged election system poses a continuing threat to our form of democracy. It was, fortunately, the spark that ignited renewed fervor for election reform and the event that galvanized congressional negotiators to produce a compromise bill the president has said he will sign.

If the bill is enacted this week, as House and Senate leaders anticipate, the 2004 presidential election could be a far cry from the 2000 Florida debacle. The days of antiquated punch-card voting machines, voter registration roll confusion and botched elections may be numbered. The bill adopted by the House and Senate negotiators would, for the first time, impose minimum federal standards meant to guarantee the basic quality of elections; allow voters to check their ballots and correct errors; improve polling place access for the disabled; discourage fraud by requiring new voters to provide a driver's license number or the last four digits of their Social Security number and, if they apply by mail, a current photo ID card or utility bill; and require states to have a computerized, statewide voter registration database to prevent a person from voting in multiple jurisdictions. To help states upgrade their voting machinery and train poll workers, the bill calls for $3.9 billion in federal money over three years—$1 billion of which congressional leaders believe can be appropriated during the current fiscal year to jump-start the reform effort.

While the election reform bill is every bill the ''historic'' federal response to Election Day flaws that sponsors claim it to be, it would not supplant the functions of state and local election officials. Their roles would remain essential. The legislation would, however, substantially fund the new requirements imposed on the states, with the federal government shouldering 95 percent of the costs. That the final measure has drawn bipartisan congressional backing is testimony to the broad support across the nation for revamping America's election system.

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[From the New York Times, Oct. 8, 2002]

UPGRADING THE WAY WE VOTE

Congress now seems on the verge, at long last, of passing meaningful legislation to improve the reliability of American elections.

The House and Senate had earlier passed bills addressing the flaws in voting equipment and procedures that were so manifest in the 2000 presidential vote. The sense of urgency, however, seemed to erode as negotiators sought to reconcile the two measures. Democrats had second thoughts about signing on to anti-fraud provisions, while Republicans had qualms about expanding the federal government's role in running elections. Then last month, Florida's chaotic Congressional primaries provided a fresh reminder of the price of inaction. Last week the conferees struck a deal that the full Congress is expected to approve within days and that President Bush is expected to sign into law. The legislation calls for a big infusion of federal resources into the administration of elections—$3.9 billion over three years. Until Congress actually appropriates the money, however, this amounts to little more than a promise—one on which Mr. Bush and the Congressional leadership are obliged to deliver.

The funds will enable states to upgrade their equipment, train poll workers and otherwise improve how elections are administered. The legislation also imposes federal standards, starting in 2004. States must offer ''provisional balloting'' for voters whose eligibility is questioned at the polls, and a means of allowing voters who have made mistakes in casting their ballots a chance to rectify them. States must also ensure access to disabled voters, establish uniform vote-counting standards and create computerized registration lists.

The legislation requires first-time voters who register by mail to verify their identity when they vote. Some argue that this imposes too onerous a burden on minority voters. We disagree, although the Justice Department will have to be vigilant to ensure that this anti-fraud provision is not abused. The final draft of the legislation should also spell out that this provision will not take effect until the full $3.9 billion is appropriated.

More might have been done to nationalize election procedures, but in the context of America's federalism, this legislation is a sound accomplishment.

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[From the Wall Street Journal, Oct. 7, 2002]

CLEANING UP ELECTIONS

One of the most underreported stories in recent American politics has been the growth in election fraud. We'd even say that the politicians have been far ahead of the press corps on this problem, perhaps because their futures depend on honest vote counting.

Two useful cases in point are now coming out of Washington, of all unlikely places. One is the election reform bill that finally looks ready to emerge from House-Senate conference. The other is Attorney General John Ashcroft's effort this week to mobilize his department to counter fraud from now through this Election Day of November 5.

Mr. Ashcroft has summoned assistant U.S. attorneys from around the country to a day-long seminar tomorrow to focus on elections crimes. There are plenty of anti-vote fraud laws on the books, but rarely if ever are allegations of fraud investigated, much less prosecuted. Mr. Ashcroft has invited three assistant U.S. attorneys with experience in election crimes—from the ripe climates of Kentucky, Alabama and New York—to share their lessons and case studies.

The Chihuahuas of the Beltway press corps will be inclined to treat this as little more than political public relations. But that's why they miss so many stories, including the outbreak of voting fraud in places like Philadelphia, San Francisco and St. Louis. In the latter, the dead and pets cast ballots in 2000; only last year the voter rolls in St. Louis included 13,000 more names than the U.S. Census lists as the total number of adults over age 18. In New York City earlier this year, the name of a candidate for lieutenant governor was discovered to have voted twice in a previous election. He dropped out after the New York Post broke the story.

It's helpful for Mr. Ashcroft to draw public attention to this before Election Day, both to mobilize his own department and perhaps to deter those looking to commit fraud. He's asking each of his U.S. Attorneys to meet with state election and law enforcement officials in the next month, says a recent internal memo, to find ways to ''work together to deter electoral corruption and bring violators to justice.''

The election reform bill compromise also includes much-needed attention to ballot integrity. The heart of the bill is of course aimed at avoiding another Florida butterfly-ballot fiasco, by sending $3.9 billion to the states to upgrade their voting equipment and train poll workers, as if the job were all that difficult.

But the best provisions are those aimed at cleaning up voter lists. Beginning this January 1, new voters who register by mail will have to provide a photo ID or another document, such as a utility bill, that shows a name and address. States will also have to maintain a statewide voter registration list. And voters who do not appear on a registration list will be able to cast a provisional ballot, to be counted only if its data can be later verified.

Our own view is that if a citizen is too lazy to register before an election, he's disqualified himself from voting. But these reforms will at least address some of the problems created by the disastrous ''motor voter law'' of 1994 that was supposed to increase voter turnout; instead it created many more opportunities for cheating.

The people who pushed motor voter are also the same folks now raising public doubts about the anti-fraud provisions of this election reform. They are liberal lobbies who like to shout about the ''possible disenfranchisement of voters,'' as Kay Maxwell of the increasingly ideological League of Women Voters put it to the Los Angeles Times. This is a subtle race-card play, suggesting that the U.S. in 2002 resembles Birmingham, Alabama circa 1956.

Even in the contested Florida election of 2000, the black share of the total vote was a record high, which is hard to square with allegations of voter intimidation. Connecticut Senator Chris Dodd and other Democrats deserve credit for overruling their staffs and the liberal lobbies to cut a reform deal with Republicans.

With American politics now closely divided, many elections are bound to be close and the temptation on both sides will be to shout fraud whenever they lose. That's all the more reason to attempt to deter fraud before Election Day.

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[From Newsday, Oct. 8, 2002]

ENACT BALLOTING REFORMS BUT ONLY IF MONEY'S ATTACHED

In resuscitating a bill to reform the nation's voting procedures, House and Senate negotiators have crafted a solid approach to reduce the likelihood of future voting fiascoes like those that roiled the 2000 presidential election, whose results were unclear for more than a month.

Congress dawdled too long for its reform to have any impact Nov. 5. But the next presidential race is just two years away, so lawmakers should pass the bill—but only if the money to fund it is assured. The bill sets minimum federal standards for voting, including error rates, and authorizes $3.9 billion to help states cover the cost of compliance. Without that money, reform would be a sham; change would come slowly, if at all.

That would be a shame as the bill strikes a pretty good balance between autonomy and accountability. Washington would monitor performance and offer guidance on equipment procedural changes, but its recommendations would not have the force of law. State and local officials would have wide discretion on how to meet the standards, for instance, in choosing types of voting machines. The Justice Department could

sue to enforce the new standards. But election reform wouldn't be micromanaged from Washington.

Election-reform bills passed the House and Senate months ago, but the effort to reconcile the two versions ran aground. Republicans sought safeguards against fraud; Democrats wanted to make sure that new identification requirements would not disenfranchise voters.

Under the current agreement, people registering to vote would have to provide a driver's license number or Social Security number. First-time voters who register by mail would have to present one of those documents to poll workers before casting their ballots.

Civil rights advocates worry that poor or minority voters would be deterred by those requirements and by poll workers who might not apply them fairly and consistently. Those concerns are important and should be closely monitored. But they should not derail reform.

Voting is too fundamental to democracy for the nation not to get it right.

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[From the Pittsburgh Post-Gazette, Oct. 10, 2002]

VOTING FOR PROGRESS: CONGRESSIONAL NEGOTIATORS AGREE ON ELECTION REFORM

If the 2000 presidential election in Florida weren't enough of a debacle, the problems experienced in the same state's primary election last month made the point anew:

If American democracy is to retain any respect, Congress had better help the states improve the way they hold elections. After months of wrangling, Congress has risen to the challenge, although controversy may still sink the effort.

After House and Senate negotiators reached agreement last week, Sen. Christopher J. Dodd, a Connecticut Democrat, correctly observed that it ''will help America move beyond the days of hanging chads, butterfly ballots and illegal purges of qualified voters.'' Some $3.9 billion in federal money would be provided to the states over three years for upgrading voting equipment, training poll workers and setting up a computerized voter database.

But so much for the mechanics of voting, the principal concern of Democrats. What about the Republican fear of voter fraud? This might be called the historic Tammany Hall problem, immortalized by the line ''Vote early and often.''

The Republicans had a point, whatever their political motives. Just as it is important to make sure votes are counted properly, it is also crucial to the integrity of the system to make sure that those voting are entitled to do so.

But civil rights groups and the League of Women Voters of America object to any provision that would require checking the IDs of voters; they say such requirements would unfairly discourage minorities and elderly people from voting. It is an understandable concern, but it has been overblown.

The compromise legislation is hardly onerous. Beginning Jan. 1, new voters who registered by mail would be required to provide a current photo ID or another document such as a utility bill with name and address. Eventually, voters would have to supply part of a driver's license number or Social Security number (or be assigned a number if they didn't have one). If questions arose about a person's eligibility to vote, he or she would receive a provisional ballot that would be counted if the registration were later verified.

In a sign that the agreement is not as bad as advertised, the Congressional Black Caucus endorsed it. Former presidents Gerald Ford and Jimmy Carter, who are honorary co-chairs of the National Commission on Federal Election Reform, said the bill ''represents a delicate balance of shared responsibilities between levels of government.'' They're right—and the House and Senate should approve what their negotiators have worked out.

There is a local footnote to the federal debate: When the Post-Gazette suggested recently that some sort of voter ID was not a bad idea for Pennsylvania, a couple of Democratic legislators objected strongly. As this development in Washington illustrates, once again the commonwealth is behind the curve.

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[From the Baltimore Sun, Oct. 15, 2002]

GETTING OVER IT

Angry and embarrassed over the election debacle of 2000, the newly chosen Congress vowed to make reforming the antiquated, 50-state patchwork system its first order of business. Now, it appears the election reform bill will be among the last items enacted as the 107th Congress stumbles to a messy close.

A final vote of the Senate tomorrow and the expected signature of President Bush will establish federal standards intended to ensure that eligible voters will never again be turned away from the polls or have their votes voided because of confusing ballots. The reforms come too late to apply to this year's congressional elections, and may not have been approved at all but for the botched Florida primary last month that kick-started a stalled legislative drive.

Much of the delay centered on a dispute over a requirement that first-time voters who register by mail show one of several forms of identification at the polls. Republican senators, in particular, insisted on an ID requirement to fight voter fraud.

Civil rights groups complained such a requirement would impose a barrier to voting for low-income Americans who don't have drivers licenses or other common forms of identification. At a minimum, they argued, the request for such papers would be used as a way to harass or discourage voters.

Rep. Steny H. Hoyer of Maryland, a leading Democratic negotiator on the bill, won House approval for a version of the measure without an ID requirement. But he faced a Senate that had voted 99–1 to include one. He and the vast majority of his colleagues, including the Congressional Black Caucus, decided to accept the provision rather than let the bill die.

That was the right choice. The legislation directs $3.9 billion in aid to the states to replace outdated punch-card and lever voting machines and to train poll workers. Among its innovative features is a $5 million program to recruit college students to serve as poll workers and take over tasks now often being performed by elderly party volunteers.

Safeguards were also included: Voters without identification or whose eligibility is otherwise challenged would be allowed to cast provisional ballots so that no one who turns up at the polls is turned away.

The most scandalous aspect of our voting process is neither fraud nor errors but the failure of half or more of all eligible voters to even bother to cast ballots.

Congress cannot mandate civic enthusiasm. But it can help increase confidence in the election process by doing away with a system that routinely lets thousands of votes from those who do bother to show up go uncounted.

Activists in both parties as well as voter and civil rights advocates should work together to implement the new procedures as quickly as possible and correct any flaws.

It is long past time to get over it.

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[From the News and Record, Oct. 12, 2002]

NEARLY TWO YEARS LATER, VOTING SYSTEM IS REFORMED

Until last week, reform of the nation's voting process was as dead as an uncounted hanging chad. National outrage over Florida's voting debacle in the 2000 presidential election had been high-pitched, but Congress lost interest. Florida's botched primary last month—equipment failure, human error—put reform back on the radar screen. Congress passed bipartisan legislation last week that authorizes $3.9 billion over the next three years to help states buy new voting equipment, computerize registered voter lists and train poll workers.

The bill also requires new voters who register by mail to provide personal identification, such as a driver's license or Social Security number, when they arrive at the polls. The proviso prevents election fraud.

The bill also requires ''provisional voting,'' meaning a voter who goes to the polls and whose registration cannot be validated is allowed to vote. If election officials later verify the voter's registration, the vote counts. North Carolina commendably adopted ''provisional voting'' years ago.

The legislation carefully pays constitutional obeisance to states' rights. States, not the federal government, will determine what constitutes a legal vote. That raises the specter of Florida's recount of hanging chads. Yet Florida, and other states, will supposedly have improved voting machines and better trained poll workers before the 2004 presidential election when the reforms become operative.

The bill enjoys bipartisan support but not without prior hassles. Republicans feared voter fraud and insisted on identification for new voters who register by mail. Fair enough. Democrats sought to expand the franchise with ''provisional voting'' and registering by mail. They, too, got their wish.

President Bush, whose brother, Jeb, is governor of Florida and has been tarnished by his state's flawed voting system, is eager to avoid a messy repeat performance. The president is expected to sign the authorization bill and, ultimately, the appropriations bill that funds it.

It has taken a dawdling Congress two years after the embarrassing 2000 presidential election to adopt voting reforms. If it had failed to do so, voters' rights would have been egregiously undermined.

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[From the Sarasota Herald-Tribune, Oct. 12, 2002]

FEDERAL ELECTION REFORM, FINALLY; FLORIDA'S PROBLEMS HELPED CONGRESS RESOLVE DIFFERENCES

Federal election reform appears to be a reality at last. The nation can thank South Florida, whose recently bungled primary inspired Congress to resolve stubborn differences over a voting bill and push it toward final passage.

The federal breakthrough comes too late for Florida, but it's welcome nonetheless. Once it gains expected final approval, the measure will address the kind of fundamental election problems that savaged the 2000 presidential contest and—despite state reforms enacted in 2001—bit Florida again in the September primary. That federal reform took so long is really a shame—but then, so are botched elections. The Bush/Gore battle of 2000 taught Americans how frustrating the act of voting can be when rules vary from state to state, county to county and chad to chad.

As time passed, however, Congress' zeal to reform the mess devolved into partisan quibbling. Though both the House and Senate

passed election bills, the chambers lacked the resolve to work out their differences; the bills lay comatose for months and by summer were presumed dead.

Then came the September primary: Florida's newfangled machines and revised procedures brought on precisely what they were designed to avoid—angry voters, disputed ballot and official confusion.

Congress took note, resuscitated the election bills and finally worked out a deal. It was announced last Friday in a ceremony long on self-congratulation and short on details. Here are some of the key points:

The legislation would authorize nearly $4 billion to help states modernize voting machines, educate voters, train poll workers and improve the administration of elections. (Separate appropriations bills are needed to actually come up with the cash.)

It would set more uniform election standards in machines, counting, and other related procedures, and set up a commission to lead this effort.

It would modernize the lists of registered voters; require voters to have the opportunity to correct their ballots if they err; and allow provisional votes for people whose eligibility is questioned.

It would require certain anti-fraud measures; encourage better access for overseas and military voters; and contain criminal penalties for people who provide false information in registering or voting. People who conspire to deprive voters of fair elections also would face criminal sanctions.

Florida already has initiated many of these reforms, but the troubled September primary proved that implementation requires lots of time and training. Congress should bear this in mind and funds its legislation accordingly, lest Florida-style embarrassments pop up nationwide.

Some civil rights groups oppose certain identification requirements in the legislation, but these measures are needed to discourage fraud—a crime that injures every voter's right to be counted.

Uniformity in election procedures, and money to achieve it, are the key benefits of the federal legislation. Without consistency from state to state and precinct to precinct, it's difficult to guarantee that voters receive equal protection—the concept on which the Supreme Court leaned for its controversial ruling deciding the 2000 standoff.

As the court wrote with notable understatement, ''The problem of equal protection in election processes generally presents many complexities.''

This legislation could simplify many of those complexities. It deserves final approval and full funding. Now.

Mr. DODD. Mr. President, I say to my colleagues how much I appreciate their patience on this. This has been a very long and arduous effort to get to this point. This is not a perfect piece of legislation, but I think it advances considerably the role the United States ought to be playing as a Federal Government in the conduct of elections. The world looks and watches us. We are not shy about lecturing people about democracy. When we have error rates as we do and millions of people turned away at the polls, it is long overdue that we correct the system. This bill goes a long way in doing that. It is a proud day. It ought to be for all of us here who responded to the challenge that was asked of us as a result of the elections of 2000.

I commend my colleagues in the other body, and the leadership there and the leadership here, for allowing us to reach this point.

I urge the adoption of this conference report.

I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER (Mr. EDWARDS). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, we have a number of Senators who are stuck on a train. As a result of that, we are going to start the vote now and give ample opportunity for them to get here to vote. It is terribly unusual that we extend the vote, but we will this one time. I ask for the regular order on the vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Wyoming (Mr. ENZI), the Senator from Colorado (Mr. ALLARD), the Senator from Texas (Mr. GRAMM), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

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

The result was announced—yeas 92, nays 2, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—92

| | | |
|---|---|---|
| Akaka | DeWine | Landrieu |
| Allen | Dodd | Leahy |
| Baucus | Domenici | Levin |
| Bayh | Dorgan | Lieberman |
| Bennett | Durbin | Lincoln |
| Biden | Edwards | Lott |
| Bingaman | Ensign | Lugar |
| Bond | Feingold | McCain |
| Boxer | Feinstein | McConnell |
| Breaux | Fitzgerald | Mikulski |
| Brownback | Frist | Miller |
| Bunning | Graham | Murkowski |
| Burns | Grassley | Murray |
| Byrd | Gregg | Nelson (FL) |
| Campbell | Hagel | Nelson (NE) |
| Cantwell | Harkin | Nickles |
| Carnahan | Hatch | Reed |
| Carper | Helms | Reid |
| Chafee | Hollings | Roberts |
| Cleland | Hutchison | Rockefeller |
| Cochran | Inhofe | Santorum |
| Collins | Inouye | Sarbanes |
| Conrad | Jeffords | Shelby |
| Corzine | Johnson | Smith (NH) |
| Craig | Kennedy | Smith (OR) |
| Crapo | Kerry | Snowe |
| Daschle | Kohl | Specter |
| Dayton | Kyl | Stabenow |
| Stevens | Thurmond | Wellstone |
| Thomas | Voinovich | Wyden |
| Thompson | Warner | |

NAYS—2

| | |
|---|---|
| Clinton | Schumer |

NOT VOTING—6

| | | |
|---|---|---|
| Allard | Gramm | Sessions |
| Enzi | Hutchinson | Torricelli |

The conference report was agreed to.

Mr. DODD. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleagues for their overwhelming support for this legislation. As I said earlier, it has been a long journey to bring us to this juncture.

We never claimed perfection in this bill. It is a compromise, obviously. We think it advances the cause of enfranchising people. I mentioned earlier people who talked about dogs who may have voted. I find a certain amount of humor in that and a degree of seriousness, if that is the case. When we end up with 4 million to 6 million human beings who could not vote, I hope we will spend a lot of time talking about this legislation, making sure people show up to vote who are alive and well.

I thank my colleagues for their backing of this legislation. I look forward to, I hope, a Presidential signature on this legislation, and then doing the hard work of implementing the provisions of this bill.

Mr. REID. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. REID. I say to the Senator, I can remember his managing the bill. It was very tough. He did a wonderful job of moving this most contentious legislation through the Senate.

He was able to develop bipartisan support for it in committee and on the floor. There were many who felt we could never get this bill out of conference, but the Senator from Connecticut was persistent, unyielding, and we now have a bill.

I hope people understand what a sea change this is going to be for voting in America. In Nevada, we need this legislation. The Secretary of State—who, by the way, is a Republican—was one of the first supporters of this legislation and developed a friendship with the Senator from Connecticut as a result of this legislation. It is that way all over the country. I only hope in the months and years to come, we understand how important this is and put our money where our mouths are. We have now authorized this most important legislation and have to fund it.

This is groundbreaking, but I repeat, we have to put our money where our mouth is so we can implement this legislation. I hope we do that. If we do that, it is going to make elections fair, and it will make people feel good about their votes counting.

None of this would have happened but for the doggedness of the Senator from Connecticut. He simply would not give up when many said it could not be done.

Mr. DODD. Mr. President, I noted earlier the support of House Members who did a tremendous job in getting a bill done. I talked about BOB NEY and STENY HOYER. Obviously, bills do not get done just because they get done in the Senate. They can only finally get to the President's desk if the other body also acts, and without the leadership of BOB NEY of Ohio and STENY HOYER of Maryland, the Chair and ranking Members of the House Administration Committee, we never would have had a negotiation to produce this product.

So I want to extend my appreciation to them and to JOHN CONYERS, who was my coarchitect of this bill going back now a year and a half ago, who wanted to be available in Washington this morning, but he got delayed on a flight and could not be present for this final vote. When I first announced this bill, I stood in the room with two people. One was John Sweeney of the AFL–CIO. The other one was JOHN CONYERS, the dean of the Congressional Black Caucus in the House. JOHN CONYERS was a tremendous supporter of this effort all the way through. I am very grateful to him, again grateful to STENY HOYER, BOB NEY, and a whole host of people who made this possible: The NAACP, the AFL–CIO, disability groups across the country, the National Association of Secretaries of State. There is a long list of organizations that rallied behind this effort, and without their support we would not have been able to arrive at this moment.

So I thank all of those who were involved in this. I thank my colleague from Nevada for his very kind and generous comments.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:42 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CORZINE).

## DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2003—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report accompanying H.R. 5010, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5010), making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of October 9, 2002.)

The PRESIDING OFFICER. Under the previous order, there will now be 15 minutes for debate, 5 minutes each for the Senator from Hawaii, Mr. INOUYE, and the Senator from Alaska, Mr. STEVENS, and the Senator from Minnesota, Mr. WELLSTONE.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to be here today with my cochairman Senator STEVENS to present our recommendations to the Senate on the conference report for H.R. 5010, the Department of Defense Appropriations Act for fiscal year 2003.

The conference agreement represents a compromise reached after a monthlong series of discussions by the managers.

Our recommendations bring the total in the bill to $355.1 billion, $298 million below the Senate passed bill and $395 million above the House level.

This conference agreement represents a good faith effort to balance the priorities of the House and Senate in meeting our National Security requirements. I am confident it achieves that objective.

Our time is brief today, so I will not detail all of the items in this measure. But I want to make three points.

First, this bill is likely to be one of the two appropriations bills to be completed before the election. As such, there were many items that members sought to have included in this conference report. I am happy to report to the Senate that no extraneous matters were included by the conferees. This is a very clean bill.

Second, last week the Senate passed a resolution authorizing the use of force against Iraq. It is imperative we pass this bill before we recess to ensure our forces have the support they require to carry out whatever missions our Nation asks them.

Third, I commend my co chairman, Senator STEVENS, for his work on this bill. He was instrumental in defending many of the priorities of the Senate, including our efforts to support strong financial management in DoD: Fully funding the C–17 program and paying off our unfunded liability on shipbuilding programs.

As always, my friend was assisted in this by his very capable staff led by Steve Cortese, and including Sid Ashworth, Kraig Siracuse, Jennifer Chartrand, Alicia Farrell, and Nicole Royal. I also want to note the fine work of my staff: Charlie Houy, David Morrison, Susan Hogan, Mazie Mattson, Tom Hawkins, Bob Henke, Leslie Kalan, Menda Fife, and Betsy Schmid.

Mr. President, finally I commend the House for their courtesy and cooperation. Chairman LEWIS and Representative MURTHA could not have been more gracious. While there were many issues upon which we differed, we were able to resolve those in a friendly and constructive fashion.

I note as well the great work of their fine staff led by Kevin Roper and Greg Dahlberg, and including:

Betsy Phillips, Doug Gregory, Alicia Jones, Greg Walters, Paul Juola, Steve Nixon, David Norquist, Greg Lankler, Clelia Alvarado, Paul Terry, Sarah Young, Sherry Young, Chris Mallard, David Killian and Bill Gnacek.

Mr. President this is a good bill, it is exactly what our armed forces need, and I urge all my colleagues to support it.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am pleased to be here with my distinguished colleague from Hawaii to offer this bill. It is the largest Defense bill in history. It is a bill that merits the support of every Member of the Senate.

I do congratulate Senator INOUYE for his leadership and for his hard work and cooperation with the Members of the House, whom he has named, with whom we have worked on this bill.

We have had different views on this bill, but we have proceeded without rancor and I think worked out a compromise that is satisfactory to the administration, particularly the Department of Defense and the President. I believe it is a balanced and fair bill.

There were nearly $18 billion in differences between the House and Senate bills. All of these have been reconciled within the limits of discretion and with good will. I think these compromises should receive overwhelming support from the Department because they actually make the bill much more functional, more workable. It is the kind of bill that we should have in the times we are in now, where we are close to a very difficult problem as far as Iraq is concerned.

This bill fully funds all military requirements for the armed services. It contains a 4.1-percent pay increase and lifetime health care benefits for the military retirees.

It further reduces the out-of-pocket costs for some of the military families who do not have the benefit of on-base housing.

We really have tried to strike a balance between near-term readiness and the investments we must make for the future, as far as our defense establishment is concerned.

This bill mandates full funding for six Stryker brigades to transform our ground combat forces and adds funds for future combat systems.

For the Navy, funding the CVN–X and the DD–X and the littoral combat ship and the *Virginia* class submarine,

all accelerate the introduction of a completely new 21st century technology for the Navy. The Navy, Marine Corps, and Air Force all await deployment of the Joint Strike Fighter, and so do we. The bill sustains the deployment of that new aircraft and adds funds for two new engine options. The Air Force receives funds to expand the effort for the production of the F–22, the C–17, and hopefully for the replacement of our aging fleet of air refueling tankers.

One of the difficult dreams I have is a flight of our fighters coming back to meet a tanker and finding it is not there. We have to work on this and work very hard to make sure we have the tanker capacity because our air power depends entirely upon our tanker capability. These commitments will deliver the capabilities we must have for the fiscal years ahead of us.

These systems not only contribute to the war against terrorism today, but they will fund replacement of equipment rapidly deteriorating. They must be functional for us in combat in the global war on terrorism. It is consistent with the President's budget request. This bill in particular funds a missile defense system at the President's request.

I hope all Members will realize, ranging from ground- and sea-based missiles to airborne lasers, we are going to have layers of defense that will protect our troops abroad and at sea, and our people here at home. That missile defense system must go forward.

Again, I commend my good friend, the chairman of the committee. It is a pleasure to work with him and the chairman of our full committee, Senator BYRD, in their efforts to move this bill forward. We have urged that the Defense bill be first, and the Defense bill is first. It indicates the priority that the whole national Federal Government places upon defense. I believe this conference report, as I said, merits the support of every Senator.

I also send my personal appreciation to the chairman of the House subcommittee, Congressman JERRY LEWIS, and the ranking member of the House subcommittee, Congressman JACK MURTHA. They have been very gracious people to work with under difficult circumstances.

I also ask that the Senate commend the staffs of both the majority and minority in the Senate and the majority and the minority in the House. These people have worked behind the scenes, around the clock, sometimes through weekends, to eliminate the difficult problems that have come up in this bill. As I said, $18 billion of difference and there is not an argument between us in terms of this bill. But led by Charlie Houy here on the majority side and Steve Cortese, who is by my side now, our staffs have worked, I think, just without any rancor at all.

I do want to say at last, though, Kevin Roper and Greg Dahlberg, as Senator INOUYE mentioned, made a tremendous contribution to this work in the House.

I urge approval of this conference report.

JOINT COMPUTER AIDED ACQUISITION AND LOGISTICS SUPPORT PROGRAM

Mr. BYRD. Will my friend, the Senator from Hawaii, who ably serves as the chairman of the subcommittee on Defense, yield for a colloquy?

Mr. INOUYE. I am pleased to yield to the Chairman of the Committee on appropriations, the Senator from West Virginia.

Mr. BYRD. Is my understanding correct that the FY 2003 Defense Appropriations Bill now before the Senate contains an increase of $21.5 million above the President's budget request for the Joint Computer Aided Acquisition and Logistics Support, JCALS, program, for a total FY 2003 program level of $58.9 million?

Mr. INOUYE. The Senator is correct.

Mr. BYRD. I thank the Chairman for his assurances. If I may inquire further, it is also my understanding that it is the committee's intent that $21.5 million of the JCALS funds in the Army RTDE account are to be spent exclusively on activities directly related to the JCALS Tactical Logistics Data Digitization (TLDD) initiative, which operates out of Hinton, WV.

Mr. INOUYE. The Senator is correct that it is our strong intention that the TLDD initiative be expanded and deployment accelerated by use of the $21.5 million of JCALS Army RDTE funds provided in the FY 2003 Defense Appropriations bill.

Mr. BYRD. I thank the Chairman. If he would yield for a final question, am I correct in my understanding that it is the Committee's further intent that the JCALS Program leverage and expand the capabilities of the Southeast Regional Technical Center now primarily located in Hinon, WV to provide support and training for the TLDD initiative? This action will address a key recommendation by the Institute for Defense Analysis in a study it prepared last year for the Office of the Secretary of Defense to increase training and support for the military services that utilize the JCALS program.

Mr. INOUYE. The Senator from West Virginia is correct.

Mr. BYRD. I thank the Senator for his clarification and assistance with this most important issue.

APPLICATION OF THE BERRY AMENDMENT TO THE MULTI-YEAR AIRCRAFT LEASE PILOT PROGRAM

Mr. REID. Mr. President, I rise in order to enter into a colloquy with the Senator from Hawaii to seek clarification on the correct interpretation of report language in the conference agreement report that deals with the Berry amendment and the Multi-Year Aircraft Lease Pilot Program.

As I read this language, it appears the report language provides an explanation of Section 308 in the fiscal year 2002 Supplement Appropriations bill that permitted the multi-year aircraft lease program to proceed without meeting the Berry amendment restrictions on the use of foreign sourced specialty metals in the procurement of air refueling tanker replacements. I, and many of my colleagues, are pleased to see that the report language seems to indicate that this suspension of the Berry amendment is only applicable to this unique multi-year leasing program. I ask the distinguished Senator from Hawaii, am I correct reading this report language?

Mr. INOUYE. Mr. President, if I may respond to my good friend from Nevada, he is correct that this report language does state that Section 308 from the FY 2020 Supplemental Appropriations bill only applies to this specific Multi-year Aircraft Leasing Program and no other procurement or leasing program.

Mr. REID. Mr. President, I also would like to ask the Senator a question regarding another aspect of the report language. This language directs the Secretary of the Air Force to conduct a study and report to Congress on a comparison of foreign and domestic-sourced specialty metals to be used in this leased fleet of refueling tankers with the specialty metal content of military aircraft that have been procured by the Air Force in the last five years.

It appears that this new study by the Air Force is designed to look at the specialty metal content on a new ''system-level'' basis rather than on the current aircraft-by-aircraft basis. Therefore, I am concerned that this new ''system-level basis'' study could be the first step in eroding the long-standing practice of determining Berry amendment compliance under a whole new standard and could, in turn, harm our domestic specialty metal industry and its employees. I would like to ask the Senator from Hawaii whether this new Air Force study will be used by the Appropriations Committee to advocate additional Berry amendment exemptions for other procurement programs to modify the overall content requirements of the Berry amendment for future military procurement programs?

Mr. INOUYE. Mr. President, the Senator from Nevada raises an excellent point. I want to assure him and my colleagues that I strongly support the provisions of the Berry amendment and I am not interested in supporting any legislative action that would harm our nation's specialty metal industry or its employees. The exemption of the Berry amendment for the Multi-Year Aircraft Leasing Program was a unique situation and I do not believe the multi-year leasing program should be the basis for any modification of the important aircraft-by-aircraft content requirements inherent in the Berry amendment. I hope this fully addresses the gentleman's concerns.

Mr. REID. Mr. President, I thank the Chairman for his support of the Berry amendment and for his commitment to ensure a viable and healthy domestic specialty metals industry.

Mrs. CARNAHAN. Mr. President, I am proud today to express my support for the 2003 Defense Appropriations Act. The Conference Report I will vote for provides a much-needed boost to our Defense budget, a total of $355.1 billion, $21 billion more than was appropriated for this year. This is the largest defense budget in our Nation's history, and it could not come at a more important time.

Our military is engaged in a global campaign against terror, and could be preparing for another war soon. It is essential that our military remains outfitted with the most advanced equipment to meet threats to our Nation today as well as into the future. But our most important asset is our soldiers, sailors, airmen, and marines. I am proud to support this bill, and its funding for a 4.1 percent increase in basic pay for all service members.

This bill is good for the military, good for the country, and good for Missouri. In fact, it funds over $293 million for a number of Missouri defense projects, many of which will directly stimulate economic development in my State. In particular, the projects funded in this bill, from Boeing F/A–18 aircraft, to new advances in chemical and biological defenses, will support America's war effort against international terrorism.

Missouri's single largest defense contract, the F/A–18 program employs over 4,000 people in the St. Louis area. I am pleased that the Defense Appropriations Subcommittee increased funding for this program by $120 million over the Administration's Super Hornet budget proposal.

Despite testimony by the Navy's top leaders requesting an increase in funding for this program, the President's original budget proposal reduced the number of Super Hornets that the Navy was originally scheduled to buy in 2003. Under the existing contract between Boeing and the Navy, the Defense Department was scheduled to purchase 48 aircraft in 2003. However, the President's budget only proposed 44 aircraft to be purchased in 2003.

This continues a downward trend for the F/A–18's budget, which is now in its third year of a multi-year contract. Coupled with reductions made in previous years, the President's proposed 2003 budget would mark a total of 10 aircraft cut in the course of three years. In response, I worked to restore funding for aircraft purchases.

I was pleased that earlier this year, the Senate passed a bill that included an additional $240 million for this program, even though the House did not. While the final conference report did not fund this increase in full, it did provide $120 million more than the original proposal submitted to Congress by the Administration.

This is an important development, and I pleased to lend my support to this Conference Report today. Today's bill marks Congress's continued backing for not only these critical tactical aircraft but for the military's ongoing modernization to transform and meet the challenges our country will face in both the near and long term.

Mr. McCAIN. Mr. President, I rise again to address the issue of wasteful spending in appropriations measures, in this case, the Appropriations Committee Conference Report to accompany H.R. 5010, a bill to fund the Department of Defense for fiscal year 2003. This legislation would provide $355.1 billion to the Department of Defense. This year's defense appropriations bill adds 1,760 programs not requested by the President, at a further cost of $7.4 billion with questionable relationships to national defense at a time of scarce resources, budget deficits, and underfunded, urgent defense priorities.

Just last week the Senate passed the Iraqi War Resolution by a vote of 77 to 23, authorizing the President of the United States to commit the United States Armed Forces to achieve a regime change in Iraq. America remains at war, a war that continues to unite Americans in pursuit of a common goal, to defeat international terrorism. All Americans have, and undoubtably in the future will make sacrifices for this war. Many have been deeply affected by it and at times harmed by difficult, related economic circumstances. Our servicemen and women in particular are truly on the front lines in this war, separated from their families, risking their lives, and working extraordinarily long hours under the most difficult conditions to accomplish the ambitious but necessary task their country has set for them.

Despite the realities of war, and the serious responsibilities the situation imposes on Congress and the President, the House and Senate Appropriations Committees have not seen fit to change in any degree its blatant use of defense dollars for projects that may or may not serve some worthy purpose. Furthermore, some of the add-ons clearly impair our national defense by depriving legitimate defense needs of adequate funding.

Even in the middle of a war against terrorism, a war of monumental consequences that is expected to last for some time, the Appropriations Committees remain intent on ensuring that part of the Department of Defense's mission is to dispense corporate welfare. It is a shame that at such a critical time, the United States Senate persists in spending money requested and authorized only for our Armed Forces to satisfy the needs or the desires of interests that are unrelated to defense and even, in truth, unconcerned about the true needs of our military.

If the war against terrorism is taken to the Iraqi theater there will be bills to pay. White House economist, Lawrence Lindsey, estimates that a full scale mobilization in Iraq could cost as much as $100 to $200 billion. A lower estimate reported in the Washington Post puts the cost of committing United States forces in Iraq at $30 to $50 billion. This lower estimate assumes, quoting the September 24, 2002 Washington Post, a war '' . . . with inept enemy forces, no use of chemical or biological weapons, access to bases and airspace in most Gulf states and Turkey, and low casualties on our side.'' It is quite obvious that the costs of the use of force in Iraq will be substantial. With the possibility of such a large expenditure in our future how can Appropriators spend our precious defense dollars so foolishly?

An Investor's Business Daily article published late last year entitled At the Trough: Welfare Checks to Big Business Make No Sense, stated, ''[a]mong the least justified outlays [in the federal budget] is corporate welfare. Budget analyst Stephen Slivinski estimates that business subsidies will run $87 billion [in 2001], up a third since 1997. Although President Bush proposed $12 billion in cuts to corporate welfare [in 2001], Congress has proved resistant. Indeed many post-September 11 bailouts have gone to big business. Boeing is one of the biggest beneficiaries. . . . While corporate America gets the profits, taxpayers get the losses. . . . The Constitution authorizes a Congress to promote the general welfare, not enrich Boeing and other corporate behemoths. There is no warrant to take from Peter so Paul can pay higher dividends. In the aftermath of September 11, the American people can ill afford budget profligacy in Washington. If Congress is not willing to cut corporate welfare at a time of national crisis, what is it willing to cut?''

Yet, Congress didn't get the message this year. In the Fiscal Year 2003 Defense Appropriations conference report that we are considering today, the Appropriations Committees added nearly $500 million in aircraft procurement that the Department of Defense did not request. There were funds appropriated for twenty-four types of aircraft; unfortunately none of these were identified by the military as requirements. It staggers the mind to think of what programs the services desperately need could have been funded by $500 million.

Here is a very short list of just some of the more egregious examples of Defense appropriations

$12 million for the 21st Century Truck. This program has been around for years and not once has the Department of Defense requested funding for it. While I'm sure we all would love to jump into a truck that could be in a James Bond movie, I'm not sure it is appropriate for the Department of Defense to pay for it.

$3.4 million for the Next Generation Smart Truck. I suppose this is what we will drive before the 21st Century Truck is ready.

$1 million for Canola Oil Fuel Cells. I would think that the only canola oil the Department of Defense should be investing in should be used for salad

dressing for our troops, not inventing batteries.

$4.5 million for a Coastal Cancer Research Center. A worthwhile expenditure, but the Defense Appropriations Bill is not the place for these funds to come from.

$1 million for Math Teacher Leadership.

$3 million in Impact Aid for Children with Disabilities.

$19 million for International Sporting Competitions.

$7.7 million for the Alaska Wide Mobile Radio Program.

$1 million for Animal Modeling Genetics Research.

$2.6 million for the Pacific Rim Corrosion Project.

$6 million for the Pacific Disaster Center Project.

$1 million for the Rural Telemedicine Demonstration Project.

These are just a few glaring examples of the more than 1,760 Member additions that leave many people scratching their heads trying to find the link to defense program funding.

Here is a very abbreviated list of some of the member additions that, while at least connected to the Department of Defense, were still not requested in the President's budget nor were they on any of the service's unfunded priority lists. Remember, every one of these additions come at the expense of programs that our services need to carry out their missions. For every dollar spent on these additions, it is one taken out of priority programs.

$53 million in Distance Learning.

$101.3 million in Defense Wide Administration Activities.

$44 million for Multi-Purpose Vehicles.

$58.5 million for Automated Data Processing Equipment.

$30.8 million for Non-System Training Devices.

$14 million for Drones and Decoys.

$6.7 million in Base Information Infrastructure.

$1 million in Polar Fleece Shirts.

$5 million for the Institute for Creative Technology.

$2 million for the Center for GeoSciences.

$3 million for the Concepts Experimentation Program.

$2 million for the Consortium for Military Personnel Research.

I will not list the rest of the additions as that would take hours. A larger list of Defense Appropriations Conference Committee earmarks is available on my website. I find it incredible that we are funding these unrequested and unneeded programs when we have more than 500 items that the Department of Defense says they need on their ''Unfunded Priority Lists''.

You will recall that last year, during conference negotiations on the Department of Defense Appropriations Act for Fiscal Year 2002, the Senate Appropriations Committee inserted into the bill unprecedented language to allow the U.S. Air Force to lease 100 Boeing 767 commercial aircraft and convert them to tankers, and to lease four Boeing 737 commercial aircraft for passenger airlift to be used by congressional and Executive Branch officials. Congress did not authorize these leasing provisions in the fiscal year 2002 National Defense Authorization Act, and in fact, the Senate Armed Services Committee was not advised of this effort by Air Force Secretary Jim Roche during consideration of that authorization measure.

Again this year, without benefit of authorization committee debate or input—the Senate Appropriations Committee has added funding in the Fiscal Year 2003 Department of Defense Appropriations bill in the amount of $3 million for the ''Tanker Lease Pilot Program'' for the proposed Boeing 767 aerial tanker leasing scheme. Furthermore, additional language in the bill modifies a provision that had been carefully negotiated by the Office of Management and Budget, OMB, with appropriators last year, and may now permit the Air Force to circumvent law, OMB and standard leasing arrangements and, with respect to the 100 Boeing 767s, will allow the Air Force to defer the termination liability costs up-front, unprecedented in leasing arrangements according to leasing experts and certainly against good business practices.

In multi-year contracts such as leases there is a statuary requirement to obligate money for termination liability payments in the first year of the contract. The reason is quite simple. If the government, the Air Force in this case, cancels the contract then the Air Force is required to pay Boeing for breaking the terms of the contract. What would happen if a Boeing 767 tanker was hit by hostile fire which caused a catastrophic fire onboard and the Boeing 767 tanker crashed. Under a similar leasing arrangement like the one that the Air Force signed with the Boeing Company for Boeing 737 VIP Executive aircraft, ''loss or destruction of the aircraft constitutes a notice of cancellation'' and under the terms of the lease the Air Force would be required to make a termination liability payment. Not planning for this is irresponsible, especially concerning military aircraft which operate in harms way with great regularity. This deferment of termination liability payment is an unfunded federal liability. This leaves Congress with no recourse but to foot the cost of this unfunded liability with the Boeing Company and leaves the taxpayer stuck with a big bill without any say in the matter. Boeing gets paid under this termination liability clause, yet the taxpayer is out an aircraft.

Particularly disconcerting is a provision that would allow the Air Force to fund the Boeing 767 aerial tanker lease from Air Force readiness appropriations rather than the ususal procurement accounts already committed to purchase $72 billion worth of other new weapons systems, aircraft and ships. According to statute, readiness appropriations or operations and maintenance accounts, finance the cost of operating and maintaining the Armed Forces. Specifically, included are the amounts for training and operation costs, pay of civilians, contract services for maintenance of equipment and facilities, fuel, supplies, and repair parts for weapons and equipment. Using critical readiness dollars to pay to lease 100 Boeing 767 tankers, under a new start program, can only be properly referred to as a mistake of great proportions that will eventually have great consequences for all of our Armed Forces and not just for the Air Force. Since 1999, the defense budgets have made strides to reverse years of under-funding in the readiness accounts, however, I have serious concerns about the future state of preparedness of our units and our men and women in the military if we continue to follow the advice of the Secretary of the Air Force under some ''rob Peter to pay Paul'' leasing scheme.

There is yet another egregious legislative provision included in the appropriations bill that certainly could be regarded as a bail out for Boeing. This provision would authorize the Air Force to pay annual advance payments, up to one year in advance, for leasing Boeing 767 tanker aircraft. I would like to have one of my colleagues from the Appropriations Committee explain to me how is this provision in the best interest of the government or the taxpayer for that matter. This Boeing leasing arrangement is projected to cost $20 billion, that means the Air Force may have to pay up front, each year, literally billions of dollars to Boeing with the promise to deliver aircraft later what a deal, courtesy of the Appropriations Committee. As a senior member of the Armed Services Committee, I would have liked to have heard some testimony regarding this significant change in acquisition policy. In fact, the Armed Services Committee is the proper committee to make recommendations as to reforming defense procurement policy, not the Appropriations Committee. The truth is there is no gain to the government for this provision the gain is all on the side of the ledger of the Boeing Company. This is waste that borders on gross negligence.

Does the appropriations committee have any respect for the authorizing committees in the Senate? I don't think so.

I believe this expensive aerial tanker lease program to be a new start that has been estimated by the Office of Management and Budget to cost between $20–$30 billion over six years. A program of this magnitude should require considerable consultation with the Secretary of Defense directly, not just that of Air Force Secretary Jim Roche or his staff or a nebulous entity know as the Leasing Review Panel that

was recently organized by the DOD acquisition secretary and DOD comptroller for the sole purpose to recommend leasing major weapons platforms such as aircraft, vessels, and combat vehicles according to the Project on Government Oversight. I am deeply concerned that the Armed Services Committees have not been given adequate time for review, inspection or comment on this significant, unprecedented proposal and that we do not have the advice of the Defense Secretary that this program is warranted. Recall, however, that we did hear from the Defense Secretary about the Army's Crusader that would have had a total program cost of only a half to a third as much as Air Force's scheme to lease Boeing 767 aerial tankers.

I appreciate the Secretary of Defense's strong support for the practice of using American taxpayers' money in a cost-effective manner to procure the best weapon system, at the best price for our men and women in uniform. I strongly endorse this practice. On June 28, 2001, in testimony before the Senate Armed Services Committee, the Defense Secretary said, ''[w]e have an obligation to taxpayers to spend their money wisely. Today, . . . there is no real incentive to save a nickel. To the contrary, the way the Department operates today, there are disincentives to saving money. We need to ask ourselves: how should we be spending taxpayers dollars? We are doing two things: First, we are not treating the taxpayers' dollars with respect—and by not doing so, we risk losing their support; second, we are depriving the men and women of our Armed Forces of the training, equipment and facilities they need to accomplish their missions. They deserve better. We need to invest that money wisely.''

The tanker leasing debate has not benefited from authorization committee input or a clear understanding of the Secretary of Defense's views on the requirement for this large procurement plan and the alleged Department of Air Force's change in policy to procure major weapons platforms, such as aircraft, through leasing schemes. I am concerned the impact of these provisions has not been adequately scrutinized, and the full cost to taxpayers has not been sufficiently considered.

I would like to note that OMB Director Mitch Daniels has often indicated his preference to maintain scrutiny of government leasing practices out of regard for U.S. taxpayers. Just last year, in a letter from the OMB Director to Senator Kent Conrad, OMB cautioned against eliminating rules intended to reduce leasing abuses. OMB's letter emphasized that the Budget Enforcement Act (BEA) scoring rules ''were specifically designed to encourage the use of financing mechanisms that minimize taxpayers' costs by eliminating the unfair advantage provided to lease-purchases by the previous scoring rules. Prior to the BEA, agencies only needed budget authority for the first year's lease payment, even though the agreement was a legally enforceable commitment to fully pay for the asset over time.'' OMB's letter continued by explaining that this loophole had permitted the General Services Administration to agree to 11 lease-purchase agreements with a total, full-term cost of $1.7 billion, but to budget only the first year of lease payments. OMB's letter stated, ''[t]he scoring hid the fact that these agreements had a higher economic cost than traditional direct purchases and in some cases allowed projects to go forward despite significant cost overruns. . . .'' Sounds very familiar.

As I mentioned before on the Senate floor when the Fiscal Year 2002 Defense Appropriations Conference Report was being debated, this is a sweet deal for the Boeing Company that I'm sure is the envy of corporate lobbyists from one end of K Street to the other. The Project on Government Oversight a politically independent, non-profit watchdog organization called Secretary Roche's Boeing tanker lease deal '' . . . a textbook case of bad procurement policy and favoritism to a single defense contractor.''

Let me review some of the highlights of the information and costs of this leasing scheme that have been provided to the Congress by the Office of Management and Budget, the General Accounting Office, the Department of Defense Inspector General, the Congressional Budget Office, the Department of Defense, and other important outside independent experts:

GAO estimates the cost to lease 100 Boeing 767 tankers for 6 years to be $20 to $30 billion.

GAO estimates that the cost to modernize and upgrade 127 KC–135 Es to ''R'' Models is $3.6 billion; a $22.4 billion savings to leasing 100 tankers.

GAO estimates the cost for building new infrastructure for 100 Boeing 767 tankers to be $1.7 billion, the same cost to modernize 59 older KC–135 tankers.

The Air Force estimates that their current fleet of KC–135s have between 12,000 to 14,000 flying hours on them only 33 percent of the lifetime flying hour limit and no KC–135E's will meet the limit until 2040.

According to the Air Force, the Mission Capable Rate for KC–135 tankers is 80 percent the highest in the Air Force inventory. The B–2 Mission Capable Rate by comparison is 39 percent.

According to the Air Force Air Mobility Command, there is no requirement to begin replacing KC–135's before fiscal year 2013.

OMB reports that the current fleet of KC–135s is in good condition.

According to OMB, leasing 100 Boeing 767 tankers, cost $26 billion, will result in an overall decrease of total tanker fleet capacity of 2 million pounds of fuel; whereas upgrading 126 KC–135 Es to ''R'' models, cost $3.2 billion, will result in an increase of total tanker fleet capacity of 1.7 million pounds of fuel over and above existing capacity.

According to the Air Force ''Tanker Requirement Study 05,'' replacing the KC–135E fleet with leased Boeing 767 tankers would not solve, and could exacerbate, the shortfalls identified in the TRS–05.

According to the DOD IG, the Air Force competition/Request for Information, RFI, on leasing tankers was only 14 days, not the ususal length of time of 90 days constituting a concern regarding the true nature of the competition.

The Congressional Budget Office has reported that a long-term lease of tanker aircraft would be significantly more expensive than a direct purchase of such aircraft.

According to DOD, while the KC–135 is an average of 35 years old, its airframe hours and cycles are low with proper maintenance and upgrades the KC–135 may be sustainable for another 35 years.

But this is just another example of Congress' political meddling and of how outside special interest groups have obstructed the military's ability to channel resources where they are most needed. I will repeat what I've said many, many times before, the military needs less money spent on pork and more spent to redress the serious problems caused by a decade of declining defense budgets.

This defense appropriations bill also includes provisions to mandate domestic source restrictions; these ''Buy America'' provisions directly harm the United States and our allies. ''Buy America'' protectionist procurement policies, enacted by Congress to protect pork barrel projects in each Member's State or District, hurt military readiness, personnel funding, modernization of military equipment, and cost the taxpayer $5.5 billion annually. In many instances, we are driving the military to buy higher-priced, inferior products when we do not allow foreign competition. ''Buy America'' restrictions undermine DOD's ability to procure the best systems at the least cost and impede greater interoperability and armaments cooperation with our allies. They are not only less cost-effective, they also constitute bad policy, particularly at a time when our allies' support in the war on terrorism is so important.

Secretary Rumsfeld and his predecessor, Bill Cohen, oppose this protectionist and costly appropriations policy. However, the appropriations' staff ignores this expert advice when preparing the legislative draft of the appropriations bills each year. The defense appropriations bill include several examples of ''Buy America'' pork, prohibitions on procuring anchor and mooring chain components for Navy warships; main propulsion diesel engines and propellers for a new class of Navy dry-stores and ammunition supply ships; supercomputers; carbon, alloy, or armor steel plate; ball and roller bearings; construction or conversion of any naval vessel; and, other

naval auxiliary equipment, including pumps for all shipboard services, propulsion system components such as engines, reduction gears, and propellers, shipboard cranes, and spreaders for shipboard cranes.

I am pleased that an amendment that I introduced on the Senate floor carried through Conference Section 8147. This legislative provision would prohibit spending $30.6 million for leasing of Boeing 737 VIP Executive aircraft under any contract entered into under any procurement procedures other than pursuant to the Competition and Contracting Act which promotes full and open competition procedures in conducting a procurement for property or services. I believe this amendment would ensure full and open competition with respect to Boeing 737 VIP Executive aircraft. Although last year's DOD Appropriations bill specified 4 Boeing 737 aircraft, it did not authorize the lease solely from the Boeing Company. Yet the Air Force only negotiated a sole source contract totaling nearly $400 million with the Boeing Company, seemingly in direct violation of this statutory language if they disburse funds for this VIP Executive aircraft lease without a fair and open competition. In today's failing economy, I imagine there are many leasing entities that would like to compete for this lucrative leasing arrangement with the Air Force. With the downturn in the commercial aviation industry and the serious financial condition of most airlines in the United States, it is very likely that there are more than a few airlines that would like to participate in a full and open competition to provide excess Boeing 737 transport aircraft under some leasing arrangement with the Air Force.

I look forward to the day when my appearances on the Senate floor for this purpose are no longer necessary. I reiterate, over $7.4 billion in unrequested defense programs have been added by the Committee to the defense appropriations bill. Consider how that $7.4 billion, when added to the savings gained through additional base closings and more cost-effective business practices, could be used so much more effectively. The problems of our Armed Forces, whether in terms of force structure or modernization, could be more assuredly addressed and our warfighting ability greatly enhanced. The American taxpayers expect more of us, as do our brave servicemen and women who are, without question, fighting this war on global terrorism on our behalf.

But for now, unfortunately, they must witness us, seemingly blind to our responsibilities at this time of war, going about our business as usual.

Mr. WELLSTONE. Mr. President, I rise today in support of the Defense Department appropriations conference report.

I believe we must provide the best possible training, equipment, and preparation for our military forces, so they can effectively carry out whatever peacekeeping, humanitarian, warfighting, or other missions they are given. They deserve the across-the-board pay raises of 4.1 percent, the incentive pay for difficult-to-fill assignments, and the reduced out-of-pocket housing costs from the current 11.3 percent to 7.5 percent contained in this conference report.

The report would also fully fund active and reserve end strengths, including well over 700 new positions for the Army National Guard, which will hopefully ease the current burden on our overstretched men and women in uniform. For many years running, those in our Armed Forces have been suffering from a declining quality of life, despite rising military Pentagon budgets. The pressing needs of our dedicated men and women in uniform, and those of their families, must be addressed as they continue to be mobilized in the war against terrorism. This conference report goes far in addressing those needs. In addition, it provides $150 million for Army peer review breast cancer research and $85 million for prostate cancer research.

The conference report also provides $417 million for the Nunn-Lugar Cooperative Threat Reduction Program, which seeks to secure airtight control over fissile materials and technologies from Russia and other former Soviet Union states to ensure that none makes its way into the hands of terrorists or to places like Iraq. Further, the report gives $70 million more than the administration requested to fund Israel's Arrow antimissile program, which could protect Israel against Scud missiles fired by Iraq. Finally, the report shifts $368.5 million from Crusader research and development to a new, lighter cannon, which will engage the expertise of the highly skilled workforce at the United Defense Industries plant in Minnesota. For these reasons and others, I will vote for it today.

I also thank my colleagues on the conference committee for their hard work and their passage of an amendment I included in the Senate version of the Department of Defense appropriations bill. The final bill includes $5 million to put confidential victim advocates on military installations across the country. This would ensure that victims whose lives are in danger have an alternative place to turn that is confidential and where their needs can be met without qualification.

The bill will also ensure that funds are made available to establish an impartial, multidisciplinary, confidential Domestic Violence Fatality Review Team. The team would be charged with investigating every domestic fatality in the military and helping to find ways to prevent fatalities in the future.

Finally, this bill would require that the Secretary report to Congress on progress in implementing the recommendations of the National Defense Task Force on Domestic Violence. Domestic violence is something that we in Congress must constantly work to prevent, reduce, and eventually end. Having such reporting will help us work with the Military to address this terrible problem.

The National Defense Taskforce on Domestic Violence reported that ''Domestic Violence is an offense against the institutional values of the Military Services of the United States of America. It is an affront to human dignity, degrades the overall readiness of our armed forces, and will not be tolerated in the Department of Defense.'' I do not think anyone who has followed the recent events at Fort Bragg would disagree.

Sadly, the North Carolina incidents, while unusual in that they were clustered within such a short time, are not unique. The Naval Criminal Investigative Service reported 54 domestic homicides in the Navy and Marines since 1995. The Army reported 131 and the Air Force reported 32. This is a problem that is by no means limited to the military, but its dimensions in the military context are complex. They need to be addressed. I know that Secretary Rumsfeld and Deputy Secretary Wolfowitz share that view. I applaud the Secretary and the Deputy Secretary for the attention they have given to this issue and the willingness they have shown to address it. I also applaud my colleagues, particularly Senator INOUYE and Senator STEVENS, for their leadership in passing this important legislation.

I am however, very disappointed that the conferees took out an amendment, that I offered and which the Senate adopted, that would have barred any funds in this bill from being used to enter contracts with U.S. companies who incorporate overseas to avoid U.S. taxes.

Former U.S. companies who have renounced their citizenship currently hold at least $2 billion worth of contracts with the Federal Government. I don't think that companies who aren't willing to pay their fair share of taxes should be able to hold these contracts. U.S. companies, that play by the rules, that pay their fair share of taxes, should not be forced to compete with bad actors who can undercut their bids because of a tax loophole.

The loophole gives tens of millions of dollars in tax breaks to major multinational companies with significant non-U.S. business. It also puts other U.S. companies unwilling or unable to use this loophole at a competitive disadvantage. No American company should be penalized staying put while others renounce U.S. ''citizenship'' for a tax break.

Well, the problem with all this is that when these companies don't pay their fair share, the rest of American tax payers and businesses are stuck with the bill. I think I can safely say that very few of the small businesses that I visit in Detroit Lakes, MN, or Mankato, in Minneapolis, or Duluth

can avail themselves of the Bermuda Triangle.

I should also say, that the amendment that the conferees dropped was really a very mild version. It was mostly prospective, and it only affected fiscal year 2003. I think it is appropriate for us to say that if the U.S. company wants to bid for a contract for U.S. defense work, then it should not renounce it's U.S. citizen for a tax break.

We all make sacrifices in a time of war, the only sacrifice this amendment asked of federal contractors is that they pay their fair share of taxes like everybody else.

My final point on this issue is that it is now clear that this fight is going to take place on the Homeland Security bill. The Senate has adopted a very strong amendment that I offered. There is a very similar amendment in the House passed bill. If the Republicans would end their filibuster of the homeland security bill we could get it to conference and get a good provision signed into law to crack down on these tax cheats. The Congress will not dodge this issue.

● Mr. ALLARD. Mr. President, after many long months of negotiation, the fiscal year 2003 Defense Appropriations will finally come to a close today. I add my strong support for this bill and would like to thank Senators INOUYE and STEVENS for their work to ensure our continuing support for the men and women in the United States Armed Services.

At the very beginning of his administration, President Bush made it a priority to rebuild our military after 8 years of substantial and dangerous levels of operation and maintenance funding shortfalls under the previous administration. Those of us in the Senate have also heeded this call and I am pleased that we are about to take the next step in maintaining a military fully capable of defending our Nation and meeting our foreign policy goals.

While some balked at the largest defense budget increase in nearly 2 decades, I support the President in his efforts to transform our military. His reasoning for this increase is firm, and I quote the President for his two reasons behind the plan:

I sent up to Congress the largest increase in defense spending since Ronald Reagan was the President. I did it for two reasons. One, any time we commit our troops into harm's way, they deserve the best pay, the best equipment, and the best possible training. And secondly, the reason I asked for an increase the size of which I did is because I wanted to send a message to friend and foe alike that when it comes to the defense of our freedoms, we're not quitting. There's not calendar on my desk that says, well, we've reached this time, it's time to stop. That's not how I think. That's not how America thinks. We want our friends understanding that. We want the enemy to know it, as well—that when it comes to the defense of our country, comes to defending the values we hold dear, it doesn't matter how much it costs, it doesn't matter how long it takes, the United States will be firm and resolved. We owe that to our children, and we owe it to our children's children.

Specifically, I would like to point out some very important programs that have a great deal of bearing on the safety of our country. As the ranking member on the Strategic Subcommittee, I have made it abundantly clear how important missile defense is to not only our defense, but also our close allies. The most advanced cooperative military project between the United States and Israel is the Arrow missile defense system—a theater wide missile defense system capable of shooting down ballistic missiles fired at Israel or U.S. troops stationed in the Middle East. The Arrow system is operational, providing Israel with a functioning defense against surface-to-surface missiles.

The appropriations conferees agreed on this priority and have provided $70 million to continue funding this very important program. This funding will ensure that Arrow remains capable of providing reliable protection against evolving threats, such as decoys and faster and longer-range ballistic missiles and also speed production of additional Arrow missiles.

Likewise, I am encouraged by the $15 million allocated to purchase commercial satellite imagery. Three high-level DOD commissions, the Space Commission, the NRO Commission, and the NIMA Commission, all stated that DOD needs to better utilize commercial imagery. The NIMA Commission suggested that a new OSD account should be established with an initial budget of $350 million for the first year. The Space Commission stated that the ''U.S. Government could satisfy a substantial portion of its national security-related imagery requirements by purchasing services from the U.S. commercial imagery industry.'' I am convinced that there is yet more untapped potential with commercial space imagery, and I believe this is a good first step.

This Defense Appropriations bill also provided funding for a number of developmental programs critical to space-based systems and technologies. The Network, Information, and Space Security Center will facilitate cooperation for protecting information and information systems, which is becoming increasingly important in the face of cyberterrorism threats from around the world. The Center for Geosciences is a leading-edge environmental research center continuously improving weather forecasts for our military forces around the world. TechSat 21 will demonstrate the technical and operational feasibility of microsatellites—a truly transformational approach to space-based systems. And finally, the GPS Jammer Detection and location System will enable our military commanders to rely on GPS and GPS-supported systems such without the threat of interference or jamming by the enemy.

While we find ourselves at the end of another legislative year, the Senate and our colleagues in the House have taken a solid step toward the transformation of the United States military. While much work remains to be completed in the coming years, it bodes well for our men and women in the armed services that Congress will continue to support them in the defense of our country.●

Mr. FEINGOLD. Mr. President, I will vote against the conference report accompanying the fiscal year 2003 Department of Defense appropriations bill. I regret that Congress has missed another opportunity to reorient the thinking, and spending, of the Pentagon.

I strongly support our men and women in uniform in the ongoing fight against global terrorism and in their other missions, both at home and abroad. I commend the members of the National Guard and Reserves and their families for the sacrifices they have made to protect our security and freedom. All members of our military and their families, active duty, National Guard, and Reserves, deserve our sincere thanks for their commitment to protect this country and to undertake the fight against terrorism in the wake of the horrific attacks of September 11, 2001.

And they deserve our support as they face the uncertainly surrounding possible military action against Iraq.

Each year that I have been a member of this body I have expressed my concern about the priorities of the Pentagon and about the process by which we consider the Department of Defense authorization and appropriations bills. I am troubled that the Department of Defense does not receive the same scrutiny as other parts of our Federal budget. This time of national crisis underscores the need for the Congress and the Administration to take a hard look at the Pentagon's budget to ensure that scarce taxpayer dollars are targeted to those programs that are necessary to defend our country in the post-Cold War world and to ensure that our Armed Forces have the resources that they will need for the battles ahead.

There can be no dispute that Congress should provide the resources necessary to fight and win the battle against terrorism. There should also be no dispute that this ongoing campaign should not be used as an excuse to continue to drastically increase an already bloated defense budget.

The conference report on which we are about to vote accompanies what will be the largest defense appropriations bill that Congress has ever passed. It represents a $34.1 billion increase over the fiscal year 2002 level, including supplemental defense spending that was appropriated in the wake of the September 11 attacks. It represents a $54.5 billion increase over the fiscal year 2001 funding level.

The United States spends more on defense than all of the other countries of the world combined.

Of course, a strong national defense is crucial to the peace and stability of

our nation. But a strong economy is also essential to national security. We must not focus on one to the detriment of the other. Many of the expensive weapons systems for which there are billions in appropriations in this conference report have little or nothing to do with the fight against terrorism, which is often cited as the reason for the $34 billion increase in defense spending for fiscal year 2003. I am concerned that if we continue down this path, defense spending will spiral further out of control, perhaps putting other areas of our economy at risk.

I am pleased that this conference report contains no funding for the Army's Crusader mobile artillery program. I support the Secretary of Defense's decision to cancel this outdated program, and earlier this year, I introduced legislation that would have done just that. I commend the Secretary of Defense for his efforts to transform our military to meet the challenges of the 21st Century and beyond, and agree that weapons that were better suited to the Cold War than to the battles of this century should be terminated.

I regret that so little progress has been made to transform the military for these new challenges. The hard-fought battle to terminate the Crusader program, a program that was canceled by the Secretary of Defense, stands as an example of how difficult it is to change the mind-set of the Pentagon and the Congress. The beleaguered Crusader is the poster child for an obsolete, Cold War-era program, yet there are those in the Congress and at the Pentagon who tried desperately to save it. The termination of a weapon system such as the Crusader is an example of the hard decisions that this body will have to make as we face the realities of the Federal budget and as we seek to provide our Armed Forces with the equipment that they will need to fight the battles of the future.

As I have said time and time again, there are millions upon millions of dollars in this bill that are being spent on outdated or questionable or unwanted programs. This money would be better spent on programs that truly improve our readiness and modernize our Armed Forces. This money also would be better spent on efforts to improve the morale of our forces, such as ensuring that all of our men and women in uniform have a decent standard of living or providing better housing for our Armed Forces and their families. For those reasons, I will oppose this conference report.

The PRESIDING OFFICER. Who yields time?

Under the previous order, Mr. WELLSTONE is recognized.

Mr. WELLSTONE. Mr. President, first of all, I thank both of my colleagues, Senator INOUYE and Senator STEVENS, for their fine work. I also think this is a very important piece of legislation, extremely important to our Armed Forces, just on the basis of making sure the men and women who serve our country—from salaries to living conditions, you name it; it is just an important piece of legislation.

I also thank both of my colleagues for fighting in the conference committee to keep an amendment in that deals with the problem of domestic violence and sexual assault. We all agree that both Under Secretary Wolfowitz and Secretary Rumsfeld are well aware of some of the problems and are more than willing to put together the necessary task force and really take a long, hard look at this to make sure we do what we need to do. I thank them for that.

This amendment also says we really need, on our bases, to have a place where women can go with some confidentiality if, in fact, they are in a situation where they are being battered and there is nowhere to go for support. It is extremely important for these women. It is extremely important for these children. It is extremely important for their families. I am glad this amendment is in. I know there was some discussion down at Fort Bragg about the amendment and it was very positive. So I thank my colleagues for supporting this.

I want to finally express my indignation, even though I believe in both these Senators, that this is one part of this political process that drives people in Minnesota nuts, drives people in the country nuts, and drives me nuts. I brought an amendment to the floor. It was eminently reasonable. It said for those companies that go to Bermuda and renounce their citizenship so they do not pay their fair share of taxes—it was only prospective, it did not look back; it was for 1 year—they don't get Government contracts.

If they want to renounce their citizenship and not pay their fair share of taxes, they are not going to get any government contract.

There is overwhelming support on the floor of the Senate.

I have learned my lesson now. I will have been here almost 12 years. Why haven't I learned my lesson and ask for a rollcall vote? Maybe that wouldn't have done any good, anyway. It seemed that there was strong support from some Senators who didn't want to vote against it but who didn't want to vote for it. But I thought, OK, the point is to get this passed.

This was taken out in the conference committee. With all due respect, my understanding is the House conferees would not budge. They would not budge.

I want to just say to the House Republican leadership and to the conferees, you are not going to be able to continue to win on these kinds of votes. People in Minnesota and in the United States of America are outraged that these companies go to Bermuda and renounce their citizenship and don't pay their fair share of taxes.

You get into the conference committee, and it is the same old, same old, same old. Special interests do their lobbying and get the job done.

Senator LIEBERMAN is on the floor. If this homeland defense bill goes in, we have this provision in that bill. I am counting on Senator LIEBERMAN's support.

I thank Senator INOUYE for fighting as hard as he could.

I want to say to the House Republican conferees, you are not going to win this fight. This is going to come back. You are not going to win this fight. And you are way out of sync with about 90 percent of the people in this country on this question.

Listen, I have been involved in fights on the floor of the Senate where I was the one who was in the minority.

But let me tell you, on this question, you guys are just wrong. You took it out of conference committee, but you are not going to win this fight. We are going to bring this provision back, and we are going to get it into legislation. It is in the very sweeping homeland defense bill. We are going to keep it in that bill, and come back and back.

It is not right for the businesses in your State, Mr. President—New Jersey—or in Minnesota. Ninety-nine percent of the businesses that play by the rules of the game but don't have the lawyers and the accountants to tell them how to evade paying their fair share of taxes—they wouldn't do it even if they could because they don't think it is right—why should they be penalized for doing the right thing? And why should these companies get away with murder?

I wish this had not been taken out by the conference committee. I regret it. I know my colleagues did their best. We will be back.

I yield the floor.

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

The Senator from Hawaii.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Jersey (Mr. TORRICELLI), is necessarily absent.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD), the Senator from Wyoming (Mr. ENZI), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Arizona (Mr. MCCAIN) and the Senator from Alabama (Mr. SESSIONS), are necessarily absent.

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

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—93

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| Allen | Bayh | Biden |

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| Breaux | Graham | Nelson (FL) |
| Brownback | Gramm | Nelson (NE) |
| Bunning | Grassley | Nickles |
| Burns | Gregg | Reed |
| Byrd | Hagel | Reid |
| Campbell | Harkin | Roberts |
| Cantwell | Hatch | Rockefeller |
| Carnahan | Helms | Santorum |
| Carper | Hollings | Sarbanes |
| Chafee | Hutchison | Schumer |
| Cleland | Inhofe | Shelby |
| Clinton | Inouye | Smith (NH) |
| Cochran | Jeffords | Smith (OR) |
| Collins | Johnson | Snowe |
| Conrad | Kennedy | Specter |
| Corzine | Kerry | Stabenow |
| Craig | Kohl | Stevens |
| Crapo | Kyl | Thomas |
| Daschle | Landrieu | Thompson |
| Dayton | Leahy | Thurmond |
| DeWine | Levin | Voinovich |
| Dodd | Lieberman | Warner |
| Domenici | Lincoln | Wellstone |
| Dorgan | Lott | Wyden |
| Durbin | Lugar | |
| Edwards | McConnell | |
| Ensign | Mikulski | |

NAYS—1

Feingold

NOT VOTING—6

| | | |
|---|---|---|
| Allard | Hutchinson | Sessions |
| Enzi | McCain | Torricelli |

The conference report was agreed to.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to table was agreed to.

## ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I know the distinguished Republican leader wishes to speak. I ask unanimous consent that he be accorded whatever time required. I know Senator MIKULSKI has an interest in speaking for 5 minutes following the distinguished Republican leader. I ask unanimous consent that request be accommodated as well.

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

The Republican leader is recognized.

## UNANIMOUS CONSENT REQUEST—SHEDD NOMINATION

Mr. LOTT. Mr. President, last week, the Judiciary Committee pulled from their agenda the pending nomination of Judge Dennis Shedd to fill a seat on the 4th circuit court of appeals. That was contrary to all of the understandings as to what would happen with regard to that nominee. I think various Members on the judiciary committee on several occasions had been assured he would be given a vote. I think there is no question that Senator THURMOND had been under the impression there would be a vote on Shedd's nomination this year. Yet the nomination was removed from the calendar and, therefore, not even considered by the committee. A vote was not taken, and I presume it was blocked procedurally because there would have been enough votes in the Committee to actually report Shedd's nomination to the full Senate had there been a vote.

I understand that moving to the executive calendar is traditionally a prerogative of the Majority Leader. However, there has been an extraordinary and unprecedented violation of Senate rules and tradition in the manner in which Judge Dennis Shedd's nomination was considered in the Judiciary Committee. I also believe that the manner in which Senator THURMOND was led on regarding Judge Shedd's nomination constituted a slight of Senator THURMOND during the final days of his long and distinguished Senate career. I remind Senators that we depend very heavily around here on comity and trust to do the vast majority of our business on behalf of the American people. When that trust is violated or misused it is hard to conduct business as usual.

Mr. President, Dennis Shedd's nomination was finally put on the Judiciary Committee's agenda way back on Sept. 19, but was held over to the next mark-up which as it turned out was last Tuesday, October 8th. It is also my understanding that the normal practice is that when Senators in the Committee hold legislation and nominations over at a mark-up, the tradition and practice has always been that the items held over are placed on the very next mark-up.

In this instance, the October 8th mark-up was actually postponed from the previous Thursday, October 3rd, so that Chairman LEAHY could concentrate on passing the Department of Justice (DOJ) Re-authorization Conference Report. During the vote to invoke cloture on that bill, it is my understanding that Senator THURMOND was once again assured by Senator LEAHY that Judge Shedd would be on the mark-up on October 8th.

Unfortunately, that assurance as well as the practices and traditions of the Committee were violated last week because Judge Dennis Shedd's nomination was pulled from the committee's agenda—preventing the Committee from reporting him out to the full Senate. However, breeches in decorum regarding Judge Shedd and Senator THURMOND predate last week.

On July 31st, Chairman LEAHY publicly promised Senator THURMOND at a committee meeting that Judge Shedd would be voted on this year. When Shedd wasn't on the August 1st mark-up, Senator LEAHY assured Senator THURMOND's Chief of Staff that Shedd would be voted on immediately after the August recess. When Shedd was not on the agenda for the first mark-up after the Senate returned in September—which was Sept. 5th—Senator THURMOND then was assured that Dennis Shedd would be on the next mark-up on Sept. 19th.

While Shedd was actually put on that mark-up on Sept. 19th, he was held over to the next mark-up—which is the right of Senators in the Committee to do. And then, as I said previously, contrary to tradition and practice, Shedd was kept off the agenda for the last mark-up of the year by Senator LEAHY.

Mr. President, there is no doubt about Judge Shedd's qualifications. He has strong bipartisan support. One of his most ardent supporters is the distinguished Democrat Senator from South Carolina, Senator HOLLINGS. The ABA—the ''Gold Standard'' so often cited by Senator LEAHY—gave Judge Shedd a ''Well Qualified'' rating, its highest rating. So, it is not Judge Shedd's qualifications which are standing in the way.

He was appointed by President George H.W. Bush to the United States District Court for South Carolina in 1990, and has now served as a federal jurist for more than a decade—following nearly twenty previous years of public service and legal practice. In addition to his service on the District Court, he has sat by designation on the Fourth Circuit Court of Appeals on several occasions. Judge Shedd also has served on the Judicial Conference Committee of the Judicial Branch and its Subcommittee on Judicial Independence.

From 1978 through 1988, Judge Shedd served in a number of different capacities in the United States Senate, including Counsel to the President Pro Tempore and Chief Counsel and Staff Director for the Senate Judiciary Committee when Senator THURMOND was the Chairman.

Judge Shedd would bring unmatched experience to the Fourth Circuit. He has handled more than 4,000 civil cases since taking the bench and over 900 criminal matters. In fact, no judge currently sitting on the Fourth Circuit has as much federal trial experience as Judge Shedd, and none can match his ten years of experience in the legislative branch.

Mr. President, Dennis Shedd's record demonstrates that he is a mainstream judge with a low reversal rate. In the more than 5,000 cases Judge Shedd has handled during his twelve years on the bench, he has been reversed fewer than 40 times (less than one percent). So, it should be clear that Judge Shedd is the victim of a deliberate, calculated, attempt by outside groups to embarrass one of President Bush's nominees and not any deficiency in his professional training or temperament.

But Judge Shedd is not the only victim here. This is also an affront to Senator THURMOND in his final days as a Senator. We owe it to Senator THURMOND, as a sign of our respect and admiration for his distinguished service, to vote on the nomination of his former staff director before Senator THURMOND's career comes to an end—an action the Senator feels that Senator LEAHY gave him his word he would do.

Mr. President, the rules of the Senate provide a motion to discharge a nomination. I want to do that. But I am under no illusion that I would be allowed to make that motion and have it succeed under any circumstances. That has been tried on the other side of the aisle when I was majority leader, and I know that it would be interpreted as a

partisan vote and that the majority leader would have to press his members not to allow that to happen. But I feel so strongly about the unfairness of the treatment of this nominee and the way it has reflected on Senator THURMOND that I have to take some action.

The Senate must be in executive session in order to move to discharge a nomination. That would not happen. Having said that, we feel we must make another effort. Therefore, I ask unanimous consent that the Senate proceed to executive session; that the nomination of Dennis Shedd, to be a Fourth Circuit judge, be discharged from the Judiciary Committee and placed on the calendar; further, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Republican leader, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate; that following the vote the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

Finally, I ask unanimous consent that this action occur prior to the adjournment of the 107th Congress.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Let me respond briefly. It has been the practice of the Senate, since we have been in the majority, to take up all nominations that have been reported out of the committee. This nomination has yet to be reported out of the committee. There have been a number of others who have sought recognition and have asked to be heard on the Shedd nomination, which is why the nomination was tabled.

I hasten to add that, on that very day—I don't recall the exact number—a significant number of judicial nominations were passed out. I believe the number was 17. So there are 17 additional judicial nominations, which brings us close now to 100 judicial confirmations, if we deal with those 17 pending now on the calendar. More than 80 have already passed and were confirmed, and we have 17 pending and could be confirmed before the end of the year. That is close to an all-time record. I think that is all the more laudatory, given the fact that we have not been in the majority for the entire 2-year period of time. During that first 6-month period of time, the Republicans failed to confirm one judicial nomination; they failed on all counts to confirm even one. So the Shedd nomination is being reviewed. There are others who wish to be heard, and I respect the decision made by the chairman, in particular, that this nominee be given additional consideration, and that others who want to be heard be given that opportunity as well.

I do object.

Mr. LOTT. Mr. President, will the Senator yield for a question and a suggestion?

Mr. DASCHLE. I will be happy to yield to the distinguished Republican leader.

Mr. LOTT. Mr. President, we are in session this week—today and I presume tomorrow. I guess there is a possibility we will be in session again next week. In view of the commitments that were made that this nominee would be considered by the committee, is there a chance there would be another executive session or markup session of the Judiciary Committee either tomorrow or next week to further consider this nomination, because at least 2 weeks will have transpired between the last time it was supposed to be considered and when the Senate would go out for the election, and possibly even after the election?

The majority leader will note my UC just asked consent that it occur before the adjournment of the 107th Congress. I did not say today or next week, although, obviously, I feel strongly it should be considered soon. Is there a possibility something could be worked out in this regard?

Mr. DASCHLE. Mr. President, there is always a possibility, and I will certainly work with the Republican leader on all the nominations. He and I have talked on numerous occasions about how we might accommodate all of those nominees whose names are pending on the calendar. We have not yet been able to address those.

I would like very much to clear the calendar, to do as much as possible to get those who have been reported out cleared and confirmed prior to the time we leave. Clearly, I would work with him and certainly with the Judiciary Committee. I cannot make any commitments this afternoon without consultation with the Chair. But I think the committee has been more than fair and more than productive in its effort to move out of the committee the large number of nominations, both at the district and circuit levels. I will certainly consult with the distinguished Republican leader and the Chair in the coming days.

Mr. REID. Will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield to the Senator from Nevada.

Mr. REID. The Senator is aware when the Republicans were in the majority, we tried on a number of occasions to get a significant number of judges to have hearings. For example, I can remember last week Senator BOXER spoke to me about judges in California who waited over 4 years to have a hearing. Does the Senator recall that?

Mr. DASCHLE. Unfortunately, I do. I think if we go back, we would recognize there are a number of nominees who waited 3 and 4 years and never even got a hearing. Mr. Shedd was at least given a hearing. As I say, people are continually coming before the committee and seeking additional opportunities to address the committee on the Shedd nomination. That is far more than what a number of the nominees were given over the course of the Clinton administration.

We are hoping to rectify that, which is why we have confirmed as many judges as we have to date. As I say, almost 100 judges will have been confirmed if we clear the Federal calendar prior to the time we adjourn sine die.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I believe I still have the floor. I was asking the Senator to yield. He was still, I guess, proceeding under his objection. I take my time back. I would like to put some other issues into the RECORD.

Mr. President, I do want to respond to the comments about the nominations that have been confirmed and those that are still pending. There have been 131 judicial nominations submitted by President Bush during the 107th Congress—32 U.S. circuit nominees; 98 district nominees, and one U.S. Court of International Trade judge. So far, 80 of the 131 nominees have been confirmed—14 U.S. circuit court judges and 66 district court judges. But the key figure is that there are still 49 nominations pending before the Senate, without final action 49 nominations. There are still 31 nominations pending in committee. Of the 16 U.S. circuit court positions that have not been confirmed—15 are still in the committee, just one is on the floor, and that one is the nominee for the Sixth Circuit, Mr. John Rogers, who has been pending on the Executive Calendar since July.

I thought there had been an agreement that we would move that nomination before the August recess. Again, that circuit court nominee has been pending on the Senate floor since July—almost 4 months ago. And there are 15 other circuit nominees in committee, some of whom have been waiting over 500 days without even a hearing.

As to district court nominees, there are still 15 of them in committee as well, and the 17 that are on the floor for consideration were just reported last week. I hope we will at least confirm those nominations before we leave, although on many occasions, we had to have recorded votes to move even district judges. I wonder if that means we are going to have to have 12, 14, 16, 17 recorded votes in the Senate on district judges to get them confirmed before we adjourn for the year. And, of course, the one USIT position is still pending in Committee and has been since December of last year.

The key point is the alarming number of vacancies on the federal courts—77, which is almost 10 percent of federal judgeships. I understand from the Judicial Council and from the Chief Justice, that over 30 of these nominations are for seats that are considered emergency vacancies that need to be filled.

We can always talk about percentages and numbers, Mr. President. For example, so far only 43 percent of this President's circuit nominations in his first 2 years have been confirmed. President Clinton got over 86 percent of his circuit nominees confirmed in his first 2 years in office, the first President Bush got 96 percent and President Reagan got 95 percent. Only 43 percent of circuit court judge nominations have been confirmed in this Congress compared to almost 90 percent for other Presidents over the past 20 years. That is a problem.

I know there have been disagreements in the past about nominations when I was majority leader, but we did move large blocks of nominations. We had some approved that were very controversial and others were not moved in the final analysis.

The problem with this particular nomination is not only the exceptional qualifications of the nominee and his history as a former judiciary committee staffer, but more importantly, the way Senator THURMOND has been treated in the process. Judge Shedd is eminently qualified for the job. He is a former staff director of the Judiciary Committee. And he has been a sitting Federal district judge for over a decade, confirmed by the Senate, probably unanimously. Nevertheless, after Senator THURMOND was given the word that he would have this nomination voted on before the year was out, this nomination was pulled from the calendar of the committee's last markup.

Mr. President, that is simply a tragic conclusion to an almost five-decade career in the Senate. It is also in my view a violation of the unwritten rules of civility about which we all talk and aspire to in the Senate. That is why I will make a continued effort to find a way for this nominee to be considered by the committee and confirmed by the Senate in this Congress before Senator THURMOND retires. Senator THURMOND, Judge Shedd, and the American people deserve better. Senator THURMOND as an icon of this institution in his final days deserves better. And the honor and traditions of the U.S. Senate deserve better.

I yield the floor.

EXHIBIT 1

SHEDD'S BACKGROUND

Appointed by President George H.W. Bush to the United States District Court for South Carolina in 1990, Dennis W. Shedd has served as a federal jurist for more than a decade following nearly twenty years of public service and legal practice.

In addition to his service on the District Court, he has sat by designation on the Fourth Circuit Court of Appeals on several occasions. Judge Shedd also has served on the Judicial Conference Committee of the Judicial Branch and its Subcommittee on Judicial Independence.

From 1978 through 1988, Judge Shedd served in a number of different capacities in the United States Senate, including Counsel to the President Pro Tempore and Chief Counsel and Staff Director for the Senate Judiciary Committee.

Judge Shedd is well-respected by members of the bench and bar in South Carolina. According to South Carolina plaintiff's attorney Joseph Rice, ''Shedd—who came to the bench with limited trial experience? has a good understanding of day-to-day problems that affect lawyers in his courtroom . . . He's been a straight shooter.'' [Legal Times, May 14, 2001.]

According to the Almanac of the Federal Judiciary, attorneys said that Judge Shedd has outstanding legal skills and an excellent judicial temperament. A few comments from South Carolina lawyers: ''You are not going to find a better judge on the bench or one that works harder.'' ''He's the best federal judge we've got.'' ''He gets an A all around.'' ''It's a great experience trying cases before him.'' ''He's polite and businesslike.''

Plaintiffs lawyers commended Shedd for being even-handed: ''He has always been fair.'' ''I have no complaints about him. He's nothing if not fair.'' [Almanac of the Federal Judiciary, Vol. 1, 1999.]

Judge Shedd would bring unmatched experience to the Fourth Circuit. He has handled more than 4,000 civil cases since taking the bench and over 900 criminal matters. In fact, no judge currently sitting on the Fourth Circuit has as much federal trial experience as Judge Shedd, and none can match his ten years of experience in the legislative branch.

Shedd's record demonstrates that he is a mainstream judge with a low reversal rate. In the more than 5,000 cases Judge Shedd has handled during his twelve years on the bench, he has been reversed fewer than 40 times (less than one percent). Since taking his seat on the Fourth Circuit in 2001, Judge Roger Gregory (a Democrat appointed by President Bush) has written opinions affirming several of Judge Shedd's rulings.

Mr. SANTORUM. Mr. President, will the Senator from Mississippi yield?

Mr. DASCHLE. Mr. President, what is the regular order?

The PRESIDING OFFICER (Mr. CARPER). Under the previous order, the Senator from Maryland, Ms. MIKULSKI, is recognized for 5 minutes. The Senator from Maryland.

## ATTACKS ON THE CAPITAL REGION

Ms. MIKULSKI. Mr. President, this past year has been a challenging time for residents of the capital region. First there was the September 11 attack on the Pentagon. Then there were the anthrax attacks, and now a serial sniper is terrorizing the national capital region, attacking innocent people going about their daily lives. These attacks affect each and every one of us.

Here in the capital region especially, there have been seven attacks in Montgomery County and in Prince George's County in my own home State of Maryland. The sniper has also made three attacks in Northern Virginia. Our friends and our neighbors have been either injured or killed. Our schools are now locked down. Eleven of our neighbors have been shot, nine people have died, two others are still fighting for their recovery, including a child who was shot as he walked into his school in the accompaniment of his aunt, a nurse.

These senseless and brutal murders have left grieving families and terrified our communities. I wish to express my sympathy for the families of the victims. I want them to know they are not alone; that I am on their side and at their side; and also that the resources of the Federal Government are at the disposal of local government and local law enforcement to catch this criminal.

We in Maryland are deeply grateful for the support of President Bush, who has pledged the support of every Federal agency to be at the disposal of local government and local law enforcement.

I thank the Attorney General, Mr. Ashcroft, and the FBI Director, Mr. Mueller, for their immediate response when these attacks on our civilians occurred.

This killer must be brought to justice. It is going to take persistence and patience. It is going to take great detective work, which is already underway. I want everyone to know that just like the manhunt is not going to go away, Federal support is not going to go away, and the resources are not going to go away until this criminal is brought to justice.

So many of my colleagues have expressed their support. They have asked me how my constituents are doing. Well, let me tell everyone what I know about the Marylanders I so proudly represent. We Marylanders strongly believe when times get tough, the tough get going. We are unflinching in our determination to get through these attacks, to stand with each other, and to do all we can to support law enforcement to catch the criminal, to keep our businesses open, and also to make sure our children are safe.

We are particularly sensitive to these issues, but our grief and shock must be coupled with action. Congress must respond with deeds, not just words. This is why I believe one of our first actions should be to pass something called the BLAST Act. The BLAST Act deals with ballistic fingerprinting. It was introduced by our colleague, Senator KOHL. It would keep a database that includes the fingerprint of every bullet and shell to enable law enforcement to solve crimes by providing a scientific link between gun crimes and their owners.

Ballistic evidence has already helped us determine that these shootings were linked to the same killer. We now need the kind of legislation that just as we take fingerprints of criminals, we need to have the same type of fingerprinting on guns.

I know this is controversial, but let's begin the debate. Let's move this legislation through the committee. I know there are issues related to technology, there are issues regarding those who want to tamper with a gun in some way, but this is the United States of America. We have the genius in regard to technology. Let's solve the problems by doing something to make ballistic fingerprinting available, reliable, and accurate. Let's not solve it by doing nothing and saying there are too many problems.

My constituents want action. They want us to not only find the criminal, but they want us to prevent these type of deeds from being done again. So this is why I support the BLAST Act. I am a proud cosponsor and hope to vote for it in the Senate.

Unfortunately, the sniper is not the only killer who attacked our region and the people living in it. One year ago today, a letter containing the deadly anthrax was opened in the Senate. Before that letter reached the Senate office building, it passed through the Brentwood postal facility, exposing workers to its deadly contents. On this anniversary, I want to express my deepest condolences to the families who suffered in these attacks, particularly the families of two postal workers who died from anthrax exposure, my two constituents, Joe Curseen, Jr., and Thomas Morris, Jr. Both of these men lived in Maryland. They were public servants. They were patriots. They died in the service of their country.

I want them to know I will continue to stand sentry to make sure we will not forget them. America must not only remember the sacrifices they made and the pain felt by their families but the fact that every single postal worker continued to work, show up for duty, deliver the mail and was unflinching and unabashed in fulfilling their duty as postal workers.

I was proud to join with my colleagues in the House, Representatives WYNN and NORTON, in passing a bill to rename the Brentwood facility after Mr. Curseen and Mr. Morris, but I want to do more. The postal workers are scared. Little is known about the long-term effects of possible exposure to anthrax. Some are quite ill and continue to be ill. This is why I will be offering legislation calling on HHS to examine the effects of anthrax exposure on the long-term health of our postal workers.

I also want to thank every Senate employee who, though we have been faced with anthrax, continue to keep the doors of the Senate floor open. Thanks to our personal staff, our professional staff, to the pages, to the elevator operators, everybody, we survived that attack, and we survived it because we stuck together. God bless them, and God bless America.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. REID. Mr. President, what is the regular order?

## COMMITTEE ON APPROPRIATIONS REPORTING THIRTEEN APPROPRIATIONS BILLS BY JULY 31, 2002

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. Res. 304, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 304) encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I am pleased the Senate has begun debate on the extension of several critically important budget enforcement tools. I want to thank the majority leader, Senator DASCHLE, for bringing up this important matter and for finding the time for this Senate debate.

I know that floor time is scarce and there are many other important priorities for this Senate, but I believe this amendment, authored by myself, Senator DOMENICI, Senator GREGG, and Senator FEINGOLD, is one of the most important measures the Senate will vote upon this year.

As I have indicated, I am especially pleased to be joined in this amendment by the distinguished ranking member of the Budget Committee, Senator DOMENICI.

The amendment that we offer today represents a major step in preserving fiscal discipline in the Senate. The bipartisan amendment includes a 1-year extension requiring 60 votes in the Senate to waive certain Budget Act points of order. The extension would continue the 60-vote waiver of these points of order against legislation that would, among other things, decrease the Social Security surplus, increase spending, or cut taxes beyond levels specified in the most recent budget resolution.

A 1-year extension of the Senate pay-as-you-go rule that has been in effect since 1993 is also included. This Senate rule requires 60 votes to waive a point of order raised against direct spending or tax cut legislation that would increase the deficit, further tapping into the Social Security surplus. In addition, the resolution extends the pay-as-you-go rule to mandatory spending items added to appropriations bills.

If you pierce the veil, because that is a lot of technical language that is important, the fundamentals of this amendment are very simple. This is a question of whether or not we are going to have the budget disciplines we have had in place for most of the last decade that proved to be so important to having fiscal discipline in the Congress.

This amendment will help protect Social Security. As previously mentioned, it extends the Senate pay-go rule which helps to prevent use of the Social Security surplus for tax cuts or mandatory spending. It will extend the requirement for 60 votes to waive a point of order against a reconciliation bill that would make changes in Social Security. It will extend the requirement for 60 votes to waive a point of order against a budget resolution that would reduce the Social Security surplus, and it will extend the requirement for 60 votes to waive a point of order against legislation that would reduce the Social Security surplus.

This amendment does not accomplish everything I would like to accomplish. Back in June, Senators DOMENICI and FEINGOLD and I offered an amendment to the Defense authorization bill that would have included all of the elements of this amendment but also would have gone further.

At that time, we recommended to our colleagues to set a limit of $768 billion on discretionary spending for fiscal year 2003 and a required 60 votes to waive a point of order against legislation that would exceed that limit. We offered an extension of the statutory rules that would enforce that discretionary limit through sequestration. We also would have extended the statutory pay-as-you-go rules that require that increases in mandatory spending or tax cuts be paid for and that enforce requirement for sequestration.

Although we had bipartisan support for that amendment, we fell one vote short of the supermajority that was required. The President will recall on that day we had 59 votes to extend the enforcement procedures on the budget, 59 votes for a spending cap. But 59 votes was not enough. The rules require that we have the supermajority of 60 votes; we fell 1 vote short.

Senator DOMENICI, the ranking member of the Budget Committee, stood with us in that effort. Senator STEVENS, the ranking member of the Appropriations Committee, stood with us on that vote. Senator MCCAIN, a prominent Republican Presidential candidate, stood with us on that vote. Again, we did not achieve the 60 votes necessary to have that measure passed.

I would still like to put in place a limit on discretionary spending and extend the more comprehensive package of enforcement tools on which we voted that day. Getting agreement between the House, Senate, and the White House on a discretionary spending limit is not possible right now. For now, we have to take this different approach, even though it is more limited. Because of the importance of extending Senate rules enforcing limits on mandatory spending and tax cuts, Senator DOMENICI and I agreed to proceed with this simple Senate resolution.

Let me be clear; this is not a budget resolution. There has been some discussion, and I know Senator DOMENICI expressed concern to me. He is right; this is not a budget resolution. This is a measure that extends budget enforcement procedures in the Senate. It extends the expiring requirements for 60 votes in the Senate to waive the point of order relating to mandatory spending and tax cuts. It is, unfortunately, silent on the level of discretionary spending for fiscal year 2003.

Again, while this is not everything I want or everything that needs to be done to ensure fiscal discipline, I am convinced this is all that is possible today. It represents a very important step forward in the fight for fiscal discipline. I urge my colleagues to support this amendment. Let us demonstrate to the American people that the Senate has not abandoned budget discipline.

AMENDMENT NO. 4886

I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. CONRAD), for himself, Mr. DOMENICI, Mr. FEINGOLD, and Mr. GREGG, proposes an amendment numbered 4886.

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

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

The amendment is as follows:

Strike all after the Resolved Clause and insert the following: That the Senate encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002. :

**SEC. ___. BUDGET ENFORCEMENT.**

(a) EXTENSION OF SUPERMAJORITY ENFORCEMENT.—

(1) IN GENERAL.—Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through September 30, 2003.

(2) EXCEPTION.—Paragraph (1) shall not apply to the enforcement of section 302(f)(2)(B) of the Congressional Budget Act of 1974.

(b) PAY-AS-YOU-GO RULE IN THE SENATE.—

(1) IN GENERAL.—For purposes of Senate enforcement, section 207 of H. Con. Res. 68 (106th Congress, 1st Session) shall be construed as follows:

(A) In subsection (b)(6), by inserting after ''paragraph (5)(A)'' the following: '', except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available''.

(B) In subsection (g), by striking ''2002'' and inserting ''2003''.

(2) SCORECARD.—For purposes of enforcing section 207 of House Concurrent Resolution 68 (106th Congress), upon the adoption of this section the Chairman of the Committee on the Budget of the Senate shall adjust balances of direct spending and receipts for all fiscal years to zero.

(3) APPLICATION TO APPROPRIATIONS.—For the purposes of enforcing this resolution, notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, during the consideration of any appropriations Act, provisions of an amendment (other than an amendment reported by the Committee on Appropriations including routine and ongoing direct spending or receipts), a motion, or a conference report thereon (only to the extent that such provision was not committed to conference), that would have been estimated as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 207 of H. Con. Res. 68 (106th Congress, 1st Session) as amended by this resolution.

Mr. CONRAD. At this point, I thank my very able colleague, the ranking member of the Budget Committee, who has provided leadership to this body on these issues for a very long time and is keenly committed to the budget process, and who is deeply committed, as well, to fiscal discipline.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it is very late to be talking about this, but better late than never. So we will get something, rather than nothing.

Perhaps people are wondering what we are doing. If you think back the last 8 or 9 months, a vote will occur in the Senate, only in the Senate; a vote is going to occur, and someone stands up and makes a point of order to honor the Budget Act.

When you first do one of these, it is something big. I remember making one and you wonder what is going to happen. The staff told you how to do each little thing, and when it came time to vote, you wondered if you really did it. But it is a very heavily used situation in the Senate.

Members call up an amendment. It costs a lot of money either in program authority or outlays. The money is not found in the budget resolution that should have already been passed. Members get up and say: I am asking that that amendment be deemed invalid because it violates the Budget Act. Another Senator says: I move we waive this budget point of order under the Budget Act. Then Members state which part or provision to be waived.

What happens in that situation, from that point forward? If you call up that amendment, you need 60 votes. Many Americans, especially academicians, are wondering what happened to the Senate: Have we stopped being a body where the majority prevailed? Don't we have majority rules anymore?

The Budget Act provides an opportunity within its language—and it is only a 25-year-old statute—that if you violate the Budget Act by introducing and calling up an amendment or a bill, you can ask that it be deemed null and void, and the other side says: I want to try a waiver.

How effective has this been? We put this together with the first President Bush a number of years ago. We did not know it would be so effective. Let's see how effective it has been.

Fifteen Budget Act points of order that would have reverted now to simple majority votes, in a budget point of order, have been raised 65 times. Republicans raised 47, Democrats raised 18. Only eight times did these points of order get waived by having 60 votes or more.

When this rule for 60 votes first came about, we were talking about a constitutional amendment to balance the budget. Someone said: How in the world are you going to enforce it? So if you read the constitutional amendments—and the American people thought they absolutely prevailed—it said the only way you could violate that was by 60 votes in the Senate. That was borrowed, not knowing how well either of them would work, the one that didn't happen or this one, but here it worked.

What happened? To those who are listening to this strange talk, that side of the aisle, the Democrats in the Senate, had a responsibility many months ago to pass a budget resolution. We have passed a budget resolution every year, sooner or later, since we have had a Budget Act. You come down to the floor and you give to the Senate an opportunity to vote on the big issues that will be part of a budget, saying how much will be spent and included within it or the entitlement programs, and obviously if there are big increases, you show them. Then you adopt that budget resolution.

That is the instrument around here for fiscal responsibility. Some people do not think it is strong enough; others think it is too complicated; others think it is too porous. But nobody denies if you do not have it around, the void will be worse than having it.

So months went by, and we did not get a budget resolution because the Democratic side, under their leadership, did not produce one we could pass, Then we started to talk, the chairman and I, about maybe we ought to save a piece of this. This is the piece we decided to try to save.

I hope all the Senators understand that, of the issues to be voted on, the most significant opportunity to save taxpayers' money for the next year is this little resolution.

Let me repeat that. If anybody wants to go home and say, ''I really watched out for your taxes, but I voted against this particular resolution,'' you can count on this Senator—and I am sure the Chairman will stand up and say count on him—to say you voted ''no'' on the most important opportunity to save expenditures of this whole year.

Somebody will come up with an entitlement program we have all been waiting for and we do not have it because it is too expensive, and we will be stirring around saying, What do we do? We are going to lose this one.

We would not lose this one, if this was the law because we would start telling everybody it violates the budget. Then pretty soon when we finish debate, that 60 votes would come into effect. It will not be in order unless this little resolution is adopted by the Senate.

It is very short. It is only in the Senate. You don't have to take it to the House because the budget resolution is a resolution, and this part of the budget does not apply in the House. So we have to do it. We are doing it. Frankly, I hope whatever the arguments are made, we can straighten them out and vote for it.

I told Senators what it said about entitlement spending programs. It also says if this is part of the way you do business, you have this resolution adopted and you want to cut taxes, if, in fact, your budget is not balanced, you have to put into your budget resources to make up what you are taking out by taxes.

Some will not like that. But we get both together because if you want one, you have to take the other. That is the way we have done the law. That is how we have lived under it.

My friend Senator GRAMM, who had been an ardent apostle of this 60-vote margin and this approach, has his own version as to why he would like it not to happen for a while. He will offer his own amendment and we will debate again.

I hope he will not win unless, after we discuss it with him, it essentially is about the same resolution we talked about here, and it will take up expenditures and not taxes.

I understand he has a very legitimate concern. But I tell you, so do I. I have a big concern. We had 4 years of balanced budgets and that was great. The American people liked that, and the markets in America liked that, and the foreign investors liked that, and we had very low interest rates, which were very good for Americans. I do not intend to carry on a debate, unless somebody cares to, as to who caused it. Many factors caused it. But we are now back into an unbalanced situation.

If we had had these provisions in when we had a surplus and we would not vote for new expenditures, or to cut taxes unless we had paid for them, or unless they were in the budget resolution, then why wouldn't we have it now when we have this huge deficit? Unless we are providing for something absolutely important—such as war or the continuation of a recession that lasted a long time—in those cases, obviously the Senate would say the 60 votes are not so hard to make; let's vote and get it done so we can spend the extra money.

We know of no better way to maintain our system—which should have been 51 votes, majority vote—no way of putting it in a mode where it can take care of excessive spending by corralling excessive spending and the extra tax cuts with a resolution that says we choose, ourselves, to restrain spending by enacting a law, in effect, that restrains us. It puts a little collar around us and tightens us.

I have some additional remarks that go into a little more history, but I have a hunch we will talk more at some point. When I first started talking about this, I went to talk to Senators on that side of the aisle. I note the presence of one of the Senators, who asked me then: If you do this, please put me on. We did add the Senator as we said we would. I assume the Senator still agrees we ought to have the 60-vote majority requirement?

Mr. REID. If the Senator will yield, I know the Senator from Wisconsin has wanted to speak for some time.

I speak for the entire Senate when I say how much I appreciate the leadership of Senators Conrad and Domenici. I think, as Senator DOMENICI has said, we could have a long, drawn-out debate on why we are in this economic situation. The two managers of this bill have decided to go the path less traveled in recent months and talk about what is really the best thing for the country. There is no question the best thing for the country is to have fiscal constraints that are not mandatory unless we pass this legislation. I hope we can quickly resolve this issue. It is so important for us and the future of this country.

Again, I compliment and applaud the two managers of this bill for working together in a bipartisan fashion to allow us to get to the end of the road, where we need to get on this issue.

Mr. DOMENICI. Mr. President, I want to ask the Senator from Wisconsin if he is going to join us.

Mr. FEINGOLD. I support it.

Mr. DOMENICI. I am going to stop in a minute and let him speak. But I believe we need 60 votes at some point on this resolution. I hope Senators will understand we have drawn it in the fairest way possible. If somebody thinks we should only apply it to the entitlements, then I am afraid half the Senate will vote against it because they would say: ''It started with both; it is only for 1 year; let's see how it works.''

Even in better times, I think we ought to have it on the books rather than have nothing.

I will be back to talk to Senators again about it, once Senator GRAMM has come to the floor. Maybe he can find some amendments that will make his concerns disappear, in which event this Senator will be helping him.

Parliamentary inquiry: Is there any parliamentary order with reference to when we might vote on this?

The PRESIDING OFFICER. Not at this time.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. DOMENICI. I ask the Senator to yield for 30 seconds.

Mr. FEINGOLD. I yield to the Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that Senator JUDD GREGG be shown as an original cosponsor.

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

Mr. FEINGOLD. I ask the Chair to confirm that I am an original cosponsor of this as well.

The PRESIDING OFFICER. The Senator is correct.

Mr. FEINGOLD. Mr. President, I rise to join the Chairman of the Budget Committee, Chairman CONRAD, the Ranking Republican Member, Senator DOMENICI, and the Senator from New Hampshire, Senator GREGG, in offering this amendment to extend the budget process.

Exercising the power of the purse is among Congress's most important responsibilities. Justifiably, there has been much concern in the Nation about how Congress has exercised and will exercise its responsibilities under the Constitution's war powers, and certainly that is a grave and consequential responsibility. But we should recall that the way that the Congress ended the Vietnam war was through the exercise of the power of the purse, by constraining spending. The power of the purse is a momentous power.

Article I, section 9, of the Constitution reserves the power of the purse with Congress through the admonition that:

[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . . .

Interpreting that power, our Founder James Madison wrote in the ''Federalist Papers'':

They, in a word, hold the purse that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

That is what James Madison wrote in Federalist No. 58.

Congress exercises that power of the purse through its rules and through the Congressional Budget Act of 1974. The strength of Congress's power of the purse depends on the orderly rules that the Congressional budget process provides.

Regrettably, those rules and that Congressional budget process largely expired at the beginning of this month. That is why it is so important that the Senate adopt this amendment to extend the budget process.

Our responsibilities under the Constitution would be enough of a reason to extend these rules. But added to that, and making the need for budget rules even more pressing, is the dire turn of affairs that our government's finances have taken in this last year-and-a-half.

In January of last year, the Congressional Budget Office projected that, in the fiscal year just ended, fiscal year 2002, the Government would run a unified budget surplus of $313 billion. In its latest projections, however, CBO now estimates that we will have run a unified budget deficit of $157 billion. That is a dramatic swing of $470 billion—the disappearance of nearly half a trillion dollars—for that 1 year alone.

If, as the law requires, we do not count Social Security surpluses toward that total, then the picture is even more alarming. In January of last year, CBO projected that for fiscal year 2002, the government would run a surplus of $142 billion, without using Social Security surpluses. Now, CBO projects a deficit of $314 billion, not counting Social Security. If that projection holds, it will have been the third-largest on-budget deficit in our Nation's history, rivaling those of the bad old days of 1991 and 1992, when the

United States logged its record highest on-budget deficits. Instead of using those Social Security surpluses to prepare for the coming needs of that vital program, the Government has instead been using them to fund other Government programs.

And the baseline projections for the fiscal year just begun bring no respite. For the year that started at the beginning of this month, fiscal year 2003, CBO projects baseline deficits similar to those for the year just ended. For 2003, CBO projects a unified budget deficit of $145 billion, and a deficit of $315 billion, not counting Social Security.

And that is before taking into account the costs of a possible war with Iraq. The Wall Street Journal recently reported that American taxpayers may have to come up with between $100 billion and $200 billion more to wage a war in Iraq, according to President Bush's chief economic adviser. He said that we could have to add $100 to $200 billion to the non-Social Security deficit that CBO says will already be $315 billion this year. If those predictions prove true, yielding on-budget deficits of $415 to $515 billion, then the government would be running the largest on-budget deficits in our nation's history, by far.

Looking into the years to come, one can see little if any relief from the damaging fiscal outlook. CBO projects that under current policies, unified budget deficits will continue until 2006. And without counting Social Security, CBO projects that deficits will continue until 2011, when the sunset of the tax cut brings us back to on-budget surplus again, just barely. And it is among the most fervently-held articles of faith among many on the other side of the aisle that those tax cuts shall not be allowed to sunset.

Over the next 10 years, CBO projects a deficit of more than $1.5 trillion, without counting Social Security. And that is before taking into account a war with Iraq, before taking into account a prescription drug benefit that most Senators agree is needed to bring Medicare up to date, and before taking into account any of the many additional tax cuts that the President and many in the Senate would still like to enact.

It is sad to say that there is no way to look at these numbers without coming to this conclusion.

The government is in dire fiscal circumstances. I am concerned that many elected officials have not yet come to realize how grave those circumstances are.

We must not forget why sound fiscal policy is important. We must stop running deficits because they cause the government to use the surpluses of the Social Security Trust Fund for other government purposes, rather than to pay down the debt and help our nation prepare for the coming retirement of the Baby Boom generation.

We must stop running deficits because every dollar that we add to the Federal debt is another dollar that we are forcing our children to pay back in higher taxes or fewer government benefits in the future. When we in this generation choose to spend on current consumption and to accumulate debt for our children's generation to pay, we do nothing less than rob our children of their own choices which they deserve the opportunity make. We make our choices to spend on our wants, but we saddle them with debts that they must pay from their tax dollars and the sweat of their brow. That is not right.

That is why Senator GREGG and I offered an amendment in the Budget Committee markup of the budget resolution to extend budget rules and set appropriations caps for 5 years.

That is why Senator GREGG and I offered an amendment on the Senate floor on June 5 to extend the budget rules and set appropriations caps for 5 years.

That is why I joined with our distinguished and very able chairman, Chairman CONRAD, on June 20 in yet another attempt to extend the budget rules and set appropriations caps for 2 years. Fifty-nine Senators voted for extending the budget process on that day, just one short of the number we need to adopt such a measure.

That is why I am joining with my Colleagues the Chairman and Ranking Republican Member of the Budget Committee and Senator GREGG to offer this amendment to extend the budget process today.

Yes, I would prefer to strengthen the budget process. I would prefer to do more.

But this is the bare minimum that we should do. The Conrad-Domenici-Feingold-Gregg amendment would provide some minimal restraint on entitlement spending and tax cuts. And we can do no less.

The Senate must preserve its vital role in exercising the power of the purse that the Constitution vests in Congress.

We must stop using Social Security surpluses to fund other government programs. We must stop piling up debt for our children to pay off. We must adopt this amendment and extend the budget process.

I again want to thank the chairman for his leadership and the opportunity to work with him on this issue. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Wisconsin, Mr. FEINGOLD, for his strong support of this amendment. I also want to thank him for his contribution on the Budget Committee. He has been a disciplined voice for fiscal responsibility. He has been a leader in trying to bring to the attention of our colleagues how dramatically the budget circumstance of the Federal Government has changed. I thank Senator FEINGOLD for reminding our colleagues of where we were a year ago, where we are now, and where we are headed.

It is critically important that our colleagues, the others on the other side of the Capitol in the other body, and the American people understand how dramatically our fiscal circumstances have changed.

A year ago, we were told we could expect over the next 10 years nearly $6 trillion in surpluses. Now we know with the latest look from the Congressional Budget Office that the money is all gone. If we were just to put in place the President's proposals for spending and revenue over the next decade, there wouldn't be $6 trillion of surpluses. There wouldn't be $4 trillion of surpluses. There wouldn't be $2 trillion. There would be $400 billion of deficits. That is from $5.6 trillion, which we were told a year ago we would have in the surpluses over the next decade, to $400 billion of deficits. That is a $6 trillion swing in 1 year.

Now the question before this body is we are going to leave this place without the fiscal discipline that helped us get deficits under control once before in our history—after the 1980s when deficits were exploding, and we put in place a framework to get us back on track, a framework that worked, a framework that moved us from deficits to surpluses, that led to the longest economic expansion in our history, that led to the lowest inflation in 30 years, and the lowest unemployment in 30 years. Are we going to abandon all of that now?

That is the question before this body. Are we going to have the fiscal discipline that will be critically important to economic recovery? That is the question.

That is what this amendment is about. That is why it is important. That is why I thank Senator GREGG, Senator FEINGOLD, and Senator DOMENICI for cosponsoring this amendment. That is why I ask my colleagues to adopt it.

This is important. It is important not just for the notion of fiscal discipline, but it is important for the economy. When the markets see that we are serious about living within our means, we know that means good things for interest rates, and we know that means good things for the economic strength of America.

That is what this amendment is about. I know there are some who have a different view. I can't think of any good thing that will come from doing away with the budget disciplines that have worked so effectively in this Chamber.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Nevada.

Mr. REID. Mr. President, I hope those who wish to speak on the matter now before the Senate will do so. It is 4 o'clock. We understand there are a number from each side who wish to speak. We hope that will occur.

Others wish to speak on other issues. If they feel so inclined, I hope they will come and speak now. We would like to have as little down time as possible before we go out this evening. If there are no amendments or further debate, of course, we can move to third reading. I am told there may be some amendments, but I don't think either leader wants us to wait around here doing nothing on this resolution.

If there are going to be amendments, I hope Members will come and offer them. If not, as I indicated, we can move to third reading at any time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, what is pending business?

The PRESIDING OFFICER. Amendment No. 4886 to S. Res. 304 is the pending business.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business.

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

## UNANIMOUS CONSENT REQUEST—S. 3018

Mr. BAUCUS. Mr. President, on October 1, Senator GRASSLEY and I introduced a bipartisan Medicare package, the Beneficiary Access to Care and Medicare Equity Act. Our bill would address a number of Medicare payment changes—primarily reductions—that went into effect at the start of the fiscal year. At the beginning of the fiscal year, Medicare payment reductions automatically went into effect in many areas. What were they? Cuts to home health services. Cuts to nursing homes. Cuts to hospitals. One of the most damaging cuts of all, for Medicare physician payments, is scheduled to take place beginning January 1, 2003. This is the second year in a row such physician payment cuts would occur. Mr. President, these cuts threaten access to care for tens of millions of seniors across America.

Sadly, since this bill was introduced, the Administration has indicated that preventing these cuts from going into effect is simply not a priority.

Tom Scully, the administrator of the Center for Medicare and Medicaid Services made this clear last Tuesday. He said:

> It would be fine with the Bush administration if Congress does not pass Medicare provider payment legislation this year.
>
> If I had to guess right now—I guess there won't be any give-back bill.

The White House Office of Management and Budget Director, Mitch Daniels, also said he thinks ''the Federal Government cannot afford to pass a Medicare provider give-back bill.''

Mr. President, the Administration says it cannot afford, after all the billions that have been spent elsewhere, to restore some of the cuts that have already gone into effect.

The chairman of the House Ways and Means Committee has been equally unenthusiastic about addressing these cuts.

The Administration and the chairman of the House Ways and Means Committee may believe this legislation is not a priority. I respectfully disagree. This bill is a priority. It is a priority for every senior who receives home health care. It is a priority for every senior who receives nursing home care. It is a priority for all Americans of all ages who depend on our teaching hospitals. And it is a priority to anyone who cares about ensuring our seniors receive access to physician services.

Again, a large cut goes into effect for physician services after January 1. Last January, physicians saw their payments cut by 5.4 percent. Already some doctors are talking about leaving Medicare. Why? Because they are concerned that Medicare payments may not be enough to allow them to pay for the costs of caring for seniors.

If this legislation I have introduced with Senator GRASSLEY does not pass, physician payments will be cut again by over 4 percent. This must be changed.

Our bill also is a priority for our children. Under current law, funds for the Children's Health Insurance Program that have not yet been spent are scheduled to be returned to the Federal Treasury. I think this money should remain where it belongs—with the States, helping children. It is helping children who need health insurance benefits. We have about 9,500 Montana kids, and many more children in many other States, who are currently receiving coverage through CHIP. If our bill does not pass, America's kids stand to lose as much as $2.8 billion.

This bill is also a priority for States. We have all heard about the budget problems threatening States in every corner of our Nation, about the possibility of deep cuts to important programs and services, such as Medicaid. Our bill will send an extra $5 billion in fiscal relief to the States to forestall these cuts.

This bill is a priority for rural America. From Montana to Maine, the Medicare payment system continues to discriminate against rural patients and rural providers. Our bill takes strong steps to address these regional inequities.

This bill is a priority. I cannot imagine the administration saying this is not a priority, given all the other areas where we spend dollars. Defense, homeland security, and other issues are vitally important. But our Nation's health is also important, and we should invest in it accordingly.

I cannot believe this administration is saying it is not a priority to prevent these cuts from taking effect. I cannot believe that. Nevertheless, that is what they say. This legislation tries to address that situation so those cuts do not go into effect.

I said this bill is a priority. It is a priority for our seniors. It is a priority for our children. It is a priority for our State governments and rural areas in our country, for anyone who cares about preserving access to quality care in America.

I might add, this is a bipartisan bill. Senator GRASSLEY and I have worked very hard on this legislation. Senator GRASSLEY is the ranking member of the Finance Committee. We worked together at every point to craft this bill. We sought input from our colleagues on both sides of the aisle. We met with our respective caucuses. We worked closely with members of the Finance Committee.

When the Senator from Oklahoma objected to my unanimous consent request almost two weeks ago, he suggested this bill appeared out of nowhere on the Senate floor. That could not be further from the truth.

The Senator also objected to this bill because we lack official CBO scoring. That issue has been cleared, as we received an official estimate of the bill on Friday. CBO estimates this bill would cost about $43.8 billion over 10 years. We guessed it would cost about $43 billion. CBO said our guess is pretty close; it is $43.8 billion.

I believe that is the minimum investment we should make to address the priorities I mentioned. So today as the Medicare payment cuts go into their 16th day, and as many more cuts loom on the horizon in January, I will again ask unanimous consent to pass S. 3018.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3018, a bill to amend title 18 of the Social Security Act; that the bill 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. Is there objection? The Senator from Oklahoma.

Mr. NICKLES. Mr. President, reserving the right to object, unfortunately this bill did not go through committee. I ask the Senator if he would modify his request to refer the bill to the Finance Committee to be reported out within 48 hours. Will he be willing to modify his request?

Mr. BAUCUS. I am sorry, I was distracted.

Mr. NICKLES. Correct me if I am wrong, but the Senator is trying to pass his bill which never had a markup in the Finance Committee. I happen to be a member of the Finance Committee. I would like to offer an amendment. I know Senator SNOWE has an amendment she would like to offer. Senator SESSIONS has an amendment he would like to offer, or myself or someone else on the committee to offer on his behalf.

We would like other Members to have a chance to amend the bill. So will the Senator be willing to modify his request to request this bill be referred to the Finance Committee for 48 hours for a markup so all members on the Finance Committee would have a chance to have input on this particular bill?

Mr. BAUCUS. Mr. President, in responding to my good friend from Oklahoma, I have a couple points. First, as my good friend well knows, since he is a member of the committee, this issue, the Medicare provider bill, has been discussed for many weeks. It was in the Finance Committee informally, with several discussions and meetings.

In order to prevent the harm that these Medicare cuts represent, I believe, and I think Senator GRASSLEY believes—we should check with him and make doubly certain—that we should pass this bill now. It makes more sense to pass this consensus bill than to go back and try to make it perfect in the view of some other Senators.

Second, there are very few days remaining in the session. There are very few days remaining before the election occurs. What does that mean? It means under the Senate rules, anybody who wants to frustrate the will of the majority, frustrate the will of 99 Senators, can essentially do so by objecting or by offering amendments.

The Senator knows this because we have had four separate votes on the issues he is indirectly referring to. Any attempt to refer legislation back to a committee for the purpose of offering amendments is really a veto tactic. It is an indirect way of accomplishing the same objective by objecting. As the Senator well knows, the amendments he is thinking of will not pass the Finance Committee, will not pass the floor, and will have the effect of preventing the Medicare provider bill from being enacted.

So in good faith, in order to help millions of Americans, particularly the millions of seniors who need help right away, I could not agree to that modification. If there are other amendments on other issues such as prescription drug benefits, which I know the Senator is indirectly referring to, let us try at a later date to get that passed. We have tried for months, almost a year, to get prescription drug benefits passed, but there has been no breakthrough, there has been no agreement.

But there has been agreement on this Medicare provider bill, basic agreement within the committee and basic agreement between myself, the chairman of the committee, and Senator GRASSLEY, the ranking member of the committee. Let's not let perfection be the enemy of the good.

Seniors need help. They need help right now. The cuts have already started to take effect. So let's pass this legislation, and then we can deal at a later date with the issues to which the Senator is referring. Let us get this bill passed so the seniors can get some help.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will repeat to my friend and colleague, the chairman of the Finance Committee, I will work with him to try to come up with a package that can pass this Congress this year. I want it to pass, and I want it to be signed into law. To come up with a package that the administration is opposed to means it will not become law.

Some of us want to alleviate some of the problems. This particular bill the Senator has asked to pass by unanimous consent, which means no Senator gets to offer any amendment, flies in the face of Senate tradition.

Senate tradition has always been—I did a little homework on Medicare. Twenty-two of twenty-three significant Medicare changes passed the Finance Committee in a bipartisan fashion and passed the Senate usually with overwhelming numbers—not all the time but usually with overwhelming numbers. So I was sincere in saying let us refer it back to committee, let us have some amendments, let us have some votes, and maybe we can come up with a bipartisan package that then will have momentum to pass on the floor.

I might remind my friend and colleague from Montana, my suggestion was that is the way we should do the prescription drug bill. We did not do that on prescription drugs, and we ended up with no bill. Seniors got zero, and I am afraid if we continue going down this path on the so-called Medicare adjustment give-back bill, they will end up getting zero. I would like for us to provide some assistance by passing something that could become law.

When I objected to this previously—I believe it was a week ago Friday, October 4—there was not a Congressional Budget Office scoring. The bill was just introduced, and I said: How much is it going to cost? To my colleague's credit, he said about forty-some-odd billion dollars, and it was forty-some-odd billions dollars. I said: How much will it cost the first 2 years? Because sometimes these 10-year estimates do not mean a lot but the first year or two does.

He said that over the first 2 years it would be $10 billion. We did get CBO's estimate, and the first year's cost, 2003, was $10.1 billion. The second year's cost, 2004, was $11.8 billion. So the total cost is almost $22 billion the first 2 years, so it is twice as much as it was estimated in the original 2 years. That is real money. Can we do this right?

We have a letter from AARP, and I ask unanimous consent that this letter be printed in the RECORD.

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

AARP,
*Washington, DC, October 9, 2002.*

Hon. CHARLES GRASSLEY,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR GRASSLEY: The legislative session is drawing to a close with no Medicare drug coverage in sight. Once again, after years of waiting and with drug costs soaring, beneficiaries and their families find that they get no help from Congress. What they face instead is yet another round of provider ''givebacks'' that will raise their Part B premiums.

The provider pay hikes enacted in the Balanced Budget Refinement Act of 1999 (BBRA) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) are already costing beneficiaries $14 billion over ten years in higher Part B premiums. The over $40 billion givebacks package being considered by the Senate will raise Part B premiums even higher—$6 billion in the first five years alone. Less than 10 percent of that package would directly benefit Medicare beneficiaries—the people the program is supposed to be serving.

These added costs to beneficiaries come in addition to double-digit hikes in prescription drug costs for older and disabled Americans, many of whom have little or no options for drug coverage. Employers continue to reduce or eliminate health care coverage. Medigap premiums continue to rise. And now, nine more Medicare+Choice plans are pulling out of Medicare.

AARP opposes giveback provisions without drug coverage in Medicare, and our 35 million members will not understand how the Senate can take this course of action. Our members want providers who treat Medicare patients to be paid fairly. Errors or miscalculations in Medicare payment formulas should be corrected. Fiscal relief to states to avoid drastic Medicaid cuts should be addressed. Those can be done for much less than $40 billion. And it must be done at a far smaller cost to the millions of Medicare beneficiaries still waiting for the Senate to fulfill its long overdue promise of affordable prescription drug coverage.

Sincerely,

WILLIAM D. NOVELLI.

Mr. NICKLES. AARP, which I do not always agree with, basically says—I will read this one sentence:

AARP opposes give-back provisions without drug coverage in Medicare, and our 35 million members will not understand how the Senate can take this course of action.

They have stated they are opposed to doing a give-back bill on a stand-alone basis.

The House passed a Medicare adjustment bill, or give-back bill, in addition to passing prescription drugs. I know the Senator from Maine has indicated an interest in trying to do that. Asking unanimous consent to pass it without amendment would deny the Senator from Maine the opportunity to offer an amendment either in committee or on the floor. It would deny the Senator from Alabama the chance to do more for a rural provider wage adjustment, which I know Senator SESSIONS has repeatedly said he wanted to address. He should at least have that opportunity, either in committee and/or on the floor. To do something strictly by unanimous consent denies them that opportunity.

I make those points, but I am still willing to work with our colleagues to see if we can do an affordable bill, one

that can pass both the House and the Senate and be signed by the President this year. Maybe that is this week, maybe it is next week, maybe it is the week after election, but I am willing to do that this year. I am willing to try to get all parties together so we can actually not make campaign statements but we can change the law and have that law changed by a signature of the President. I think that is doable, but we are going to have to get all parties together, and to my knowledge that has not happened at this point.

I yield the floor.

Mr. HATCH. Mr. President, today I rise to join my colleagues on the Senate Finance Committee in cosponsoring S. 3018, the Beneficiary Access to Care and Medicare Equity Act of 2002. Although this bill does not include all that I would have wanted, and indeed includes some provisions with which I disagree, on balance, I believe it is necessary to pass such a bill this year in order to provide needed assistance to both Medicare providers and beneficiaries.

I would like to take this opportunity to express my strong support for provisions contained in S. 3018 which increase reimbursement rates for physicians, skilled nursing facilities and home health agencies. Physicians' Medicare reimbursements were reduced by approximately 5 percent in 2002. Unfortunately, the estimates used by the Centers for Medicare and Medicaid Services, CMS, when calculating the physician payment formula were erroneous in some cases, and, regrettably, physicians will continue to be subjected to large cuts in future years if Congress does not take appropriate action. This is simply not fair to physicians or their patients.

Doctors in Utah have been calling me about this issue since late last year and have explained to me over and over again that these reductions will have a lasting, negative impact on patient care. Some Utah physicians have told me that they will no longer accept Medicare patients or, even worse, are thinking about dropping out of the Medicare program all together. And what impact does that have on patients, especially those in rural areas? In my opinion, there is no question it could lead to reductions in the number of Medicare providers in rural areas. And, for those who are left, it will be virtually impossible to spend quality time with patients.

Is this our goal? I do not think so. And I will be doing everything possible to increase reimbursement rates to physicians to help them continue to provide the high quality care that patients so deserve.

Another important component of S. 3018 is the valuable assistance this bill provides to rural states, such as my home state of Utah. S. 3018 incorporates many of the recommendations included in the Medicare Payment Advisory Commission's, MedPAC, 2001 report on rural health care. This report found that beneficiaries living in rural areas encounter more obstacles when receiving health care than those who live in urban areas, primarily due to cost barriers. In addition, the MedPAC report stated that rural hospitals have had lower Medicare inpatient margins than urban hospitals throughout the 1990s. This gap has widened from less than a percentage point in 1992 to 10 percentage points in 1999. These statistics not only apply to inpatient care, but also to most Medicare services in rural regions of our country. In the end, the report states the obvious, current Medicare payment policy places rural communities at a distinct disadvantage and changes are necessary. S. 3018 takes steps toward addressing these important concerns and attempts to provide equity between rural and urban Medicare providers and patients. In my book, this is sorely needed.

In addition, it is important to me that Medicare funding for Skilled Nursing Facilities, SNFs, is included in S. 3018. I have heard from facilities across my State about the dire financial situation many SNFs are facing due to reduced Medicare spending in fiscal year 2003. SNFs care for our nation's most vulnerable seniors and provide valuable medical assistance to these Medicare beneficiaries and their families. I have been working with both Finance Committee Chairman Senator MAX BAUCUS and Ranking Republican CHUCK GRASSLEY on this important matter. While I am pleased that the Senate Medicare provider give-back bill provides more money to SNFs than the House-passed bill, I believe that the funding level for SNFs should be even higher. I intend to continue to work with my House and Senate colleagues on improving the Medicare reimbursement rates for SNFs.

I also am pleased that S. 3018 includes provisions that will eliminate the 15 percent reduction in home health payments. There is no question in my mind that home health services are among the most valuable Medicare provides. Home health agencies are providing compassionate, caring services which, quite simply, help keep beneficiaries out of more costly institutional settings. Home health agencies across my State have urged me to support the elimination of this cut. They have shown me how these potential cuts could cause many home health providers in Utah to go out of business. Over my Senate career, I have been extremely supportive of home health services, and will continue my advocacy for this important program.

The preceding things having been said, one great concern that I have with S. 3018 is the impact that this legislation could have on small durable equipment manufacturers in Utah. The bill contains provisions on competitive bidding which my constituents believe could drive them out of business. On the one hand, I do recognize the need to ensure efficiency in spending for scarce Medicare dollars. On the other hand, though, I am deeply concerned about the effect this legislation could have on these companies. I am working with CMS officials and my Utah manufacturers to resolve concerns that have been raised about the competitive bidding program included in this bill and will do everything possible to protect small durable medical equipment companies in Utah and across the country.

Let me also mention the Medicaid program. There is no secret that the majority of States are running deficits in this program, expected to reach $58 billion during this fiscal year. Adding to the urgency is the fact that States have also used up two-thirds of their cash and their ''rainy day'' funds. According to a recent survey by the National Conference of State Legislatures, more than 40 States had instituted some kind of spending freeze or an across-the-board cut and 22 states have cut Medicaid funds.

Included in the Baucus-Grassley legislation is a provision that would direct some funds back to the States for their Medicaid programs. This legislation increases the Federal medical assistance percentage by 1.3 pecent for 12 months. Additionally, it directs $1 billion in state fiscal relief grants for Fiscal Year 2003.

In a perfect world, this is not the approach I would have preferred we take to address the issue of fiscal relief for States. I have doubts about the advisability of using an entitlement program to address a shortfall in State funds. The precedence for linking an entitlement program to the economy is unsound policy, in my opinion. If we had adopted that policy years ago and were consistent in following it in good times as well as bad, FMAP rates would have been lowered in the 1990s when States were experiencing surpluses, resulting in the current FMAP rates being much lower than they are now. I am also very concerned that this ''temporary fix'' will end up becoming permanent. Both the Federal Government and the States do not have the best record when it comes to cutting off a funding source we may have come to rely upon. However, I do recognize that States are being forced to cut back essential services to low and middle income individuals and families as a result of States' considerable budget deficits.

Additionally, this legislation includes a much-needed fix for the Children's Health Insurance Program, CHIP. Without this provision, some $2.8 billion of unspent CHIP funds are scheduled to revert back to the Treasury. It is critical that States are able to access these funds. Some States experienced significant challenges when implementing their CHIP programs. However, they are meeting that challenge and have ''ramped up'' considerably. They now are in a position to draw down these dollars. Given these uncertain economic times, we should not deprive states of funding to help finance the social safety net.

I also believe the provision prohibiting States from using their CHIP monies to cover childless adults is wise policy. While I am extremely sympathetic to the needs of the uninsured, it is important to note that Senator KENNEDY and I worked very hard to pass the CHIP program as a way of helping the 10 million uninsured children in the country. As the title reflects, the bill was solely directed at ''Children.'' Indeed, it was not the health insurance program, HIP, nor the Adult Health Insurance Program, AHIP, but the Children's Health Insurance Program, CHIP.

If we would like to help needy, uninsured adults, by all means, let's look at how we can accomplish that. In fact, Senator WYDEN and I have recently introduced a bill to jump-start that discussion. However, in the meantime, we should not distort the focus of a program that is working well to help its intended participants and lose the sense of mission that has made it so effective.

Finally, I have serious concerns about the provisions in S. 3018 on the Section 1115 waiver process for Medicaid and CHIP waivers. I will be submitting a separate statement for the record which will outline my thoughts on this issue in more detail.

In conclusion, I believe that passage of S. 3018, the Beneficiary Access to Care and Medicare Equity Act, is critical for both Medicare providers and beneficiaries. This legislation, while not perfect, will provide access to quality and affordable health care to Medicare beneficiaries across the country. I urge my colleagues to support this bill and, in my opinion, we must pass this legislation before we adjourn. Partisan politics needs to be put aside because this issue is much too important to both Medicare beneficiaries and providers. Medicare providers, and most importantly, the beneficiaries they serve, are depending on us to get this job done, once and for all. Let's not let them down.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the two most powerful words in the Senate are ''I object.'' The Senator from Oklahoma has demonstrated the power of that by just objecting to the request by the Senator from Montana to bring up the Medicare provider reimbursement legislation.

Some seem to believe there is no urgency about this issue. The Senator from Montana has described bipartisan legislation that I support very strongly and that I think it is urgent we pass. This is bipartisan legislation addressing an urgent, serious, and difficult problem. Let me describe it from the standpoints of two different types of health care providers.

First of all, with respect to nursing homes, on October 1, long-term care facilities experienced a cliff, or a sharp drop, in their Medicare reimbursement. As of October 1, skilled nursing homes face a 10-percent, or $1.7 billion, reduction in their payment rates for the current fiscal year, and a 19-percent cut in 2004 unless Congress acts to respond to it.

We can talk about numbers, this can all be about finances, but my colleagues know what it really is about. It is about the quality of care for people in our nursing homes. If the decision is made not to reverse these cuts for long-term care, the quality of care is going to be diminished for those folks who are in nursing homes.

I suppose one of the saddest days of my life was when I took my father to a nursing home some months after my mother had been killed. I will never forget the moment we decided he had to go to a nursing home and then when I took him there. He did not want to go. The time he spent in that nursing home meant I spent a lot of time there as well, and I came to understand what long-term care was all about and what the quality of care for our senior citizens was about. I have deep admiration for the people who ran that nursing home. I do not know what my father would have done without the care he received in that facility.

In my State, we rank right near the top in this country with respect to the number of nursing home beds per resident in the State are concerned. Yet, on October 1, at a time when nursing homes are already struggling and do not have the money they need, we find this cliff exists where they get a reduction in reimbursement—and a pretty substantial one at that.

Now we are nearing the last few days of this session and my colleague Mr. BAUCUS brings to the floor legislation that I think makes great sense. It is bipartisan. The chairman and the ranking member of the Finance Committee are sponsors of this legislation. They say we need to get this done, it is urgent, but we have people who stand up and say, I object.

There are a thousand reasons to object, but there is only one good reason to do what we need to do here to protect the quality of care for vulnerable seniors in nursing homes, and that is because it is our responsibility.

I have talked about nursing homes and how important they are. The same is true with hospitals. For hospitals in my State, and I suspect the States of Montana, Iowa, and many other States, the level of Medicare reimbursement is going to determine whether we have hospitals that are available to people who need acute care, who need emergency care, in the future.

Now, we have the opportunity to do something to provide decent payment to these hospitals.

Under the 1997 Balanced Budget Act, everyone in this Chamber understands we cut too deeply. We understand that. The fact is, we have hospitals and nursing homes on the brink of going out of business or cutting back services. Rural hospitals, just about all of the hospitals in my State, are disadvantaged by lower reimbursement rates. In my State, and many others, rural and small urban hospitals receive a standard payment that is woefully inadequate. We have to fix that. When you take a look at the standardized payment for hospital payments, you realize the standardized payment is not standard at all. This legislation fixes that concern.

I know it is the eleventh hour. The fact is that Senator BAUCUS and Senator GRASSLEY have offered a piece of legislation that everyone in this Chamber knows must be done. Yet we have people walking around as if to say this is not an urgent problem. Check yourself into a nursing home and tell me it is not an urgent problem. Check into a rural hospital and check the financial records as you walk through the front door and tell me it is not an urgent problem.

We spend a lot of time in the Senate during the year on things not so serious. But there is a serious problem with Medicare reimbursement. We often treat the light too seriously and the serious too lightly. This is serious. We have a responsibility now to deal with this issue.

I hope the Senator from Montana will come to the floor every single day we are in session and make the same unanimous consent request until at some point we will not see people standing up to object. I hope he will come tomorrow and I hope next week. At some point we will see this Senate and the other body on the other side of this Capitol say: Yes, let's do this. We have a responsibility to get this done for nursing homes, for hospitals, and for other providers.

I did not mention physician reimbursement. I will mention that when I talk tomorrow about this subject.

I appreciate the leadership of the Senator from Montana and the leadership of Senator GRASSLEY. This legislation is the right thing for right now. Not next year, not the year after, but right now. It will have an impact on the quality of care for the American people in hospitals and nursing homes across this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mrs. SNOWE. Mr. President, I am deeply disheartened by what I am hearing today, the refusal to refer the Medicare provider give-back legislation to the Finance Committee for the deliberation and the consideration it deserves. Time and again this Senate has circumvented the traditional and conventional procedures to undermine the possibility of enacting a prescription drug benefit for our Nation's seniors.

It is clear to me if my colleague from the other side of the aisle wish to achieve and accomplish a victory for our Nation's seniors, they will work with me and others—the Senator from Oklahoma, those of us who worked on this legislation in the committee—who crafted a tripartisan package to provide comprehensive prescription drug

coverage for our Nation's seniors. The Senator from Vermont, Senator JEFFORDS, Senator BREAUX from Louisiana, Senator GRASSLEY from Iowa, the ranking member of the committee, worked together. We could make it possible.

I am deeply disappointed by what I am hearing today. Again, it gets back to the all-or-nothing proposition. Some have said, we have already had votes on this issue. What does that have to do with our Nation's seniors who are denied the possibility of having a prescription drug benefit included in their Medicare package? That is who we should be talking about today. It is not an all-or-nothing proposition. We can do both. It is possible to do the Medicare provider give-back package the Senator from Montana is referring to.

It is also possible to do a prescription drug benefit for our Nation's seniors and include it in one package. There is no reason we have to be in any other situation than including and considering these issues in tandem. That is the desire of the Senator from Oklahoma, Senator NICKLES. That is my desire. That is the desire of our Nation's seniors. In fact, it is the desire of the largest organization that represent our Nation's seniors, AARP.

I know the letter has already been printed in the RECORD, but I will read it. It is important to read.

> The legislative session is drawing to a close with no Medicare drug coverage in sight. Once again, after years of waiting and with drug costs soaring, beneficiaries and their families find that they get no help from Congress. What they face instead is yet another round of provider ''givebacks'' that will raise their Part B premiums.
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> The provider pay hikes enacted in the Balanced Budget Refinement Act of 1999 (BBRA) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) are already costing beneficiaries $14 billion over ten years in higher Part B premiums. The over $40 billion givebacks package being considered by the Senate will raise Part B premiums even higher—$6 billion in the first five years alone. Less than 10 percent of that package would directly benefit Medicare beneficiaries—the people the program is supposed to be serving.
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> These added costs to beneficiaries come in addition to double-digit hikes in prescription drug costs for older and disabled Americans, many of whom have little or no options for drug coverage. Employers continue to reduce or eliminate health care coverage. Medigap premiums continue to rise. And now, nine more Medicare+Choice plans are pulling out of Medicare.
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> AARP opposes giveback provisions without drug coverage in Medicare, and our 35 million members will not understand how the Senate can take this course of action. Our members want providers who treat Medicare patients to be paid fairly. Errors of miscalculations in Medicare payment formulas should be corrected. Fiscal relief to states to avoid drastic Medicaid cuts should be addressed. Those can be done for much less than $40 billion.

The fact is AARP, our Nation's largest organization that represents the seniors' interest, is opposed to passing a give-back program without including a prescription drug benefit for our Nation's seniors.

Mr. President, we have the opportunity. Yes, we have the time. Over the last month, there have been a number of hearings and markups that have been scheduled in the Finance Committee. They have then been canceled on a variety of pieces of legislation, including the Medicare give-back. I and others in the committee, and Senator BREAUX, were planning to offer an amendment to the Medicare provider give-back more than a month ago again when that legislation was scheduled for markup in the Finance Committee which is appropriate because that is the committee of jurisdiction. We intended to offer an amendment to that legislation. Then the markup was canceled. There were a variety of other markups that were scheduled in the Finance Committee over this last month on various issues.

Again, we were saying if we can have time to consider these other important pieces of legislation, clearly we should have the opportunity and we have the time to consider a prescription drug package.

Now, you might say, we had votes in July on this issue in the Senate. That is true. Did the Finance Committee have a markup on the prescription drug bill? The answer is an unequivocal no. I can't state why. The Finance Committee, the committee of jurisdiction, did not have a markup on a bill I think virtually everybody in this Chamber would agree is one of our Nation's top domestic priorities. Everyone would agree with that. So you might ask, why didn't the committee have a markup, going through the conventional procedures, so that both sides have the chance to deliberate, to amend, debate, and vote upon a package? It is a very good question, a question to which I do not have an answer. Yet I have never had an answer. This is close to a $400 billion package that would provide prescription drug coverage to our Nation's seniors. Yet we did not have a markup. That clearly undermined our ability to achieve a consensus on this legislation.

You could take the tax-cut legislation in the year 2001. No one knew what the end result of that bill would be when it came before the Finance Committee. We had the ability over several days to amend it, debate it, and vote upon the various issues the Members had presented to the committee. Ultimately we voted on a package. It came to the floor. We had more amendments. We had more than 50 amendments to the tax cut bill because we had the right and the prerogative to express our positions and our views of the States that we represent. During the natural course of the legislative procedure, we had the ability to express ourselves on that very important piece of legislation and then ultimately vote for its enactment.

The same was not true when it came to this significant issue that affects most of our Nation's seniors. So it became an either/or approach. What I am saying today is let's take the Medicare provider give-back legislation and let's have the opportunity to also consider an amendment—amendments to that legislation that would include a prescription drug package. I will make a unanimous consent request shortly on that issue.

But I think we have the time, we have the ability to do both in this Chamber right now. The question is, Do we have the political will? Some people, as I said earlier, say we have voted on this issue. It is not about us. It is not about us. The last time I checked, Members of the Senate had health care coverage that included prescription drug coverage. It is about our Nation's seniors, and it is making this institution work on behalf of the people we represent. Each of us have an individual and collective responsibility to make that happen.

It is a true failure on our part that we did not make this possible. We worked a year and a half ago—the Senator from Vermont is here, Mr. JEFFORDS, and Senator BREAUX from Louisiana, Senator GRASSLEY and I worked—more than a year and a half ago to begin the process of shaping a comprehensive package so we could include this significant benefit in the Medicare Program to avoid political collisions, to avoid the scenario that has now manifested itself in this institution on this particular issue.

But what we got instead was denial and obstruction and circumvention of the conventional processes of this Senate—No. 1, because we did not have a markup in the Finance Committee; and, No. 2, it was an up-or-down vote in the Senate floor on two packages, no amendments. So we did not have the ability to work through our differences, work through the concerns that each of us might have in terms of how do we shape this most significant benefit that nobody denies the seniors deserve and desperately need. No one is denying that. So what is impossible about doing it right here and now?

If we have had time over the last few months to schedule markups in the committee on various initiatives, including the Medicare provider giveback, then why don't we have the time to also include, in conjunction with those bills, a prescription drug coverage?

How can we fulfill our commitment to our Nation's seniors if we fail to do that in this session of this Congress? And to provide a provider give-back bill that I certainly support, but also one that raises Part B premiums? It raises Part B premiums. And that is not my estimate. That is the estimate of the Congressional Budget Office.

What we are saying is, recognizing the impact that will have on our Nation's seniors and the costs to them directly, when you raise Part B premiums, you are obviously going to have to pay more of their out-of-pocket costs for their Medicare coverage. So why then are we not also considering a

prescription drug benefit to ease the impact of the cost to our Nation's seniors, if they can even pay? Even if they can afford to pay out-of-pocket costs for their drugs. But most, as we know, are forced to choose between food and paying for their prescription drugs prescribed by their doctors.

I believe we have a greater obligation. We have a greater obligation to build upon the support of both goals here today. I hope we will be able to do that. That is why I think it is so clear that we do not have to end this session this way. If we had the ability to consider a $43 billion package that provides reimbursements to our rural hospitals and home health care, to medical providers—and they, too, will acknowledge how imperative this benefit is to our Nation's seniors—they certainly would welcome the Senate's action on both pieces of legislation in tandem.

The House of Representatives passed, months ago, both a prescription drug bill and a Medicare provider give-back. While some may have differences in this Chamber with what direction and what provisions they included in that package, they ultimately passed a package that included both initiatives. I happen to believe that we have a greater obligation to do the same.

I don't think we can use the rationale that we are here at this point in time and that we do not have the time anymore. Let's send this back to committee. I regret the Senator from Montana objected to the request made by the Senator from Oklahoma to refer this back to the committee. We have the next couple of days. We are going to be here. We may be here next week. We have the ability to mark up this legislation, both the provider give-back and the prescription drug bill—we have the time—and then report it back to the floor so each of us have the opportunity again to debate and amend, if at all possible, on various issues, and have a final vote.

I think we should try to work together to advance a viable, comprehensive prescription drug plan that warrants strong bipartisan support. We developed a tripartisan package beginning more than a year and a half ago. We announced our principles a year ago July, setting out the framework so we would avoid the political collisions and the polarization and partisanship that seem to be the monkey wrenches grinding this legislative process to a halt.

But again, I guess it was not sufficient to overcome those impediments. Those negotiations we did have during the course of the summer, even in the aftermath of the votes that were taken, the up-or-down votes on the two packages—one by Senator GRAHAM, one that was offered by those of us who represented the tripartisan plan—we even had negotiations this fall. We all felt a breakthrough compromise was near.

The foundation of that compromise was going to be, in fact, the tripartisan package. In fact, we had one of the meetings that was chaired by the Senator from Montana that included more than 14 Senators, almost equally divided across the political aisle. We were really focusing on the several issues that really did represent the areas of disagreement. Somehow the meetings were canceled.

No explanation was given. This is all the more unfortunate and disappointing because I think we did have a sense of agreement.

The bottom line is we have never been closer than we were in September of providing this package—a universal, comprehensive Medicaid benefit for our Nation's seniors. The basis of a consensus package exists today.

I hope we can agree today to do both. I am committed to doing that.

I know there are others here who are committed in this Senate to do what is right for our Nation's seniors. We can argue about not having the time. Tell that to our Nation's seniors—that we just didn't have time. We have time for other issues, but we don't have time for our Nation's seniors when it comes to this vital benefit that can make the difference between life and death.

We have all heard the traumatic stories and circumstances that many of our Nation's seniors have been placed in because they do not have the kind of coverage that is extended to each of us here in this institution.

I happened to come across a poll not too long ago. It says when asked, Should senior Americans have the right to choose between different health care plans with different benefits just like Members of Congress and Federal employees? Of course 90 percent said, yes, they want to have that choice. They want to be able to choose in their Medicare benefit package prescription drug coverage. They would have a choice under the tripartisan package. They could choose the traditional Medicare Program, the new enhanced fee-for-service program, or the Medicare+Choice. But whichever program they would choose, they would have the option of a prescription drug benefit. That is the way it should be.

We all know the Medicare Program was developed almost 40 years ago. It needs to be reformed and overhauled in a way that modernizes and reflects the kind of health care that seniors are getting today. But some say the traditional program works, and they should have that option and benefit. If they want a new, enhanced fee-for-service that also includes prescription drug coverage, they should have that benefit. But the fact is they should have a choice.

We are told, ''the next Congress.'' I have been hearing that every Congress. As far as I can check, we have been talking about this for almost the last 4 years or more—the next Congress; the next year. It is here and now that we have an obligation. We have an obligation to do it now.

AARP is right in saying that you can't do one without the other—especially because it has the impact on increasing our Nation's seniors' Part B premiums. That, of course, has been underscored by the Congressional Budget Office as well—that it will raise the cost of Part B premiums as a result of this give-back bill. If we are going to do the give-back—and I wholeheartedly support that—then we also have a responsibility to provide this most critical coverage to our Nation's seniors.

It would be a terrible oversight if we fail to do what is right. This action is warranted. Seniors cannot put off their illnesses, and we must not put off a solution.

I come to the floor to offer a proposal that we consider not only Senator BAUCUS' legislation and provide for his legislation but also the tripartisan prescription drug package. I made a commitment to our Nation's seniors that I would protect their interests and do everything possible to pass the Medicare prescription drug benefit this year.

Now is the time to be giving that consideration. To say that we don't have time is really failing our Nation's seniors. We do have time. We have time because we are considering the Medicare-provided give-back. We have time because a number of markups were scheduled before the Senate Finance Committee, and they were canceled. But there was obviously time that was included on the schedule for the members of the committees to consider other pieces of legislation for markup in committee. I don't object to that. But what I object to is denying our Nation's seniors the ability to have a prescription drug benefit because we are denied the ability to give voice to that benefit and to express our will through the traditional procedures of the committee and here on the floor of the Senate.

I regret that the majority leader will not allow a vote and a vote on an amendment and consideration on both issues in tandem. We could do it in the committee and bring it to the floor. That is certainly what I would prefer. But if not, we ought to be able to consider both of these initiatives before the full Senate. We should let the process work the way it is designed because our Nation's seniors deserve at least that.

UNANIMOUS CONSENT REQUEST

I ask unanimous consent that the Senate immediately turn to the consideration of S. 2; that following the reporting by the clerk, a substitute amendment at the desk which contains the text of S. 3018, the Beneficiary Access to Care and Medicare Equity Act of 2002, and S. 2, the 21st Century Medicare Act, be considered and agreed to, the motion to reconsider be laid upon the table, and the bill then be open to further amendment and debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I say to my friend from Maine, the distinguished senior Senator, that maybe she protesteth too much.

The fact is the prescription drug package that she talks about did not get a majority vote in the Senate. The one that received a majority vote of 51 Senators was the Gramm-Miller amendment prescription drug plan. That received a majority vote of the Senate.

I think her idea is a good idea—that we go ahead and adopt what the Senator from Montana, the chairman of the Finance Committee, has come to the floor twice today and talked about doing the Medicare give-back—have that and have the prescription drug bill have a majority vote. GRAHAM of Florida and MILLER—51 votes.

That would let the will of the Senate work where the majority of the Senate determines what happens. The problem was we didn't get 60 votes. We had 51 votes.

I also say my friend from Maine talks about protecting the interests of seniors. I know she wishes to protect the interests of seniors. I think the best way to do that is with the best prescription drug package that has surfaced in the Senate—the one that received the majority vote of the Senate. Let us pass that. That would protect the interests of seniors.

I would also say this: I say it with a smile on my face. To have the minority talk about us having enough time to do things is about as close to being ridiculous as anything I have heard. I have sat on this floor—not for minutes but hours, days—I have sat here for weeks while the minority has prevented us from doing anything. We can't pass our appropriations bills because they won't let us. We can't pass homeland defense because they won't let us. We can't pass the conference report on terrorism insurance because they won't let us. We can't pass the prescription drug bill because they won't let us. We can't pass the generic drug bill because they won't let us. I could go on and on.

So don't tell me that we do not have enough time to do things. We are not having enough time to do things because the minority won't let us.

So I object, unless my amendment is accepted.

I move to amend the unanimous consent request to accept the language——

The PRESIDING OFFICER. Objection is heard.

The Senator from Maine has the floor.

Ms. SNOWE. Thank you, Mr. President.

In response to what the majority whip mentioned, the fact is that we had the opportunity and the time. The motion that I offered with respect to the Medicare-provided give-back legislation and the prescription drug benefit is including further amendments and debate.

That is all we are asking, to have the opportunity to debate and amend a package on the floor of the Senate that gives our Nation's seniors the option of having a prescription drug benefit in the Medicare program. It is not a question of whether I protest too much. I can assure you, our Nation's seniors will protest when they learn about the failure of this institution to pass any prescription drug benefit.

We were close to working out our differences on the few issues that really did separate us on the two packages that were before the Senate back in July. It really came down to several different issues. We had ongoing negotiations, even including additional Members who had been working on this issue before, because we were reaching out. We were close to reaching an agreement, whether it was on the cost or the fallback, to ensure every senior had the option and the access to a prescription drug benefit that was designed in that program, regardless of where they lived in America, so no one would be denied.

We were close to reaching that consensus. But for some unexplainable reason, further negotiations were suspended. That was regrettable because we could have been at a point where we could have enacted a prescription drug benefit in the Medicare program.

When I asked for this unanimous consent, it was to also include the opportunity for the Senate to amend and debate this legislation. We do have the time. If we have the time to bring up Medicare provider give-back legislation of more than $43 billion, then clearly we also have the time to consider a prescription drug bill. Then, I would argue, we are even further along in this institution in examining all of the components and provisions and the issues surrounding the development of a comprehensive universal package. We are much further ahead because we did have debate on the two proposals on the floor, but we didn't have the opportunity to amend our various packages. It was up or down, all or nothing, either/or, take it or leave it, get the 60 votes or not—not expressing our will through the conventional procedures of this institution.

I cite again the example of the tax-cut measure we ultimately adopted in the Senate back in May of 2001. It required several days. In that case, there were 50 amendments. But we expressed ourselves. We had the opportunity to offer amendments and then ultimately vote on a final package, yes or no. That is not the same opportunity that has been given to this issue.

Our Nation's seniors deserve to know that. They also deserve to consider both of these initiatives in tandem. I have yet to hear a reasonable argument as to why we can't do that, why we cannot include both of these initiatives in one package, similar to what the House of Representatives did months ago. We should be able to do the same thing in the Senate, send the package to the conference, and work out the issues.

Believe me, there is great urgency to obviously resolve both of these initiatives to reach a final conclusion. I think there is genuine interest on both sides of the political aisle here in this institution and on the other side to work these issues out in the final and remaining days of this Congress. But to say it can't be done, tell that to our Nation's seniors.

Voting on an issue means nothing unless you produce results. Results means taking final action on a piece of legislation that is sent to the President of the United States. The President is eager to have legislation that can be signed into law to give this much-needed benefit to our senior citizens.

We can do it. I hope the Senate will recognize it is a very reasonable unanimous consent request. I hope they will reconsider their objection to this request.

Mr. REID. Would the Senator repeat herself? I was speaking to one of my staff.

Ms. SNOWE. I hope the Senator would reconsider his objection to my unanimous consent request because this motion really is asking to include both issues in one package in tandem and to be able to further amend and debate. I think it is a reasonable request, and it is one that should not be denied.

Mr. REID. Will the Senator allow me to respond?

Ms. SNOWE. I am glad to have the Senator respond.

Mr. REID. The Senator has asked if I would respond or reconsider. I have the greatest respect for the Senator from Maine. We have worked together on many issues. She is a fine legislator, but she is simply wrong.

It seems somewhat unusual to me that in the waning hours of this congressional session, suddenly we want to have a debate on Medicare give-backs and prescription drugs. We have fought the minority all year long on many issues. On the list, of course, is prescription drugs. That is the second one we have here. We were forced to pass something that is good, but certainly not what we wanted with the generic drug bill. It is buried in the dark hole of the Republican-led House of Representatives because they will not go to conference.

We have the Medicare give-backs, which is so important for the people of the State of Nevada and Maine and Vermont, West Virginia and Montana, any State in the Union, a very important piece of legislation. That is ready to move. We could pass that in a matter of minutes.

The prescription drug bill I referenced, the Graham-Miller legislation, had extended debate on the floor. We have heard enough about that. People understand the issue. It got a majority vote. We don't need another amendable item on which we have, frankly, your side stall, stall, stall, as you have done all year long.

I have reconsidered. The only thing I would suggest we do is adopt the proposal of the Senator from Montana, the proposal of the Chairman of the Finance Committee, on Medicare give-backs and stick in that, if we have so

many on the other side who suddenly found religion and want to do something to help seniors with prescription drugs; that we pass, as a majority of the Senate has already said we should do, the Graham-Miller prescription drug bill.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Maine.

Ms. SNOWE. Mr. President, in response to the points made by the Senator from Nevada, obviously the minority do not design the floor schedule. That is the prerogative of the majority. The minority did not preclude the Finance Committee from marking up this legislation. We did not choose to postpone the consideration of a prescription drug package in the Finance Committee. The Senator from Nevada would acknowledge a markup in the Finance Committee was important and essential to achieving the consensus that is so critical in passing any significant piece of legislation.

In this instance, we are discussing a package that represents more than $400 billion over the next 10 years.

Mr. President, I think everybody would agree the Finance Committee should have had the opportunity to consider that initiative. I cannot think of the last time that creating a new benefit, a new package, or a new program that represents close to $400 billion over the next 10 years, has not had the benefit of a markup in the committee—at least, if you are thinking about enhancing the ability to create the consensus for the final passage of that legislation. So the process was circumvented, for whatever reason, I do not know.

But what I do know is what is possible today. I do know if we had the political will, we could resolve the few differences between the positions that were offered on the floor back in July that, regrettably, we didn't have the opportunity to amend or further amend. It was, again, as I said, up or down, either/or, all or nothing. Well, you cannot achieve cooperation and consensus on a major package of this kind without working through the various issues.

So all I am asking is we have the opportunity to consider a prescription drug benefit in tandem with the Medicare provider give-back. If we have time to provide $43 billion in additional assistance to Medicare providers—and I would wholeheartedly support that, but I also would support providing prescription drug coverage to our Nation's seniors. How can we do one without the other? I have not heard an explanation I think would be acceptable to the senior citizens of this country.

We didn't have time? Well, where have we been over the last 2 years? We didn't have time, Mr. President? I don't think that is acceptable. How does anybody go home and say to their constituents we didn't have time—especially because that has been the rationale given for the last 4 years: we will put it on to the next Congress.

We are elected to do what is important here and now. That is our obligation. If we have to stay here day and night, through the weekend, what greater obligation do we have than to do what is important to the people we represent? This is an issue that has been acknowledged by both sides to be one of our top domestic priorities, and we are saying we don't have time. We don't have time in the committee. We didn't have time in the committee last July. We didn't have time in the committee last spring. We have not had time. When do we have time around here, Mr. President? When do we have time to do what is right in this institution? When do we have time? How do we do it?

We had a tripartisan group from the Senate Finance Committee begin to work on this issue a year ago—I would say in June, and we announced our principles a year ago July—to avoid this type of political showdown, to avoid the all-or-nothing confrontation that seems to pervade this institution. Guess what. We are denied the ability to mark up this bill in the Senate Finance Committee.

Well, I might be protesting too much, but, frankly, I think our Nation's seniors deserve better. I know they are protesting. Tell them we don't have time. Explain to them why we didn't have a markup in the committee that would have increased the likelihood of the passage of this legislation.

Now we are hearing we should have this Medicare provider give-back. I endorse that, but I don't believe these are mutually exclusive issues. I want to make that clear. These are not mutually exclusive items. Obviously, AARP agrees because of the letter they sent to the legislative leadership, the committee leadership, and the ranking member of the Finance Committee, that you should not do one without the other. I am speaking on behalf of the seniors I represent in my State of Maine. They deserve better.

I hope the Senator from Nevada will reconsider, so we have the ability here and now to consider the provider give-back benefit, and if the Senator indicates there is general unanimous agreement to provide that, then we can focus on the prescription drug benefit and on the few areas we have identified to be the issues in disagreement between what was offered by Senator GRAHAM and the tripartisan package offered by the Senator from Iowa, Senator BREAUX from Louisiana, Senator JEFFORDS from Vermont, and myself. We can do that. I hope I will hear that message today. Let's begin here and now.

Mr. REID. Mr. President, I try to be very patient; sometimes I am and sometimes I am not. But I have to tell you the statement of my dear friend, the senior Senator from Maine, is really trying my patience. She has stated numerous times she likes the tripartisan piece of legislation. More power to her. The fact is, it could not get a majority vote in the Senate. We had a piece of legislation that got a majority, but she refuses to talk about that. She talks about committee, committee, committee. We recognize how the Senate works. The committee structure, I support. I have great respect for the traditions of the Senate. But there are times when the committees don't have full hearings on pieces of legislation.

The minority should become consistent because, on the one hand, they are telling us if the committee works and they don't like what the committee does, the matter should come to the floor anyway. Let's see how that would work here. If something happens in the Senate Judiciary Committee and they make a determination and the minority doesn't like what happens in the committee, then it should come to the floor anyway. It would seem to me if you are consistent, you have to recognize we have a situation where we have had extensive debate that took place over a period of many weeks on prescription drugs. The only one that got a majority vote is the one I talked about—on two separate occasions—by Senators GRAHAM and MILLER. Let's pass that now. I think that is fine.

I see the Senator from Michigan, who spent weeks of her time working on prescription drugs. We didn't get a prescription drug bill because we could not get 60 votes. But we had a majority. We passed a generic drug bill—not a perfect bill but a good one—that would lower the cost of drugs in America, not only for seniors but for everybody. It allows reimportation from Canada.

Where is that bill? It's buried over in the dark hole of the conferences of the Republican-led House of Representatives. They won't even let us do that. Here we have somebody telling us we have lots of time. Let's do another prescription drug bill, but we want to start this one in the committee. When it comes to the floor, we want to have a lot of amendments, or a few amendments.

We know that is a prime-time word for the big stall. That is all this is. I have great respect for the AARP. It is a great organization, but they don't run the Senate or this country. There are many people in the State of Nevada, and all over the country, who badly need this Medicare give-back. So I am willing to take my chances with AARP because the Republicans would not let us pass a prescription drug bill, a generic drug bill. I will take my chances with AARP and go with the Senator from Montana. Let's pass the Medicare give-back bill to help millions of people in America—rural America and urban America—people who badly need this. I am going to have convalescent centers going broke in Nevada, filing bankruptcy.

Is that what we want? We had a convalescent center in rural Nevada. They had all kinds of problems. They did not know what to do with the people in the

center because they were going broke. What do they do with them? It was the only center in town. This legislation would direct money to that situation.

AARP is a great organization, but they can take that letter and carpet floors with it because that is not how we run the Senate. We do what is best for the people of our States, and the best for our States is to do what the Senator from Montana said to do. We tried to pass all kinds of legislation, and we have had the big stall. So do not have anyone lecture me on enough time to do things. I have spent days, weeks, and probably months of my life sitting here doing nothing because they would not let us do anything.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am thankful the Senator from Maine is still on the floor. I wish to respond to a couple points she made.

I do not know that there is anybody in the Senate who wants to get a prescription drug benefit for seniors more than the Senator from Maine. Believe me, I understand that. I have been at many meetings with the senior Senator from Maine where she has made that very clear.

There is also no one on the floor who wants to pass a prescription drug bill more than the senior Senator from Montana. The same is true of the Senator from Michigan, the Senator from Nebraska, and the Senator from West Virginia, as well as the current occupant of the chair, the Senator from Wisconsin. We all want to get a prescription drug benefit passed.

On the one hand, there is the so-called tripartisan bill, which the Senator from Maine supports, and which is basically the insurance company model. On the other hand, there is the bill that would use pharmacy benefit managers, or PBMs, to administer a drug benefit. This is essentially the Medicare model. Reducing it to its basic simplicity, that is the argument.

The Senator says she wants a prescription drug benefit passed, but she slyly indicates she wants hers passed. But her bill did not get a majority vote in the Senate. There are others who want to get prescription drug benefits passed who have a different view of what a prescription drug benefit should be, and that is the problem. Neither side wants to give in. Both sides think they are right.

We just witnessed a good example of that. The Senator from Maine says: Bring up a prescription drug bill, but bring up hers, the way she wants it. She does not agree to bring up the other bill, apparently, that the Senator from Nevada suggested, the one that received a majority vote. That is the problem. Neither side agrees. Each side wants its bill passed.

I say to my good friend—and she well knows this—I have worked so hard with her to get a prescription drug benefit passed. I called the meeting in my office with the Senator from Maine and with other Senators who were key Senators on this subject as a last-ditch effort to get a bill passed because I share with her the view we owe it to our seniors to get a prescription drug benefit bill passed. I understand that.

But the Senator knows well that there are huge differences of agreement. The issue is basically, should we have a more privatized system or not? That is basically the argument.

The Senator from Maine suggests the approach that privatizes prescription drugs to seniors with insurance companies. That is basically her bill. There are others who say: No, do not do that; that is wrong because insurance companies will take too much for themselves; the insurance companies will not give the benefits to the seniors, and besides that, insurance companies are not sure they want to do it, anyway.

It is very easy for a Senator to stand up and say: Let's do prescription drug benefits. The hard part is actually coming up with a compromise so we can reach a solution and pass a bill that does give benefits to our seniors.

To be frank, I have not heard the Senator from Maine come forth to me or anybody with a reasonable compromise. She has been pushing for this insurance company model, and she is not coming up with a compromise. I say that because that indicates the degree of separation and the division in this Senate over how to get prescription drug benefits to seniors.

But while we all want to pass a benefit, we also want to make sure it is done right. If we are going to pass legislation on the order of $400 billion over 10 years, we have to make sure it is done right and that it works for seniors. It does not make sense just to pass a bill. It makes sense to pass a bill that works.

I could not agree more with the Senator that we should pass a bill, but in all candor, at this late moment, coming up to the Chamber without first suggesting an honest-to-goodness compromise sounds as if this is obfuscation. On the surface, it sounds good: Let's pass a prescription drug benefit. I know she means well, but there are others on her side of the aisle for whom this is an obfuscation, a desire not to get an underlying give-back bill passed.

The reason the Medicare give-back bill is here is because there is agreement. There is agreement on almost all of the provisions: an agreement that we should not allow the home health cut go into effect; agreement on what the restoration for physicians should be; agreement on hospital payments, the so-called standardized amount. There is agreement.

But there is not agreement on how to provide prescription drug benefits, and the Senator from Maine well knows that. Her argument is: Let's just try; let's try it.

Sometimes we have to tell it like it is. The fact is, both sides are so stuck in their ways that I have made the judgment that it is nearly impossible in the remaining days to reach agreement because we are in such a political season.

If the Senator from Maine wants to come forth and give me a legitimate compromise, then maybe we can get a bill passed. She says she wants the tripartisan bill up for consideration. She does not say: let's sit down and work out a legitimate agreement and see if we can put something together.

I would like to sit down with the Senator from Maine and see if we can reach agreement. I know the Senator from Maine would like to do so. To be honest, she has not suggested anything except the tripartisan insurance company model. And that plan did not even get a majority vote in the Senate. The approach by Senator GRAHAM received a majority of votes in the Senate.

Mr. President, if we don't pass this bill to restore Medicare payments, we should consider all of the seniors who may get less care in nursing homes, and seniors who may get less care because doctors will no longer provide Medicare services to patients.

My good friend from Maine points out that the Medicare payment bill will increase costs to seniors. She does not tell us that of the increased cost to seniors 90 percent is caused by a restoration of payments to physicians. This restoration is needed to ensure that physicians will still provide care to seniors.

If she wants doctors to continue to withdraw from Medicare, that is her right, that is her choice, when she complains about the amount of the increase seniors will have to pay. It is true that they will have to pay a little more. We have to figure out a solution to that. I am hopeful we can do it next year, and I am hopeful there will be more of a bipartisan mood around here.

I know the Senator's motives are pure. Hers are pure, but I cannot say that for the majority of the Members on the other side of the aisle on this issue at this moment. I have been around here a while and know how this place works. I have the utmost respect for the Senator from Maine. She has pure motives, but her offering this unanimous consent request at this time is clearly an effort on the part of others—not her—on the part of others to try to slow down and prevent the Medicare give-back bill from passing.

Mr. HATCH. Mr. President, as my colleagues are aware, I have agreed to cosponsor S. 3018, the Beneficiary Access to Care and Medicare Equity Act of 2002, because I believe it is imperative we act this year to correct deficiencies in Medicare payment levels that are certain to create hardships for providers and those they serve, beneficiaries.

I want to take this opportunity to underscore concerns I have with Section 706 which deals with the process for development and implementation of Medicaid and CHIP waivers.

I am sympathetic to the underlying concerns expressed by the sponsors of this provision, especially as they relate to coverage of childless adults under the CHIP program. CHIP was designed to address the needs of children of working parents who made too much money to qualify for Medicaid, but, many times, could not afford private health insurance. I believe that the integrity of the CHIP program must be maintained. For this reason, I have even opposed attempts to expand CHIP to cover pregnant women, because I believe funding should be devoted to providing coverage to uninsured children, preserving the original intent of this legislation. It should come as no surprise to my colleagues that I oppose expanding CHIP under a waiver to cover childless adults.

However, there are those who do not share my views on this issue and I believe that they should be heard. There are those who believe that CHIP enrollment is not as high as it could be because parents are not covered by the program. They believe that one way to capture children under CHIP is to offer family coverage. I do not agree with that approach, but I do believe that there should be a debate on the issue.

Before Congress adopts provisions which could limit both the Federal and State governments' ability to adopt innovative approaches to address the problem of the uninsured, we ought to have a thorough and comprehensive debate. The Senate Finance Committee should hold hearings on these important waiver issues prior to enacting legislation which could be detrimental to State flexibility and innovation. I strongly object to including a provision which is opposed by the Secretary of Health and Human Services and the National Governors Association in an attractive package of Medicare reimbursements and fiscal relief for the states. Both HHS and NGA have concerns with this provision because it limits a State's flexibility to provide expanded health coverage tailored to the specific needs of its residents.

I believe that, as drafted, Section 706 would deter a state's attempt to provide health insurance coverage to those who are currently uninsured. Additionally, it is my view that Section 706 would not improve the waiver process, but would actually function as a disincentive for States to undergo an open dialogue with stakeholders as they go through the process of securing a Medicaid or CHIP waiver.

Section 706 would require that 60 days prior to the date that a state submits a waiver or amendment application to the Secretary, the state must publish, for written comment, a notice of the proposed waiver that contains at least the following: projections regarding the likely effect and impact of the proposed waiver on any individuals who are eligible for receiving medical assistance or health benefits coverage. In addition, a State must make a statement regarding the likely effect and impact of the proposed waiver on any provider or suppliers of items or services for which payment may be made under the Medicaid or CHIP program.

It would seem to me, that we are putting the cart before the horse here. Isn't it the purpose of a public comment period to determine the effects and impacts on individuals and providers? Aren't we setting the States up to be criticized for coming to pre-determined conclusions about the effects of a proposed waiver by requiring them to effectively develop these conclusions before the public has had a chance to weigh in on the matter?

Section 706 goes on to require that the State must have one meeting with the state's medical care advisory committee and two public hearings on the waiver. I am somewhat confused by these provisions. It seems to me that rather than encouraging an open and comprehensive dialogue in the state over a proposed waiver, Section 706, if enacted, would curtail and truncate the process, effectively limiting input from the very individuals and groups which would be affected by the waiver. In short, to comply with Section 706, a State could conclude what the effects of the waiver would be prior to public comment, hold two perfunctory public hearings and be done.

Officials in my State of Utah, in developing their waiver, did not need the Federal Government to come in and tell them how to reach out to stakeholders on this issue. I am informed that the state held meetings for 10 months prior to getting approval for their waiver with low-income advocates, providers, insurance companies, employers and state legislators. The state held a series of work conferences and community meetings on issues associated with Utah's waiver. The State had several legislative task force meetings which were open to the public as well as several budget hearings, also open to the public. Officials from my State who were overseeing the waiver process attended monthly meeting of advocate groups and met repeatedly with their medical care advisory committee.

Now, it might be that other States contemplating a waiver might not need such a comprehensive public outreach effort. Other states could determine they should emulate such an approach. Is it really the role of the Federal Government to micro-manage this process?

Section 706 would also require states to file copious records documenting detailed descriptions of the public notice and input process; copies of all notices, dates of meetings and hearings; a summary of the public comments; and, a certification that the state complied with any applicable notification requirements with respect to Indian tribes.

If we are looking for ways to encourage unwilling states to reach out to the public for input, one of the least effective ways to do so, in my opinion, is to require States to jump through a bunch of bureaucratic hoops. This will not foster open debate nor will it encourage the states to try and draw a buy-in from stakeholders. Instead, in my opinion, it will create an atmosphere where the state will do the bare minimum in order to meet the requirements and no more. This is not the way to promote outreach efforts and a free-flowing exchange of ideas. In fact, I believe that if enacted, Section 706 will stifle such an approach.

In considering the role of HHS relative to the waiver process, I am informed that HHS Secretary Tommy Thompson has written in opposition to Section 706. I share the Secretary's concerns that, as drafted, this section would leave HHS vulnerable to costly and burdensome lawsuits. I agree with Secretary Thompson that State and Federal resources should be spent addressing the issue of the uninsured and should not go, instead, to fending off legal challenges from every national advocacy group who did not get exactly what they wanted.

Finally, one of the facts that gets overlooked in these waiver discussions is that we have 41 million uninsured Americans and states are trying to cover them. This is really the bottom line, here, the states are trying to find ways to get some coverage to Americans who would otherwise have no coverage. Rather than looking for ways to inhibit the states from accomplishing this, we should be making it easier for them.

I look forward to working with my colleagues on the Finance Committee to accomplishing this important goal.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I find myself in total agreement with the Senator from Montana, sadly so but nevertheless very much so. But this situation strikes me as ironic.

I support the position of the Senator from Montana and what he is trying to do with the give-back. The Senator from Maine talked about resolving a few minor differences, and the Senator from Montana said they are not minor. They have to do with whether or not a State such as West Virginia, which this Senator represents, will have any prescription drug benefits at all because there are no insurance companies that have any intention of coming into the State of West Virginia and making those available.

I am not so sure that any would be willing to go to Maine. I do not think they would be willing to go to Montana. I do not think they would be willing to go to—well, I don't know. They probably would be willing to go to Florida, probably Nevada a little bit, Michigan a little bit, but Nebraska not very much; Wisconsin, I do not know.

Basically, all rural States—and 81 percent of all counties in the United States of America are rural—will be shut out by this prescription drug bill which the tripartite approach embraces. I hope the Presiding Officer

does not think for one moment the Senator from West Virginia is going to contemplate working out a compromise on the floor of the Senate, with only a few days left, when we have been filibustered on every single thing we have brought up, especially something as complicated as a difference between a pharmacy benefit manager and an insurance model.

There is a lot of educating that has to go on on the Senate floor that has taken place in the Finance Committee. There was a vote on the floor. The vote said one thing and the Senator from Maine says she wants something else.

I am extremely disappointed we are not able to get the unanimous consent that was sought to proceed to the Beneficiary Access to Care and Medicare Equity Act of 2002.

I have heard nonstop from those in my State concerning the effects of the declining Medicare reimbursement on access to critical care services. The reality is we will also be unable to enact a Medicare prescription drug benefit for this year. Why? Because of the huge ideological gap which I have just finished describing.

People can describe it as a minor difference. It is the Grand Canyon of difference, and it is the difference between whether people from populated, wealthier areas get a prescription drug benefit and everybody else does not.

If that is what one wants, fine; but that is not what the Senator from West Virginia wants, and it is not what my people want. It is not what the majority of the people in this country want. Yes, they want something called a prescription drug benefit. But there is a question of saying how do they get it and who gets it? The mechanism is important.

I want a prescription drug benefit. I dare say the income of Medicare beneficiaries in the State of West Virginia is lower—about $10,800—than the Medicare beneficiaries in the State of Maine.

People spend $4,000, $5,000, to $6,000 out of their pockets on prescription drugs. Do I want a prescription drug benefit? You better believe I do, but I want one which will actually get to the people I represent and which are represented across America in rural States.

We do not have a choice of being able to say let's do both. We cannot finish that debate on this floor. We cannot reach agreement on this floor. Not the Senator from Maine, but there are many on the other side of the aisle who do not want to see that happen in some respects because they do not want to see the Graham-Miller bill pass because that would be deemed a victory for the wrong people, or something like that.

However, one priority that cannot wait until next year is providing States with fiscal relief. That would include the State that the Presiding Officer is from.

On July 25, 75 members—talk about a consensus. The Senator from Maine, Ms. COLLINS; the Senator from Nebraska, Mr. NELSON; and this Senator put forward a compromise plan, and it got 75 votes. It got half the Senators on the other side of the aisle to vote to provide States with $9 billion in assistance. That has since been somewhat cut down in an agreement with the Republican leader on the Finance Committee to $5 billion, but that is still substantial relief—$4 billion in Medicaid and then $1 billion in Social Security's block grant. That is a lot of money. It will help all States.

Since we passed that amendment by an overwhelming vote, the situation in the States has, in fact, gotten much worse. The last time States faced a budget crisis this bad was in 1983. I happen to remember that because I was Governor of West Virginia and our unemployment rate was about 21 or 22 percent. One does not forget those things quickly.

At least 46 States struggled to close a combined budget gap of $37 billion in the past fiscal year. This year's gap is even wider. This year it is going to be a combined $58 billion deficit. Most States are required by law to balance their budgets, something we did up until a year and a half ago. Then a variety of things happened, and it is no longer balanced. So they are being forced to slash their spending. The Governors do not want to, but they have to.

This year coming up, 18 States are planning to cut families from Medicaid coverage, and 15 States are eliminating important health care benefits. Twenty-nine States are cutting or freezing provider payment, further jeopardizing access to health care. As a result, thousands of Americans, at the least, will join the ranks of the uninsured and countless more will find access to needed benefits reduced or eliminated altogether.

In this tough fiscal climate, a new survey of Medicaid programs shows an increasing number of States are dropping certain groups of patients, curtailing some services, requiring poor people to help pay for their own care when they can, limiting access to expensive drugs and then cutting or freezing payments to hospitals, doctors, nursing homes, and other providers of care. Is that kind of important? You bet your bottom dollar it is. Fundamental access to health care.

In Massachusetts, the legislature had to stop covering about 50,000 unemployed adults. In California, children spent longer in foster care because of cuts in adoption services.

In New Jersey, the working poor will lose access to State-funded health care. In Louisiana, there will not be future hospital beds available for low-income patients. The Kaiser Commission on Medicaid and the Uninsured, which nobody disputes, in a new study found that 18 States are planning to tighten their eligibility rules in the coming fiscal year, compared with 8 States last year.

The most common strategy that States are using to cut costs is to limit their expenditures on prescription drugs by reducing pharmaceutical payments or making it more difficult for doctors and patients to select expensive but necessary medicines. Forty States are trying to cut costs by limiting their drug expenditures. In Illinois last month, Medicaid officials began requiring patients who need the popular antidepressant drug Zoloft to get tablets that are twice as strong as they need and then break the pills in half. I do not know if that makes a tragedy, but it sure is a lousy way to do business.

In a subtler strategy, some States are curtailing recent innovations that were designed to find more people who are eligible for public insurance and then make it easier for them to stay covered once enrolled. Delaware stopped a very good initiative which had been paid through an outside grant to publicize Medicaid and the Children's Health Insurance Program and to help clients fill out applications. They had to stop that because they had no money.

So the decision being made by Governors, legislators, and Medicaid administrators underscores the pressure that States are confronting in a weakened economy, which I dare say will stay weakened for some time. Their revenues are plunging. Increases in unemployment and poverty are prompting more people to sign up for government help. As a result, States are reversing the trend that lasted nearly a decade when they added money and changed rules so the public insurance programs could help more Americans who lack health coverage and pay for more kinds of care.

The fiscal crisis has a direct impact on the families in our States but it also has a direct impact on local economies. Medicaid is the largest purchase of maternity care in the United States of America. It pays for half of all nursing home care which everybody faces at some point in their life.

Medicaid provides significant support for local hospitals and for nursing homes. Providers in some instances are struggling to stay in business, and in many instances have stopped. Eight out of 10 hospitals in West Virginia are losing money. How long can they continue in small rural counties? The bottom line is that means Medicaid plays a critical role in sustaining local economies as well as people's lives and health care. For every dollar a State cuts from Medicaid—and that is what is happening—it loses between $1 and $3.31 in Federal assistance. That is one large loss. That loss would have otherwise gone to hospitals, to home health services, nursing homes, and health clinics tied into our local economy.

For this reason, the legislation introduced last week in the Senate to increase payments to providers under Medicare, which we just failed to get unanimous consent on, also includes a

billion dollars in fiscal relief for States. In many ways, States are the largest providers of health care, and ensuring their stability is the best way to maintain access.

If Congress does not act to provide a temporary boost to Medicaid funding for States to help them meet their responsibility to protect the most vulnerable citizens, and all citizens, since a great majority of Medicare citizens are vulnerable, the situation will get worse.

We have made significant progress over the last 10 years in expanding access to health insurance. This year, 50 million Americans are expected to receive health insurance through two programs: Medicaid and the Children's Health Insurance Program which was started in the Senate Finance Committee. These programs provide health coverage to more than 10 percent of all Americans.

In closing, this coverage is now at risk unless, as the Senator from Montana wants, the Congress refuses to act. This is one priority that cannot wait until next year. We should pass the Senate's proposal to reduce the current law cuts to critical Medicare providers. Even if we fail to do that, we must enact a provision to provide additional relief to the States that struggle to provide our Nation's people with the crucial safety net.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I respond to some of the issues raised by the Senator from Montana, for whom I have a great deal of respect. It is important to clarify some of the issues suggested by the Senator regarding the legislation I and others have proposed, the tripartisan legislation.

The Senator from Montana did schedule meetings in his office with Senators from both sides of the political aisle, Senators who were very concerned about the legislation. Obviously, there were differences among all the Senators. We were trying to narrow the areas of differences.

I was surprised by the characterization suggested by the Senator with respect to those meetings. He had established the agenda. In fact, he asked everyone at the meetings, what should be the basis for negotiations? What should be the starting point for discussions? It was agreed by those in the room, when he initiated the question, that the tripartisan legislation should be the basis for the discussion and negotiation. The staff had been given instructions to develop language with respect to the three areas in which we had identified to be the major areas in disagreement.

One was the assets test, one was the cost, and one was the fallback provisions as to whether or not the provision included in the tripartisan package was in and of itself sufficient to guarantee prescription drug coverage to a senior, regardless of where they lived in America. We thought our language certainly met the conditions for ensuring that our Nation's seniors, regardless of whether they lived in an urban or rural area, would have the benefit of a prescription drug coverage as designed in our legislation. But we were certainly amenable to additional language, additional protection in the legislation to absolutely guarantee we would provide seamless coverage in the event that an insurer was not providing the options for prescription drug coverage to seniors in a particular area of the country for whatever reason. So no matter what, a senior would have the benefit of the coverage, regardless of where they lived, and they would have a choice of at least two plans, so we were more than amenable. We were amenable even on the price tag. We were considering language on the acid test.

The chairman did not reconvene meetings after assigning the staff with the responsibility of drafting the new legislation. We were never given reasons no additional meetings were scheduled.

In the meantime, markups were scheduled in the Finance Committee this fall on various issues, including the provider give-back. We said we intend to offer the tripartisan package because that had the support of Senator GRASSLEY, who worked on it a year and a half ago; Senator JEFFORDS from Vermont, a member of the committee; Senator BREAUX from Louisiana; and myself as a member of the Finance Committee. We would offer that as an amendment and see where the process takes us in Finance Committee. The markups were canceled.

If our bill was not going anyplace, as the chairman suggests, then why were the markups canceled? If our bill had no opportunity to go anyplace, why were the markups canceled? Is it because these four members of the Finance Committee had at least offered a basis for a bipartisan—in this case a tripartisan—comprehensive prescription drug package? We did not say it was all or nothing. We did not suggest inflexibility or intransigence on our part. We say let's offer this as a basis for amendment, further consideration, and debate and votes.

The same was true in the unanimous consent request I presented on the floor that was ultimately rejected. It says ''be open to further amendment and debate.'' That does not suggest inflexibility. I didn't say take tripartisan package or nothing. I am saying the only way you work things out is being able to bring up the bill and offer amendments and debate and vote on the amendments and reach a final conclusion. Now we are talking about July.

Mr. BAUCUS. To be honest, I think if all Members of the Senate were like the Senator from Maine, we would have an agreement. The Senator well knows there are a lot of other Senators in this body who were dug in and who very much wanted their points of view.

We had the last meeting. We were working on five issues: Assets test, benefit design, Medicare reforms, consumer protections, and how to design a viable fallback mechanism, which would take effect in the event of private plans not entering a particular market. Roughly speaking, we were working off the basis of the so-called tripartisan view, but is it not also true at that time that was very loose and there were an awful lot of issues to work out?

Ms. SNOWE. I would like——

Mr. BAUCUS. It was my judgment after that meeting and checking with Senators on both sides of the aisle, that discussions were going backwards on prescription drugs. I basically made a decision that Senators were digging in so much that they were not going to agree.

Ms. SNOWE. I would like to pose a question to the Senator from Montana as to why we didn't have any additional meetings based on your instructions to the staff to work out language in the various areas? I didn't sense there was inability to reach a consensus. It might well have been, after we considered and pondered the legislative language they were drafting, language over the weekend. We didn't have the opportunity to talk about those issues.

Mr. BAUCUS. That is correct.

Ms. SNOWE. We didn't have an opportunity to talk about the language the staff was instructed to draft in these three areas.

Mr. BAUCUS. I might ask the question—the reason is because I checked with Senators who were at that meeting and they said: No, sorry, I am not going to agree with that. They are going backwards. They were going in the other direction. They didn't want to meet. It is unfortunate, it is so unfortunate. To be candid, Senator, you and I know you and I were the last two standing on this issue. Basically you are the last one standing on this issue trying to find agreement.

But it is clear there are not enough Senators in this body who also want agreement at this time. That is why I think we cannot let the Medicare provider legislation be held hostage to another bill which does have an agreement.

It is very unfortunate we could not get agreement. But it is partly because the Senate, as well as the House, is still a bit too partisan on all matters—not all matters, but most matters. Particularly on this issue, because it gets to a very fundamental question which this body and the other body will have to address, the whole country is going to have to address, and that is: What is the future of health care in this country? To what degree is it going to be privatized, to what degree not? That is a huge question. The prescription drug benefit debate is really the opening shot of that larger debate.

I wish that were not so. I wish we could pass the prescription drug benefit

quickly this year, but it is the judgment of this Senator, and I think it is the judgment of virtually every other Senator in this body, that it is not going to happen now. I wish that were not true.

Therefore, I think let discretion be the better part of valor and let this Medicare payment bill pass.

Ms. SNOWE. In response to what the Senator from Montana indicated, let me say this. Obviously I am not privy to his private conversations, but we were sitting in those meetings in good faith, and I didn't hear from anybody around that table—more than 14 Members—who resisted the idea we should not proceed, that we should not work out these areas, that it was impossible.

Maybe in the final analysis, it might have been impossible, but that certainly was not the expression of the sentiment in that meeting during that course of time. The fact is quite the contrary. I think most of the Senators—as I said, it was equally divided between Republicans and Democrats, including Senator JEFFORDS from Vermont. There was an indication of strong interest to proceed to try to see if we could work through and resolve the identified areas in disagreement.

Those are the ones I mentioned previously.

So I didn't hear any indication there was a ''can't do'' attitude. In fact, just the contrary. They were suggesting we could proceed and instructed the staff to work over the weekend on those various areas.

Suffice it to say we didn't have the process in the committee to work these through. Obviously, for whatever reasons, it did not work out as a result of those negotiations. But they were, I think, very close. I think we were very close.

I know if those individuals sitting around the table had agreed in these areas, we certainly could have overcome any political obstacles and impediments here in the Chamber because I think there is virtually unanimous desire to get something done on behalf of our Nation's seniors.

I cannot imagine anybody here in the Senate would want to tell their seniors that somehow it could not be done. We are elected to get things done. We are responsible for ensuring this institution functions in a way that does dignity to the process. Unfortunately, I think in this instance we failed.

I happen to believe on the Medicare provider give-back, if we were somehow to be able to resolve those differences behind closed doors, without a markup and on the floor, then clearly we should be able to do what has been deemed to be the impossible—the impossible in this institution—in advancing this legislation in the interests of our Nation's seniors. In fact, we invited the AARP to be part of our negotiations this fall to talk about some of the issues.

Yes, they had concerns with the tripartisan bill, as they did with the bill that had been offered by Senator GRAHAM, in providing an unfunded mandate on States. But the fact is, who is to say any legislation is perfect? We certainly didn't indicate ours was. This is the agreement we had reached. We were prepared to accept amendments and to consider different ideas. That is where we were in these meetings that were scheduled by the Senator from Montana in his office.

Ultimately, there were not additional meetings, even though the staff had been instructed to draft language in the three areas I mentioned originally. The fact is, this failure is at whose expense? It is at our Nation's seniors' expense. As prescription drug prices go up each and every year by more than 15 percent, it is 2½ times faster than the cost of additional health care components. By 2011, the prescription drug spending is expected to be 15 percent of all health care spending in America. Rising prescription drug costs have made prescription drug coverage for Medicare beneficiaries less available and more expensive. We have seen employer-sponsored retiree health plans provide 28 percent of Medicare beneficiaries with prescription drug coverage, more than any other source. It is a major source of prescription drug coverage for our Nation's seniors.

Now what are we finding? Far fewer employers are offering coverage to their employees. Those employers who continue to do so are requiring seniors to pick up a larger share of the costs. That is what we are talking about. The proportion of larger employers offering retiree health benefits dropped from 31 percent to 23 percent between the years 1997 to 2001. Those who were requiring Medicare-eligible retirees to pay the full cost of their coverage rose from 27 percent to 31 percent.

Those are not my figures. Those are the figures that have been given by the GAO, that have been certified. Certainly I think they underscore the costs of prescription drugs to our Nation's seniors and, I think, the challenges we face in this country if we fail to address this most serious problem.

As AARP indicated in its own letter, the costs of prescription drugs are going up, as was said, more than 15 percent on an annual basis. These added costs to beneficiaries, as we have seen, because the Medicare provider giveback is going to increase part B premiums. There is no question about that. So that is going to raise the premium $6 billion in the first 5 years alone. These added costs, as they said in their letter recently, come in addition to double-digit hikes in prescription drug costs for older and disabled Americans, many of whom have little or no options for drug coverage.

Employers continue to reduce or eliminate health care coverage. Medigap premiums continue to rise. And now, nine more Medicare+Choice plans are pulling out of Medicare.

So, you see, we do have an obligation to do what is right. I would not be standing here today insisting on getting this done if I didn't think it was possible. That is because I have had a number of conversations with colleagues on both sides of the aisle, on different sides of the issues, different philosophies. Many have indicated they are prepared to make concessions and develop compromise and consensus on this issue to get it done here and now.

I agree with the statement that was made by the Senator from West Virginia with respect to the provider giveback legislation, I think it is necessary for our Nation's hospitals and home health care. So is this. They are not mutually exclusive. They go hand in glove for our nation's seniors.

I have toured many of the hospitals in my State.

I have heard firsthand from seniors in my State about the plight of some who have gone without prescription drug coverage.

I was told a story about a man who had diabetes and was supposed to take his medication and couldn't take his medication. He knew what that would lead to. He didn't have prescription drug coverage. So he was unable to take the medication prescribed by his doctor after he was released from the hospital. He had diabetes which ultimately led to amputation and ultimately to his death.

Those are the kinds of tragic stories we hear over and over again. Those are choices our seniors shouldn't have to make.

We have the time. We have the time to do what is right.

Mr. KYL. Mr. President, I rise in support of S. 3018, the Beneficiary Access to Care and Medicare Equity Act, which was recently introduced by the Chairman and Ranking member of the Finance Committee.

This act would provide more than $40 billion over the next 10 years to improve benefits for Medicare beneficiaries, guarantee that Medicare beneficiaries continue to receive the high quality health care they deserve, and increase reimbursements to Medicare providers.

I would prefer that we address these issues as part of comprehensive Medicare reform, reform that includes a new prescription-drug benefit. Unfortunately, the process the Majority Leader used to bring a prescription drug benefit to the Senate floor guaranteed its defeat, and no drug proposal put forward won the 60 votes necessary for passage. While the Senate was unable to pass a prescription drug bill, we still have an opportunity to address other critical Medicare issues.

And it is critical. In 1997, Congress passed the Balanced Budget Act. This act made significant cuts in Medicare provider reimbursements and implemented new payment systems. In many cases, these cuts made sense. However, in some cases they went too far. Moreover, the process of implementing these new payment systems for home

health care, hospital outpatient services and skilled nursing-facility services has not been a smooth one.

One key area where we see this is in payments to physicians. Physicians are reimbursed for providing services to Medicare beneficiaries under a fee schedule. The fee schedule is updated annually under a very complex formula. The formula considers the sustainable growth rate which is based on four factors: the estimated changes in fees; the estimated changes in the average number of Medicare Part B enrollees, not including Medicare+Choice beneficiaries; estimated projected growth in real gross domestic product growth per capita; and estimated change in expenditures due to changes in law or regulations.

On November 1, 2001, the Center for Medicare and Medicaid Services (CMS) announced that the annual update of the fee schedule in 2002 would result in a 5.4 percent reduction in reimbursements. A number of factors led to this decline, including the adjustment by the sustainable growth rate. But the sustainable growth rate is flawed because of mistakes made by CMS. In the late 1990's, CMS overestimated the number of Medicare beneficiaries in the Medicare+Choice program and underestimated gross domestic product growth. These errors resulted in reimbursements greater than what they should been if CMS had not made them. As more accurate data came about CMS has corrected its previous errors. This correction has partially led to the −5.4 percent update this year. Additionally, physicians are looking at future payment cuts next year and the two years following that. Overall, physicians could see a 17 percent reduction in reimbursements from Medicare over these four years.

The key concern, of course, is really not so much Medicare reimbursements for physicians, but Medicare beneficiaries' access to medical care. There is increasing evidence that doctors are not taking new Medicare beneficiaries, are retiring early or accepting administrative positions. According to a report in the March 12, 2002 edition of the New York Times, 17 percent of family doctors are no longer taking new Medicare patients. The Beneficiary Access to Care and Medicare Equity Act would increase reimbursements to physicians over the next three years, and, in turn, help stem the tide of doctors refusing to treat new Medicare patients.

Of course, physicians are not the only health-care providers that this legislation would help. The legislation would eliminate a 15 percent reduction in home health-care reimbursements mandated by the Balanced Budget Act of 1997. As it turns out, the Balanced Budget Act's original change in the payment system for home health care services helped save money. But it is no longer necessary to implement the 15 percent cut. Additionally, this legislation would help smooth out the transition to a new payment system for skilled nursing facilities. S. 3018 would also provide both urban and rural hospitals with increases in reimbursements. It has many provisions to help alleviate the reimbursement differences between rural and urban hospitals. Of particular note, S. 3018 contains a technical change that will allow publicly-funded safety net hospitals to negotiate for lower drug prices. These hospitals bear a disproportionate burden in caring for the uninsured in our country; allowing them to negotiate lower prices will save them millions of dollars.

Another provision of note is section 805, which would provide $48 million annually for two years to States and other providers that offer federally-required emergency medical treatment to illegal aliens. A congressionally-commissioned study by the U.S.-Mexico Border Counties Coalition estimates that the 24 counties along the southwest border incur uncompensated costs of over $200 million per year in connection with the provision of emergency health treatment to undocumented aliens. The non-border counties in southwest States, and other states, including New York, Florida, Illinois, New Jersey, Massachusetts, Washington, Colorado, and Maryland, also incur tremendous costs. The entire state of Arizona, for example, incurs unreimbursed costs of approximately $100 million per year to provide such treatment.

These southwest States and counties, many of which have very small tax bases and small annual budgets, and other States should not be forced to bear the responsibility of providing emergency health treatment to undocumented aliens. These unreimbursed costs have helped put Arizona's and other States' affected hospitals in a state of dire fiscal emergency. Many hospitals have closed, or are in danger of closing, their emergency rooms either temporarily or permanently.

The Balanced Budget Act of 1997 provided funding to states to help defray some of these uncompensated costs; however, this provision expired at the end of fiscal year 2001. Section 805 would specifically extend and refine the Balanced Budget Amendment Act of 1997 to provide $32 million in each of fiscal year 2003 and fiscal year 2004 to the 17 States with the highest number of undocumented aliens, as defined by the U.S. Department of Justice. Additionally, in fiscal year 2003 and fiscal year 2004, $16 million would also be allotted to the six highest undocumented alien apprehension States, as defined by the U.S. Department of Justice.

Forty-eight million dollars per year is just a fraction of the unreimbursed costs that the States incur each year, but this funding will at least begin to defray some of the costs.

Although, I strongly support most of the provisions contained in S. 3018, I do have concerns about others. For instance, section 707 of S. 3018 provides States with a temporary 1.3 percent point increase in their Federal Medical Assistance Percentage, FMAP, payments, the amount that the Federal Government supplements States' Medicaid spending.

Under FMAP, Medicaid funds are distributed to States based upon a formula designed to provide a higher Federal matching percentage to those States with lower relative per capita income, and a lower Federal matching percentage to those States with higher per capita income. This formula, although not perfect, is justified because States cannot manipulate it for their own gain; the data are periodically published and can be estimated with reasonable accuracy. Additionally, the use of per capita income is a proxy for state-tax capacity which, in turn, relates to a State's ability to pay for medical services for needy people. To put it simply: poorer States get more help than wealthier States.

Unfortunately, S. 3018 ignores the Medicaid formula and gives each State a 1.3 percent point increase. Under this section, States that have been determined by the Medicaid formula to receive the lowest FMAP of 50 percent receive the greatest percentage increase in FMAP. States with the highest FMAP receive the lowest percentage increase. This is the exact opposite of how the funds should be allocated. The Medicaid formula, whatever its faults, does indicate a relative sense of need. It would be wrong to give the least needy States the largest percentage increase.

Even though I have concerns about how funds are distributed under this section, I urge my colleagues to support S. 3018. It is vitally important that Congress enact changes to Medicare payment policies before we adjourn. I also support the passage of a Medicare prescription-drug benefit, preferably the tripartisan modernization proposal; but we should not allow our inability to reach a consensus on that matter to stop us from making the appropriate changes to Medicare's payment policies. Medicare beneficiaries need guaranteed access to high quality care, and S. 3018 is a means to that end.

Mr. JEFFORDS. Mr. President, I first want to salute the Senator from Montana, Mr. BAUCUS, as well as my good friend and colleague, Senator GRASSLEY, for their bipartisan effort and leadership in crafting S. 3018, the Beneficiary Access to Care and Medicare Equity Act of 2002.

As the chairman and the ranking member of the Senate Finance Committee, they have worked long and hard on legislation that is critically important to the future of health care for our citizens that rely on Medicare. I am proud to be a cosponsor of S. 3018, and I urge all of our colleagues to support its passage as soon as possible.

In the closing days of the 107th Congress, there will be many bills that on their way to consideration and passage will enjoy the unanimous consent of

the Senators. There are few of these many bills more worthy of our consideration and unanimous consent than this measure.

Vermont, like so many of our States, has a healthcare system that is facing reductions in levels of Medicare reimbursement that are untenable. In some cases, these reductions took effect on October 1 and others will occur at the end of this month. The cuts have already led to fewer physicians and services being available to care for our elders.

The list of cuts and reductions is long. Physicians and other healthcare professionals, home health agencies, critical access hospitals, skilled nursing facilities, sole community hospitals, and others are being affected. And make no mistake, these cuts translate as cuts in access to healthcare for our elders.

But it is not too late. We can pass this legislation, engage in a conference with our colleagues in the other chamber, and have a bill for the President to sign before the end of this Congress.

Once again, I want to commend Senator BAUCUS and Senator GRASSLEY for their work on this bill and for this chance to speak to its merits today. It is needed legislation, it is balanced, and it is well crafted. Our elders need it passed. Our providers need it passed. Children depending on SCHIP need it passed, and our States need it passed. We should not let this opportunity to enact this legislation go by, and so I urge our colleagues to support its passage.

Also I want to commend the Senator from Maine for her statement with which I agree and commend her.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, the Senator from Maine has told us what the Baucus-Grassley unanimous consent request to move the legislation forward won't do, what it has been said is included, what has not been included in it, and, therefore, as a result it shouldn't be considered at this point.

I will concede the point to my friend from Maine that it is a tremendous shame we didn't somehow pass a prescription drug benefit for our seniors. I have worked with her. We even shared an amendment on the Patients' Bill of Rights. I know of her passion for health care and for the benefits for our seniors. I share those values, and I share the concern we all have today everywhere that we don't have a prescription drug benefit for our seniors.

I have to go back to Omaha and face George and Lee, who have spent so much time telling me about the importance of having a prescription drug benefit. But you know we had three shots at it this session. One was it was too expensive, one was it didn't provide enough benefits, and the one my friend from Maine supported—the insurance model—failed by getting only 48 votes.

But I come from an insurance State. And not one insurer that I spoke to told me they planned to offer this benefit anywhere, let alone in the State of Nebraska.

There were a lot of reasons why that particular bill didn't make it. There were reasons why the other two bills didn't make it.

I would like to have us pass a prescription drug benefit before we leave, but I don't want to do it at the expense of this legislation that is so necessary.

When I go back, if we don't pass it because we try to pass a prescription drug benefit that causes the failure of this legislation which I am going to describe in a minute, I will have to face George and Lee. Not only will they tell me we didn't get a prescription drug benefit, but their physician Medicare rates are down and their doctor doesn't want to provide the care for them anymore. Or I have to go back and find out the skilled nursing facilities are not going to be funded or the State fiscal relief that Senators ROCKEFELLER and COLLINS and I worked so hard to get through is now cut back from $9 billion to $5 billion and that is not going to be available to the State.

I agree with the passion of the Senator from Maine and her concern about the fact we didn't get a prescription drug benefit done yet this session. But I don't agree we ought to pull this legislation which is before us back into committee so they can attach to it a bill that failed, only got 48 votes, and which I don't think will work. I think we have to separate these two issues—and they have been separated.

Let us talk about the bill that is now before us, the Baucus-Grassley bill, a bipartisan effort. The ranking Member from Iowa is pushing to have this considered on the floor rather than to go back and be delayed in committee.

Under current law, Medicare's physician payment rates are projected to fall by 12 percent over the next 3 years. In Nebraska, physicians' losses due to the 2003–2005 cuts will total about $63 million or $17,230 per physician. This comes on top of a 5.4 percent payment cut which cost Nebraska doctors a total of $12.9 million or about $3,875 per physician in 2002.

An AMA survey conducted earlier this year found that one in four physicians either has restricted or plans to restrict the number or type of Medicare patients treated. One in three has stopped or intends to stop delivering certain services to Medicare beneficiaries.

Additional payment cuts of an extra year will only exacerbate these problems and cause significant access problems in the State of Nebraska—a State that is already challenged geographically to be able to provide access to our residents.

Let us talk for just a moment about skilled nursing facilities and what will happen there.

Our skilled nursing facilities are also in jeopardy. If action isn't taken and if this legislation does not pass, then Nebraska's facilities will lose $28.48 per patient per day next year, for a total of $10 million. There are just some that aren't going to make it. They are going to be in small communities that will be left out when it comes to skilled nursing facilities.

When it comes to State fiscal relief, my colleague from West Virginia and I—both former Governors from our States—know very well what the impact is going to be on the States of Nebraska and West Virginia, as well as the rest of the States. Forty-nine out of 50 States must balance their budgets by law.

It is no secret the economy is hurting. States are facing a number of difficult decisions as a result of that. When States have to make budget cuts, let me assure you it affects real people. There may be line items in a budget, but there are faces associated in every case.

In a special session in Nebraska in August, the legislature made some drastic cuts. It wasn't pretty. Thirteen thousand kids were cut from Medicaid.

That is why we have been working so closely, Senators ROCKEFELLER, COLLINS, and I, to pass State fiscal relief, which is part of this legislation. Seventy-five of our Senate colleagues agreed with us when they supported our amendment in July. Senators BAUCUS and GRASSLEY have included State fiscal relief in this very important provider package, and it is extremely important to the people in the State of Nebraska and the States of every one of our colleagues here in the Senate.

If I were one of my residents of Nebraska, or one of my constituents watching or listening to the debate today and heard about unanimous consent requests, objections, sending this back to committee for further consideration, trying to deal with what cloture is, how many times, what person did what, and how many of us are all interested in making sure we get not only this legislation through but also a prescription drug benefit, they have to be confused.

Their only question is, Why don't you just get this legislation done and work also on a prescription drug benefit? What has one got to do with the other? Don't, for heaven's sake, deny us our prescription drug benefit because you can't get it through, and at the same time now come along and make sure our doctors aren't going to get reimbursed enough, or our skilled nursing homes aren't going to have enough money, and our States are going to continue to cut back on Medicaid benefits. Separate the two issues and get them done.

Three tries, and I don't think we are out. That is true in baseball. I don't think it is true here. I think we can dust off one of these versions and make it work well.

I have met with Senator SNOWE on a prescription drug benefit. I have met with everybody I can in the interest of finding a prescription drug benefit. I know it is possible. I also know it is

difficult. But I think it is extremely important for us to first fulfill our obligations with the Baucus-Grassley effort. Let us let this come to a vote. Let us stop the objections. Let us withdraw the objection from the other side. Let us get a vote. Then let us see if a bunch of us can come back together—and we should—and get a prescription drug benefit.

But, for heaven's sake, even in the greatest and most sincere effort in the world, we should not think about one bill here because we are trying to save another, when we know very well it is not going to work. We have not run out of time. We can do this. We should bifurcate them. We should separate them, get the Baucus-Grassley bill done, withdraw the amendment, and let us work on a prescription drug benefit so I can go home and I can talk to Lee and George and tell them something more than: Well, we tried.

I sure don't want to have to go back and say: Well, we didn't get anything on prescription drugs. But that isn't where the bad news ends. There is worse news. We also didn't get the give-back bill through, and that means if you have to go to a nursing home, there may not be one. Your doctor may decide he is not going to treat you because he has had a reimbursement dropped or if, heaven forbid, they have to go on Medicaid, there will not be any benefits to provide for seniors as well.

I don't want to have to tell the children of Nebraska there are further cuts coming because we could not get the State relief, the FMAP, as it is called, back to the States to take care of the short budgets so that people are not going to be further disadvantaged by these unfortunate economic conditions in these times.

I agree with my friend from West Virginia, there is more passion in this Senate body to pass a prescription drug benefit than you can imagine. The problem is very simple. We just cannot agree on how to do it. It cannot cost too much, the benefits cannot be too little, and we cannot pass something that will not work.

I think we have the collective wisdom to find a way to do it, but it is going to require the collective will to do it. But this mechanism is not the mechanism on which to do it. And let's not sink it trying to do something noble for those who are the most vulnerable among us, our seniors. I think they can understand why we do not want to sink one trying to do the other.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from West Virginia.

## CONCURRENT RECEIPT

Mr. ROCKEFELLER. Mr. President, I rise at this point on a different subject, with the tolerance and forgiveness of the Senator from Louisiana, to discuss a different problem, concurrent receipt.

I am very pleased my friend from Minnesota is in the Chair because he is on the Armed Services Committee, and so it makes me very happy to be able to present this argument to him.

We are all very familiar with this practice of requiring military retirees to choose between military pay for retirement and disability benefits. There is a history of this which I will get into. The money comes from the Department of Veterans Affairs, but it is a very sad state of affairs that we have come into.

This is a practice that my friend, Bill Stubblefield, of Martinsburg, which is a large town in West Virginia, who serves on the board of directors of the Retired Officers Association, told me ''is patently unfair when a serviceman or woman, who has devoted 20 plus years of their life in service to this country—suffering physically as a consequence—has to be penalized by having their VA disability offset by their retirement pay.''

It is a huge subject. We have been fighting for years to eliminate this injustice. While the Senate, under the leadership of Senator HARRY REID of Nevada, has passed such a provision several times, this is the first time we have something to offer that approximates the Senate's efforts in dealing with the House, which is now a problem.

Money has been set aside in the deeming resolution to fund some version of concurrent receipt.

Now we learn that the Bush administration is threatening to veto—they have said the President will veto—the Department of Defense authorization bill. I think the enormity of that is $347 billion, something of that sort. They said the President will veto the entire bill because officials in this administration oppose concurrent receipt for service members who are retired from the Armed Forces with a service-connected disability.

A disability is a very special condition. Frankly, I find this opposition highly objectionable. I find it shocking. It wholly disregards the enormous dedication and sacrifice of our men and women in uniform, and it labels their claim to compensation earned in service to this Nation as ''double-dipping,'' which is a slam and a putdown. It is something you say in sort of contemptuous terms.

When did this become double-dipping? More than 100 years ago, Congress examined the military pensions of veterans of the Mexican-American war. At that time, Congress found the retired service members who returned to active duty could draw active duty, retirement, and disability pay. So life was good and right and fair.

During debate, the late Senator Francis Marion Cockrell, who, I confess, is unknown to me, argued that:

> [T]he salary we pay the officers of the Army is intended to be in full for all military services. We allow longevity pay . . . in lieu of pension and everything else.

In 1891, therefore, Congress banned what is called ''dual compensation'' for past or active service and disability compensation. So that is history, 1891.

That legislation accomplished its goal. Service members can no longer receive retirement or full disability compensation while on active duty. However, the Congress of 1981 painted with too broad a stroke. Retirement and compensation are and have always been intended to compensate very different purposes. One is called retirement; the other is called a disability. They are totally unconnected.

This is a very important issue to veterans in this Senator's State and to veterans throughout the country. In fact, I would say to the Presiding Officer, there is no single subject on which this Senator gets more mail and more telephone calls and more conversations when in my State than on this subject of concurrent receipt. It is an overwhelmingly emotional and powerful argument of anger and disgust and frustration on the part of the veterans of this country.

Veterans such as Hugh Weeks of Beckley, WV, a veteran of World War II, Korea, and Vietnam—that's not bad—a career military man, writes to tell me that while their military careers placed hardships on them and their families, they never stopped serving during those hardships. Hugh wrote to me: ''Now is the time for the government to stop discriminating against us.''

In yet another disturbing setback for retiree veterans, the House of Representatives Appropriations Committee, last week, reported out a VA–HUD appropriations bill for fiscal year 2003 spending. This bill contains a provision that would prohibit specifically VA from using any staffing funds to adjudicate claims for VA service-connected disability benefits that would result in concurrent receipt.

Mr. President, I ask unanimous consent that the applicable text of the bill and committee report be printed in the RECORD.

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

H.R. 5605—DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2003

SEC. 114. (a) No appropriations in this Act for the Department of Veterans Affairs shall be available for the adjudication of any claim for disability compensation filed after the date of the enactment of a new concurrent receipt law by a veteran who is entitled to retired or retainer pay based upon service in the uniformed services if the Secretary determines that, if compensation under the claim is awarded to the claimant, the veteran will, by reason of the new concurrent receipt law, be entitled to payment of both compensation under the claim and some amount of such retired pay determined without regard to the provisions of sections 5304 and 5305 of title 38, United States Code.

(b) For purposes of subsection (a), the term 'new concurrent receipt law' means a provision of law enacted after October 1, 2002, that

provides that certain veterans are entitled to be paid both veterans' disability compensation and military retired pay (in whole or in part) without regard to sections 5304 and 5305 of title 38, United States Code.

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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 2003

Section 114 prohibits VBA funds from being used to adjudicate claims arising from any new concurrent receipt legislation. The Department of Veterans Affairs estimates that enacting concurrent receipt of compensation benefits and military retirement pay would result in estimated mandatory costs to VA of approximately $16,000,000,000 over ten years, as well as administrative costs of $124,000,000 in the first year and $245,000,000 over a five year period. These estimates do not include the additional costs to the Department of Defense. The Department estimates the concurrent receipt claims workload would add more than 800,000 claims over the next three years. VA has been working diligently over the years to reduce the claims backlog and adjudication time. As of August, VA adjudicated almost 730,000 claims in fiscal year 2002 and still has a current workload of over 355,000 claims with a lag time of 225 days. Regardless of the policy surrounding concurrent receipt, the Committee is concerned that the deluge of new concurrent receipt claims will paralyze the system and those veterans who have been waiting for years to get a determination will never see the benefit. The Committee directs the Administration to budget appropriate VA funding for both mandatory and administrative costs should such new concurrent receipt legislation be enacted.

Mr. ROCKEFELLER. Mr. President, if this provision becomes law, no service member who retires next year and is disabled because of service will be found service connected by VA. No current retiree who has yet to file a claim with VA but is disabled because of service will be service connected by the Veterans' Administration. No retiree who is already service connected, whose condition worsens, will receive a service-connected rating increase. No widow of a retiree who died of a disability related to service will be able to receive VA service-connected death benefits if she receives Department of Defense survivor benefits.

It is discrimination. It is wrong. If followed to its logical conclusion, none of the benefits that flow from service-connected disability status will be given to otherwise completely eligible individuals. These important benefits include free health care and, most importantly, obviously, long-term care, vocational rehabilitation and certain life or homeowner's insurance, health care, education, and home loan eligibility for surviving spouses and children.

Our House colleagues have justified this action, so to speak, this policy choice, by pointing to the cost to the Federal Government of paying for benefits that rightfully accrue to veterans who devoted a lifetime of service to this country. The House Appropriations Committee also warned of a potential flood of new claims that might be filed if concurrent receipt passes, increasing delays in processing.

My shock over these provisions and the rationale given for them is not that of the chair, which I am, of an authorizing committee seeing its role usurped by appropriators. One gets accustomed to that. No one is more concerned about the way the Veterans' Administration adjudicates claims than I am. As chairman of the Veterans' Affairs Committee, I have been working on this issue for a very long time. I am troubled not only about the length of time the Veterans' Administration takes but the quality of the decision-making in that process.

We can quibble over the number of claims that might arise if concurrent receipt passes and how much they might add to VA's already shocking backlog. That is why we must support, therefore, a sufficient appropriation to process and pay for these claims.

None of these concerns aforementioned by me justify prohibiting benefits to eligible veterans and their families, benefits they have earned through their service to this country. Nothing justifies that.

It can be straightened out in this body. It is time for us as a nation to step up and do the right thing. Otherwise, how can we face Hugh Weeks, the aforementioned veteran from Beckley, WV, and all of the disabled retirees who stand with him. When will it be time to stop discriminating against those who continue to serve after they have suffered disabling injuries or illnesses? I hope that time is now.

Mr. NELSON of Florida. Will the Senator yield?

Mr. ROCKEFELLER. I am glad to.

Mr. NELSON of Florida. I just want to thank the Senator from West Virginia for his insight and leadership and for educating me, a Senator from Florida, from his position as chairman of the Veterans' Affairs Committee.

I wanted to bring to the Senator some late-breaking news. We have just had a conference committee meeting of the Armed Services Committee in which we are trying to get final resolution on the DOD authorization bill. The House conferees refused to show up with the Senate conferees to hammer out the final version because of a dispute over concurrent receipt. But it is not a dispute from the entire membership of the House of Representatives. In fact, they had a motion to instruct conferees to accept the Senate's position, as articulated by the Senator from West Virginia on concurrent receipt; in other words, that if you have a military retirement, you ought to have that, and it should not be offset by what you are also entitled to if you are a disabled veteran who is entitled to disability benefits.

Despite the fact that the House passed a motion to instruct conferees, 400 to 0, to accept the Senate position—in other words, to accept concurrent receipt—and give these disabled veterans what they are entitled to, the White House sends a message to the House of Representatives leadership and says: Don't agree with the Senate.

I was so proud of the chairman of the Armed Services Committee; when he found out that was the position, he said: Nothing doing. We are not agreeing to the White House's position. We are going to stand up. The Senate is going to stand up for concurrent receipt.

I thank the Senator from West Virginia. I wanted to bring him that late-breaking news.

I also want to put very clearly where the responsibility is because the veterans of this country don't know that they are going to be denied concurrent receipt because of instructions from the White House staff and President Bush.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I rise to add my words on this issue and also to thank the Senator from West Virginia for his comments, as well as the Senator from Florida. The Senator from West Virginia is absolutely correct; this is a very important issue to Americans generally, particularly in the context in which we find ourselves, getting ready to perhaps fight yet another war and honing our designs on homeland security, but particularly to the veterans and their families that are affected.

Unfortunately, the President has stated he will, in fact, veto the Defense bill over this issue. I urge him—and I am sure many of my colleagues on both sides of the aisle do as well—to reconsider. While there is a cost associated with this, clearly it is an injustice that should be corrected.

A veteran, a person who has put their life on the line, particularly in recent years, been called up again and again and again into active reserves and also reservists have been called up, to have a person injured or disabled and then to serve out their 20 years, only to come to the realization that they can receive their retirement but they can't receive their full disability is a very unfair situation, something for which our veterans most certainly deserve our better attention.

As we allocate our resources to strengthen our military, not only do we need smarter weapons, but we need to keep our promises to our men and women in uniform. We need to keep our promises about health care—you take care of us now, we will take care of you in your senior years. We are doing a better job of that by stepping up with the TRICARE and health benefits. But this concurrent receipt issue is where the rubber hits the road and trying to get some sort of commitment to helping our veterans who are disabled on the battlefield or injured on the battlefield, that disability then is subsequent to that injury, to allow them and their families to take the full benefit of their retirement as well as their disability seems to me in the scheme of what we have been talking about: Investing in our military, trying to keep up their morale, keep up our promises,

and live up to our promises to our men and women in uniform as to what we should be doing.

I am hopeful this situation will resolve itself to the benefit of veterans. I, for one, am prepared to stay here and work toward that end.

## TRIBUTE TO SENATOR JOHN BREAUX

Ms. LANDRIEU. Mr. President, I rise to address a subject on which there is no disagreement. The President would agree, as would Senate Democrats and Republicans and many Members of Congress; that is, to congratulate the senior Senator from Louisiana, JOHN BREAUX, on 30 years of service in the Congress.

We celebrated that momentous anniversary this past Saturday. He received, of course, many well wishes from his many friends and supporters in Louisiana and around the Nation.

I know his family is very proud. I want to say for a minute how proud I am of his service to our State of Louisiana. Thirty years ago, Senator JOHN BREAUX, then a Congressman, came to Washington as a young lawyer from a small town, the city of Crowley. He was elected to the House of Representatives at a very young age. In fact, when he got here, he was the youngest Member of Congress. He has served our State admirably ever since. Now he is in his third term in the U.S. Senate, and I have every hope he will run again and have no doubt he will be reelected.

JOHN likes to say he started campaigning in nursery school. Those of us who know him well would almost believe that. That is probably no stretch. He said he was going to city council meetings with his grandfather when he was 7 years old. In high school he was a popular athlete who played hard but was always fair to his teammates as well as his opponents. He learned the lessons on those athletic fields of hard work, teamwork, and leadership, which serve him well. Frankly, it is so obvious to all of us who know him and his affable manner, his very approachable way, always with a kind word to say, always a joke, and always something to lighten up a discussion at the appropriate time. Those traits have served him well as an outstanding Congressman and Senator.

In addition, because none of us come here on our own, he has come here as a husband, a father, and now as a grandfather. His wife, Lois, has truly been a tremendous partner, at great sacrifice to herself and her family. JOHN and Lois brought their Cajun roots to our Nation's capital, and we are proud of that. He has never lost sight of who he is or where he has come from. We know him at home in many ways, but in Washington he is known as a strong, vocal, and effective advocate for agriculture. His hometown sits right in the heart of rice country, in Crowley, LA, and in the heart of, in many ways, sugarcane country in south Louisiana; and he is familiar with all of our row crops, cattle, and other aquaculture and agricultural commodities.

He is a strong and effective advocate of energy policy for the Nation, and his voice has been one that has brought us to the center, with a balanced approach on our energy policy. In addition, on our health care industry and issues, he has been particularly noted as a leader. As a member of the Finance Committee, there is not an important compromise that is developed on that committee—or outside of that Committee, for that matter—that he is not part and parcel of, which is a great strength as a Senator, particularly in these times when our parties seem to have a hard time coming together and finding middle ground and working out a compromise. Senator BREAUX brings so much effort in that regard and so much help.

To mention a few things—and after his 30 years, I could stay here all night and I could talk for hours. I will highlight a few of the things that would not have passed without his able help and assistance: the Welfare Reform Act, many health insurance reform bills, the balanced budget amendment, and tax cut packages that have passed here. He chaired the Special Committee on Aging and to that committee has brought a tremendous amount of passion on the issues of Social Security and Medicare, which have served this Nation well.

I will conclude by saying we have all been blessed by his leadership and his talent. He has used it to help Louisiana to grow and expand economically. Mr. President, he has had a tremendous impact on the Nation at large. He has fought for businesses, schools, workers, students, and opportunities for all. He is a founder of the DLC, of the new Democratic Network.

I could not have a better partner in the U.S. Senate than JOHN BREAUX. He is a mentor, a friend, and a partner in helping to strengthen our State. I wanted to spend a few moments to acknowledge the 30th anniversary and wish him 30 more years. He is in great health. He plays tennis regularly, with Democrats and Republicans alike, and beats us all on the court. He wins many of his battles on the Senate floor as well.

Again, I congratulate Senator JOHN BREAUX.

## RESERVISTS AND GUARD PAID PROTECTION ACT

Ms. LANDRIEU. Mr. President, I will now address the Reservists and Guard Paid Protection Act, which I introduced last week. I'm looking forward to working diligently in the months and years ahead—hopefully, it won't take years—to pass this bill. I think it is a bill we probably should have addressed some years ago. I will speak to what the bill does.

The Reservists and Guard Paid Protection Act attempts to put into law a tax credit for employers who voluntarily—because it is not mandatory—pay their reservists and maintain their salary level when they are called up to represent us, to fight for us, to stand in harm's way, to preserve our freedom, whether it be in Afghanistan, Bosnia, or Iraq, or anyplace our flag needs to continue to wave.

Mr. President, as you might know—and I am certain most people in America don't realize—when our reservists are called up, their salary is cut. When our reservists are called up to defend us—because the President, our Commander in Chief, and this Congress have authorized us to call on them, to call on their lives, their health, and strength to defend us—they, in most instances, take a pay cut. Why? Because their salaries are generally higher in the civilian sector than we are able to compensate them.

No soldier works for a paycheck, I realize that. If they did, we would not have any soldiers, because their paychecks are not what they need to be. They are patriotic and they believe in our Nation and they want to do their part. For that, they should be commended.

This Reservists and Guard Protection Act gives their employers, if they voluntarily keep their salaries at the level they were before they were called up to serve, a 50 percent tax credit. So it helps the employer, who also is making a sacrifice, might I say, in the new system we have on relying more on reservists and guardsmen. The employers themselves are, of course, by law mandated to keep that job open so when the Reservists come back, they have a job. They are not mandated—and should not be—to pick up the tab for their salary, but we can help, and the cost is really minimal compared to the benefits that would result.

In addition, this bill also would mandate the Federal Government would maintain, for those reservists who are Federal employees—and we have a good percentage—not a majority, but a number of our Federal employees who might work at Treasury during the day, but are weekend warriors, and now they are full-time warriors because they have been called up—this bill would mandate the Federal Government simply maintain their pay at their regular level. Instead of taking the paycheck and sending part of it back to the Treasury while they defend us, they would be allowed to keep that paycheck, which would make a tremendous amount of sense. I know it would mean a tremendous amount to the spouses and family members at home, who have to keep the lights on, pay the mortgage, pay the rent, or pay the car payment monthly, food bills, et cetera. Just because one person in the family—one of the breadwinners, and in some cases it may be the sole breadwinner—has been called up to go to war, the family bills don't stop coming. They need to be paid.

So anything we can do to keep our reservists' and our guardsmen's pay

where it was so they are not taking a cut to defend us, I think would be appropriate at this time. Basically, that is what this bill does.

Let me make another point before I close.

Since 1991, the U.S. military has significantly scaled down its active troops because we came to the end of the cold war and we thought we could scale back our active troops. Now we are scaling up, of course, to meet these new threats, and into the foreseeable future, by calling on our Reserves more and more. In fact, they represented 40 to 50 percent of our troop force in Desert Storm. We have called on them in somewhat a disproportionate way to defend us in Bosnia, Afghanistan, and no doubt, if we go to Iraq, our active force will be perhaps 100,000, if not 200,000, in number, and many of them will be reservists.

Gone are the cold war days when we had massive military personnel positioned all over the world. Now we are relying on a leaner force. The reservists have become a part of that leaner force because we need flexibility in putting our force together to serve a great purpose.

In addition, with the new war—and you know, Mr. President, because you serve on the Armed Services Committee and the Emerging Threats Subcommittee which I chair, you are familiar with the fact we are going to need new skill sets in our armed services—linguists, cultural experts, historians. We are going to need different skill sets, highly technical individuals—public relations people, individuals who have skills about setting up civil authorities. So our new Army, Navy, Air Force, and Marines have to be a group of men and women who are highly trained in specialized skills.

Sometimes we can get those specialized skills from those on active duty, but it is smarter, more economical, and actually more effective if we are able to pull certain types of skills out of the civilian force when needed to apply them to that specific goal or objective. That is the way this new military is going to be designed for the future. It is different from the First World War, different from the Second World War, different than the cold war strategy. With a new strategy and new weapons, we are asking the reservists to do more. Let's not ask them to do more with less. Let's not ask them to do more and cut their pay. Let's do right by our reservists by supporting them. They are weekend warriors, but now they are simply warriors. Our benefits to them and our pay systems should reflect this new demand on their schedules.

OPTEMPO is up. Our conflicts and our challenges are right before us, and we need to respond.

I am hoping we will gain support for this act. I look forward to debating and presenting it to the committee, but I think this is the least we can do to support a segment of our national security force that is so important and so crucial for us to win the war on terrorism, to establish the peace around the world, so this economy, and economies around the world, can grow and people truly can live in peace and prosperity. These are the people who are on the front line making that happen.

This is a very important bill. I hope we will gain a lot of support for it as the months and weeks unfold.

## TRIBUTE TO STEPHEN E. AMBROSE

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 342; that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 342) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 342

Whereas Stephen E. Ambrose dedicated his life to telling the story of America;

Whereas Stephen Ambrose's 36 books form a body of work that has educated and inspired the people of this Nation;

Whereas President Bill Clinton awarded Stephen Ambrose the National Humanities Medal for his contribution to American historical understanding;

Whereas Stephen Ambrose made history accessible to all people and had an unprecedented 3 works on the New York Times Bestsellers list simultaneously;

Whereas Stephen Ambrose served as Honorary Chairman of the National Council of the Lewis and Clark Bicentennial and lent his name, time, and resources to innumerable other philanthropic endeavors;

Whereas Stephen Ambrose committed himself to understanding the personal histories of the men and women often referred to as the ''greatest generation'';

Whereas Stephen Ambrose's groundbreaking work on the history of World War II and the D-day invasion culminated in the National D-Day Museum in New Orleans; and

Whereas all Americans appreciate the contribution Stephen Ambrose has made in recapturing the courage, sacrifice, and heroism of the D-day invasion on June 6, 1944: Now, therefore, be it

*Resolved,* That the Senate—

(1) mourns the death of Stephen E. Ambrose;

(2) expresses its condolences to Stephen Ambrose's wife and 5 children;

(3) salutes the excellence of Stephen Ambrose at capturing the greatness of the American spirit in words; and

(4) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Stephen Ambrose.

Ms. LANDRIEU. Mr. President, this resolution is to honor—I am not sure words can actually do appropriate justice—a great American who passed away this last weekend. That American is Stephen Ambrose, the author of a number of books, a man who helped our Nation understand the dynamics of war, the spectacular strengths of the American infantry men and women in uniform.

He passed away quite a young man in his midsixties. He was a professor of history, known by many of us personally, and was a personal friend of the Senator from Alaska. I submit for the RECORD this resolution, to have it appear in the CONGRESSIONAL RECORD to honor a great American, someone Louisiana has lost and the Nation has lost. I am not sure we can ever replace him.

Mr. REID. Will the Senator yield for a question?

Ms. LANDRIEU. Yes.

Mr. REID. Mr. President, I ask the Senator from Louisiana allow me to be a cosponsor of this resolution.

Ms. LANDRIEU. Yes.

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

Mr. REID. Mr. President, I say to my friend from Louisiana, I love to read. I have very few extracurricular activities outside the Senate, but one is reading. I have received so much pleasure from ''Undaunted Courage,'' the great book about the Lewis and Clark expedition, which changed my view of our country. Of course, the work he did on World War II is something that will forever be in my mind and the mind of anyone who knows anything or cares about the history of this country. And to have the pleasure of being able to talk with him on a number of occasions when he came to speak to groups of Senators, I consider one of the pleasures of this job.

I compliment the Senator from Louisiana for submitting this resolution. It is a resolution I will remember as having been a part of because he allowed me to have so much pleasure in traveling to places in my mind's eye I would never be able to reach but for his great ability to write the English language.

Ms. LANDRIEU. I thank the Senator, and I am pleased to have him cosponsor this resolution. It has been said Stephen Ambrose was not a historian's historian, but he was a student's historian. He was truly an exceptional teacher. In my mind, when I think of an exceptional teacher, it is not someone who just communicates facts but someone who teaches in a way that inspires one to be better, to help one understand the context in which one lives. He was not an exceptional teacher just for the brightest kids in the class but for every kid in the class.

He taught—I used to say he taught at UNO—at the University of New Orleans, and kids would say their whole life was changed hearing him lecture. He lectured in the Senate, which changed many of our lives and outlooks.

He was an extraordinary man and left us way too soon. He left a number of works and disciples, if you will, of his work. He certainly will live on, and we were blessed to know him.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I inquire of the Senator from Alaska, who is standing to be recognized, I have a major speech I wish to make. If the Senator has a few remarks, I will certainly defer to let him go first.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is my intention to make some remarks as a cosponsor of the Ambrose resolution, not to exceed 10 or 12 minutes at the most.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that I be recognized upon the conclusion of the Senator's remarks, and I defer to the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator for his courtesy, and I thank Senator LANDRIEU for submitting this Ambrose resolution.

I thought Stephen Ambrose's book ''Undaunted Courage'' was one of the best books I ever read in my life. A few years back, my secretary said Stephen Ambrose wanted to come talk to me. Of course, being sort of a provincial type, I got out my book and had it on my desk ready for him to autograph when he arrived.

We talked about his dream. He had a dream of a museum for World War II. He talked with me at length about that. As a member of the Appropriations Committee, he was openly seeking money from the taxpayers of the United States for this museum. It was my privilege to convince the Congress to aid him in that effort. It is in New Orleans, and I say to any American who wants to understand World War II, they should go to New Orleans and see this marvelous museum.

It was my privilege to years later go through the museum with him the day before it opened. It is a fantastic living memorial to those others have called our greatest generation.

I happen to be one of that generation, one significantly honored by the fact I never suffered a scratch or had a crash or did anything I did not really enjoy in World War II. Being a pilot was my dream, and I was a pilot. We talked at length about that. As a matter of fact, Stephen Ambrose and I talked about a book he was going to write. He did write about the squadron of which former Senator George McGovern was a part.

I am here today to try to tell the Senate about a person I learned to love. He was not only a distinguished author, he was a man's man.

He came to Alaska probably three or four times in the last 5 or 6 years to go fishing, and we have had time where we sat around and talked. I tried to talk to him about smoking so many cigarettes, and unfortunately I think that is what caught up with him.

He really understood America. He told me of how he wrote that book ''Undaunted Courage''; how he took his boys and went down the trail that Lewis and Clark took. They camped out through the summertime several summers in a row. He told me how he had lived the history. I remember him telling me he felt that book.

He has now become the person who has been the chronicler of the Eisenhower period of our history. I think he wrote nine different books about Eisenhower's participation. He was called by President Eisenhower to be his official biographer. He told me personally about that and how he had not expected that.

He has now completed his life, unfortunately early. He has left a mark for historians to envy because he was a popular historian. I challenge anyone to read one of his books and not want to read the next one written by Steve Ambrose. For instance, he wrote his own biography.

I ask unanimous consent that it be printed in the RECORD following my remarks.

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

(See exhibit 1).

Mr. STEVENS. It is one of the most interesting biographies a person could read because he personally wrote it. It is sort of a roaming history about a man who enjoyed life.

His books about World War II, of course, will live in history. Of all of them, I enjoyed ''Band of Brothers'' more than any others because that was made into the series I hope many in the Senate had an opportunity to see.

I have gotten copies of his books and given them to so many friends because they represent to me an understanding of the Eisenhower period. I truly believe those of us who served in World War II worshiped our President then, and he showed that worship when he wrote about Eisenhower. He had the honor to go through all of the Eisenhower papers. He edited and issued five different volumes of the Eisenhower papers. If one wants to know the period of World War II and the time that has followed in terms of people who reviewed the history of World War II, they have to turn to one of Steve Ambrose's books, and think about some of them.

I ask unanimous consent that the Associated Press' list of the 39 books that Steve Ambrose wrote in his lifetime appear following my remarks.

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

(See exhibit 2).

Mr. STEVENS. Think of these things he wrote about: ''Eisenhower and the German POWs: Facts Against Falsehood''; ''Nixon: The Ruin and Recovery of a Politician''; ''Eisenhower: Soldier and President''; ''Nixon: The Triumph of a Politician''; ''Nixon: The Education of a Politician''; ''Pegasus Bridge''; ''Eisenhower: The President''; ''Eisenhower: Soldier, General of the Army, President-Elect''; ''Milton Eisenhower''; ''Ike's Spies: Eisenhower and the Espionage Establishment''; ''Crazy Horse and Custer: The Parallel Lives of Two American Warriors''; ''General Ike: Abilene to Berlin''; ''The Military in American Society''; ''The Supreme Commander: The War Years of General Dwight D. Eisenhower''; and ''The Papers of Dwight D. Eisenhower.''

He wrote on Eisenhower in Berlin. Before he even got to the Eisenhower books he wrote ''Duty, Honor, Country: A History of West Point.'' He also had a series of books about Lincoln, ''Halleck, Lincoln's Chief of Staff,'' the one he personally gave me, his own ''Wisconsin Boy in Dixie.''

For those of us who are in the Senate, I hope they have read one of the last books he wrote, and that is ''The Wild Blue,'' which is really the story of George McGovern and the B–24 squadron in World War II. I think that reads better than any of the Ambrose books, particularly because those of us who knew George could understand him even more as a Senator once we realized what he went through as a bomber pilot.

I thank Ms. LANDRIEU for submitting this resolution because I think the country should honor Stephen Ambrose. I know President Clinton honored him in 1999 with the National Humanities Medal, but very clearly this man has left his mark on our country. Americans for centuries to come will know more about the period in which some of us have lived because Steve Ambrose dedicated his life to writing history.

I send my thoughts and my best to Moira, his wife, who traveled with him at times to Alaska. I shall miss him. He was scheduled to come up again this year and go fishing with me.

I ask unanimous consent that another item from Stephen Ambrose's history be printed in the RECORD following my remarks.

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

(See exhibit 3).

Mr. STEVENS. I thank the Senator for yielding to me. I commend all of the Ambrose books to anyone who wants to understand the period of World War II. He was an author and a great personal friend.

EXHIBIT 1

I was born in 1936 and grew up in Whitewater, Wisconsin, a small town where my father was the M.D. My high school had only 300 students but was good enough to offer two yeas of Latin, which taught me the centrality of verbs—placement, form, tense.

At the University of Wisconsin, I started as a pre-med, but after a course on American history with William B. Hesseltine, I switched my major. He was a great teacher of writing, with firm rules such as abandon chronology at your peril; use the active voice; avoid adverbs whenever possible; be frugal with adjectives, as they are but the salt and pepper for the meat (nouns).

On to L.S.U., where I studied for M.A. under T. Harry Williams, another fine historian who stressed the importance of writing well. After getting my M.A. degree in 1958, I returned to Wisconsin to do my Ph.D. work under Hesseltine.

Funny thing, Harry Williams was a much better writer than Hesseltine, but Hesseltine was the better teacher of writing. We graduate students once asked him: ''How can you demand so much from us when your own books are not all that well written,'' as we confronted him with a review of one of his books that praised his research and historical understanding but deplored his writing. Hesseltine laughed and replied, ''My dear boys, You have a better teacher than I did.''

From 1960 to 1995 I was a full-time teacher (University of New Orleans, Rutgers, Kansas State, Naval War College, U.C. Berkeley, a number of European schools, among others), something that has been invaluable to my writing. There is nothing like standing before 50 students at 8 a.m. to start talking about an event that occurred 100 years ago, because the look on their faces is a chellenge—''let's see you keep me awake.'' You learn what works and what doesn't in a hurry.

Teaching and writing are one to me— in each case I am telling a story. As I sit at my computer, or sand at the podium, I think of myself as sitting around the campfire after a day on the trail, telling stories that I hope will have the members of the audience, or the readers, leaning forward just a bit, wanting to know what happens next.

Some of the rules of writing I've developed on my own include: never try to write about a battle until you have walked the ground; when you write about politicians, keep in mind that somebody has to do it; you are a story-teller, not God, so your job is not to pass judgments but explain, illustrate, inform and entertain.

The idea for a book comes in a variety of ways. I started as a Civil War historian because Hesseltine taught the Civil War. I wrote about Eisenhower because he asked me to become his biographer, on the basis of a book I had done on Henry Halleck, Lincoln's Chief of Staff. I never wanted to write about Nixon but my editor (Alice Mayhew at Simon and Schuster) made me do it by saying. ''Where else can you find a greater challenge?'' I did Crazy Horse and Custer because I took my family camping in the Black Hills of South Dakota and got hooked on the country, and the topic brought me back to the Black Hills many times. I did Meriwether Lewis to have an excuse to keep returning to Montana, thus covering even more of the American West.

My World War II books flowed out of the association with Eisenhower, along with my feelings toward the GIs. I was ten years old when the war ended. I thought the returning veterans were giants who had saved the world from barbarism. I still think so. I remain a hero worshiper. Over the decades I've interviewed thousands of veterans. It is a privilege to hear their stories, then write them up.

What drives me is curiosity. I want to know how this or that was done—Lewis and Clark getting to the Pacific; the GIs on D-Day; Crazy Horse's Victory over George Custer at the Little Big Horn; the making of an elite company in the 101st Airborne, and so on. And I've found that if I want to know, I've got to do the research and then write it up myself. For me, the act of writing is the act of learning.

I'm blessing to have Moira Buckley Ambrose as my wife. She was an English Lit major and school teacher; she is an avid reader; she has a great ear. At the end of each writing day, she sits with me and I read aloud what I've done. After more than three decades of this, I still can't dispense with requiring her first of all to say, ''That's good, that's great, way to go.'' But then we get to work. We make the changes. This reading aloud business is critical to me—I've developed an ear of my own, so I can hear myself read—as it reveals awkward passages better than anything else. If I can't read it smoothly, it needs fixing.

Hesseltine used to tell his students that the act of writing is the art of applying the seat of the pants to the seat of a chair. It is a monk's existence, the loneliest job in the world. As Moira and I have five kids (at one time all teens together; the phone in the evening can be imagined) I started going to bed at eight to get up at four and have three quiet hours for writing before the teaching day began. The kids grew up and moved out and I retired in May, 1995, but I keep to the habit.

I'm sometimes asked which of my books is my own favorite. My answer is, whatever one I'm working on. Right now (Winter 1999) a book on World War II in the Pacific as well as a book on the 15th Air Force and the B–24 Liberators they flew. I think the greatest achievement of the American Republic in the 18th Century was the army at Valley Forge; in the 19th Century it was the Army of the Potomac; in the 20th Century, it was the U.S. military in WWII. I want to know how we beat the Japanese in the Pacific and how our airforce helped us beat the Germans. To do a book of this scope is daunting but rewarding. I get paid for interviewing the old soldiers and reading their private memoirs. My job is to pick out the best one of every fifty or so stories and pass it along to readers, along with commentary on what it illustrates and teaches. It is a wonderful way to make a living.

My experiences with the military have been as an observer. The only time I wore a uniform was in naval ROTC as a freshman at the University of Wisconsin, and in army ROTC as a sophomore. I was in second grade when the United States entered World War II, in sixth grade when the war ended. When I graduated from high school, in 1953, I expected to go into the army, but within a month the Korean War ended and I went to college instead. Upon graduation in 1957, I went straight to graduate school. By the time America was again at war, in 1964, I was twenty-eight years old and the father of five children. So I never served.

But I have admired and respected the men who did fight since my childhood. When I was in grade school World War II dominated my life. My father was a navy doctor in the Pacific. My mother worked in a pea cannery beside German POWs (Afrika Korps troops captured in Tunisia in May 1943). Along with my brothers—Harry, two years older, and Bill, two Years younger—I went to the movies three times a week (ten cents six nights a week, twenty-five cents on Saturday night), not to see the films, which were generally Clinkers, but to see the newsreels which were almost exclusively about the fighting in North Africa, Europe, and the Pacific. We played at war constantly. ''Japs'' vs. Marines, GIs vs. ''Krauts''.

In high school I got hooked on Napoleon. I read various biographies and studied his campaigns. As a seventeen-year-old freshman in naval ROTC, I took a course on naval history, starting with the Greeks and ending with World War II (in one semester!). My instructor had been a submarine skipper in the Pacific and we all worshipped him. More important, he was a gifted teacher who loved the navy and history. Although I was a premed student with plans to take up my father's practice in Whitewater, Wisconsin, I found the history course to be far more interesting than chemistry of physics. But in the second semester of naval ROTC, the required course was gunnery. Although I was an avid hunter and thoroughly familiar with shotguns and rifles, the workings of the five inch cannon baffled me. So in my sophomore year I switched to army ROTC.

Also that year, I took a course entitled ''Representative Americans'' taught by Professor William B. Hesseltine. In his first lecture he announced that in this course we would not be writing term papers that summarized the conclusions of three or four books; instead we would be doing original research on nineteenth-century Wisconsin politicians, professional and business leaders, for the purpose of putting together a dictionary of Wisconsin biography that would be deposited in the state historical society. We would, Hesseltine told us, be contributing to the world's knowledge.

The words caught me up. I had never imagined I could do such things as contribute to the world's knowledge. Forty-five years later, the phrase continues to resonate with me. It changed my life. At the conclusion of the lecture—on General Washington—I went up to him and asked how I could do what he did for a living. He laughed and said to stick around, he would show me. I went straight to the registrar's office and changed my major from premed to history. I have been at it ever since.

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EXHIBIT 2

BOOKS BY HISTORIAN STEPHEN AMBROSE

[The Associated Press—Oct. 14]

''To America: Personal Reflections of an Historian,'' release date Nov. 19, 2002.

''The Mississippi and the Making of a Nation: From the Louisiana Purchase to Today'' (with Sam Abell and Douglas Brinkley), 2002.

''The Wild Blue: The Men and Boys Who Flew the B–24s over Germany,'' 2001.

''Nothing Like It In the World: The Men Who Built the Transcontinental Railroad 1863–1869,'' 2000.

''Comrades: Brothers, Fathers, Heroes, Sons, Pals,'' 1999.

''Witness to America: An Illustrated Documentary History of the United States from the Revolution to Today'' (with Douglas Brinkley), 1999.

''Lewis & Clark: Voyage of Discovery,'' 1998.

''The Victors: Eisenhower and His Boys, the Men of World War II,'' 1998.

''Americans At War,'' 1997.

''Rise To Globalism: American Foreign Policy from 1938 to 1997'' (Eighth revised edition with Douglas Brinkley), 1997.

''Citizen Soldiers: The U.S. Army from the Normandy Beaches to the Bulge to the Surrender of Germany, June 7, 1944–May 7, 1945,'' 1997.

''American Heritage New History of World War II'' (original text by C. L. Sulzberger, revised and updated), 1997.

''Undaunted Courage: Meriwether Lewis, Thomas Jefferson, and the Opening of the American West,'' 1996.

''D-Day June 6, 1944: The Climactic Battle of World War II,'' 1994.

''Band of Brothers: E Company, 506th Regiment, 101st Airborne From Normandy to Hitler's Eagle's Nest,'' 1992.

''Eisenhower and the German POWs: Facts Against Falsehood,'' 1992.

''Nixon: The Ruin and Recovery of a Politician, 1973–1990,'' 1991.

''Eisenhower: Soldier and President,'' 1990.

''Nixon: The Triumph of a Politician, 1962–1972,'' 1989.

''Nixon: The Education of a Politician, 1913–1962,'' 1987.

''Pegasus Bridge: June 6, 1944,'' 1985.

''Eisenhower: The President,'' 1985.

''Eisenhower: Soldier, General of the Army, President-Elect, 1890–1952,'' 1983.

''Milton Eisenhower: Educational Statesman'' (with Richard Immerman), 1983.

''Ike's Spies: Eisenhower and the Espionage Establishment,'' 1981.

''Crazy Horse and Custer: The Parallel Lives of Two American Warriors,'' 1975.

''General Ike: Abilene to Berlin,'' 1973.

''The Military and American Society'' (with James Barber), 1972.

''The Supreme Commander: The War Years of General Dwight D. Eisenhower,'' 1970.

''The Papers of Dwight David Eisenhower, Vols. 1–5,'' 1967.

''Institutions in Modern America,'' 1967.

''Eisenhower and Berlin, 1945: The Decision to Halt at the Elbe,'' 1967.

''Duty, Honor, Country: A History of West Point,'' 1966.

''Upton and the Army,'' 1964.

''Halleck, Lincoln's Chief of Staff,'' 1962.

''Wisconsin Boy in Dixie,'' 1961.

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EXHIBIT 3

[From the New York Times, Oct. 14, 2002.]

STEPHEN AMBROSE, HISTORIAN WHO FUELED NEW INTEREST IN WORLD WAR II, DIES AT 66

(By Richard Goldstein)

Stephen E. Ambrose, the military historian and biographer whose books recounting the combat feats of American soldiers and airmen fueled a national fascination with the generation that fought World War II, died yesterday at a hospital in Bay St. Louis, Miss. Mr. Ambrose, who lived in Bay St. Louis and Helena, Mont., was 66.

The cause was lung cancer, which was diagnosed last April, his son Barry said. ''Until I was 60 years old, I lived on a professor's salary and I wrote books,'' Mr. Ambrose recalled in November 1999. ''We did all right. We even managed to buy some mutual funds for our grandchildren. I never in this world expected what happened.''

Mr. Ambrose, known previously for multivolume biographies of Dwight D. Eisenhower and Richard M. Nixon, emerged as a best-selling author during the past decade. He was also an adviser for films depicting heroic exploits, a highly paid lecturer and an organizer of tours to historic sites.

His ascension to wealth and fame began with his book ''D-Day, June 6, 1944: The Climatic Battle of World War II,'' marking the 50th anniversary of the Normandy invasion. Drawing upon combat veterans' remembrances collected by the Eisenhower Center in New Orleans, which Mr. Ambrose founded, it became a best seller.

''The descriptions of individual ordeals on the bloody beach of Omaha make this book outstanding,'' Raleigh Trevelyan wrote in The New York Times Book Review.

Soon Mr. Ambrose was producing at least a book a year and becoming a star at Simon & Schuster, which published all his best-known books.

But earlier this year Mr. Ambrose was accused of ethical lapses for having employed some narrative passages in his books that closely paralleled previously published accounts. The criticism came at a time of heightened scrutiny of scholarly integrity. The Pulitzer Prize-winning historian Doris Kearns Goodwin acknowledged in January 2002 that her published, Simon & Schuster, paid another author in 1987 to settle plagiarism accusations concerning her book ''The Fitzgeralds and the Kennedys.'' In August 2001, the historian Joseph J. Ellis, also a Pulitzer Prize winner, was suspended for one year from his teaching duties at Mount Holyoke College for falsely telling his students and others that he had served with the military in Vietnam.

Mr. Ambrose said that his copying from other writers' works represented only a few pages among the thousands he had written and that he had identified the sources by providing footnotes. He did concede that he should have placed quotation marks around such material and said he would do so in future editions. He denied engaging in plagiarism and suggested that jealousy among academic historians played a part in the criticism.

''Any book with more than five readers is automatically popularized and to be scorned,'' Mr. Ambrose said in an interview with The Los Angeles Times in April 2002. ''I did my graduate work like anybody else, and I kind of had that attitude myself. The problem with my colleagues is they never grew out of it.''

Two years after his D-Day book was published, Mr. Ambrose had another best seller, ''Undaunted Courage,'' the story of Lewis and Clark's exploration of the West. He reported having earned more than $4 million from it.

In 1997, his ''Citizen Soldiers'' chronicled combat from D-Day to Germany's surrender. In 1998, Mr. Ambrose wrote ''The Victors,'' a history of the war in Europe that drew on his earlier books. In 1999, be brought out ''Comrades: Brothers, Fathers, Heroes, Sons, Pals,'' an account of his own family relationships and those of historical figures. In 2000, he recounted the building of the transcontinental railroad in ''Nothing Like It in the World.'' In 2001, he had ''The Wild Blue,'' the story of B–24 bomber crewmen in World War II's European theater.

Mr. Ambrose's most recent book was ''The Mississippi and the Making of a Nation,'' with Douglas G. Brinkley and the photographer Sam Abell, published this fall by National Geographic. After learning he had cancer, Mr. Ambrose wrote ''To America: Personal Reflections of an Historian,'' which is to be published by Simon & Schuster later this year.

Mr. Ambrose was also a commentator for the Ken Burns documentary ''Lewis & Clark: The Journey of the Corps of Discovery,'' broadcast on PBS in 1997. He served as consultant for ''Saving Private Ryan,'' the 1998 movie acclaimed for its searing depiction of combat on D-Day. His book ''Band of Brothers,'' the account of an American paratrooper company in World War II, published in 1992, was the basis for an HBO mini-series in 2001.

He founded the National D-Day Museum in 2000 in New Orleans and was president of Stephen Ambrose Historical Tours.

In August 2001, The Wall Street Journal estimated that the Ambrose family company was bringing in $3 million in revenue annually. It said that Mr. Ambrose reported having donated about $5 million over the previous five years to causes including the Eisenhower Center and the National D-Day Museum.

Stephen Edward Ambrose was born on Jan. 10, 1936, in Decatur, Ill., and grew up in Whitewater, Wis., the son of a physician who served in the Navy during World War II. As a youngster, he was enthralled by combat newsreels.

He was a pre-med student at the University of Wisconsin in the mid-1950's but was inspired by one of his professors, William B. Heseltine, to become a historian.

''He was a hero worshiper, and he got us to worship with him,'' Mr. Ambrose told The Baton Rouge Sunday Advocate many years later. ''Oh, if you could hear him talk about George Washington.''

After obtaining his bachelor's degree from Wisconsin, Mr. Ambrose earned a master's degree in history at Louisiana State and a doctorate in history from Wisconsin. He went on to interview numerous combat veterans, but the only time he wore a military uniform was in Navy and Army R.O.T.C. at Wisconsin.

In 1964, Eisenhower, having admired Mr. Ambrose's biography of Gen. Henry Halleck, Lincoln's chief of staff, asked him to help edit his official papers. That led to Mr. Ambrose's two-volume biography of Eisenhower.

The first volume, ''Eisenhower: Soldier, General of the Army, President-Elect, 1890–1952'' (Simon & Schuster, 1983), was described by Drew Middleton in the New York Times Book Review as ''the most complete and objective work yet on the general who became president.''

Mr. Ambrose also wrote a three-volume biography of Richard M. Nixon, published in the late 1980's and early 90's.

He wrote or edited some 35 books and said that he often arose at 4 in the morning and concluded his day's writing by reading aloud for a critique from his wife, Moira, a former high school teacher. His son Hugh, who was also his agent, and other family members helped with his research in recent years.

When he was confronted with instances of having copied from others—''The Wild Blue'' had passages that closely resembled material in several other books—a question arose as to whether he was too prolific.

''Nobody can write as many books as he has—many of them were well-written books—without the sloppiness that comes with speed and the constant pressure to produce,'' said Eric Foner, a history professor at Columbia University. ''It is the unfortunate downside of doing too much too fast.''

David Rosenthal, the publisher of Simon & Schuster, said of Mr. Ambrose's pace, ''We welcome that he is prolific.'' He added, ''He works at a schedule that he sets, and we encourage the amount of his output because there is a readership that wants it.''

George McGovern, the former senator, whose experiences as a bomber pilot were recounted in ''The Wild Blue,'' said yesterday, ''He probably reached more readers than any other historian in our national history.''

Mr. Ambrose retired from college teaching in 1995, having spent most of his career at the University of New Orleans. He received the National Humanities Medal in 1998.

In addition to his wife and his sons Barry, of Moiese, Mont., and Hugh, of New Orleans, he is survived by another son, Andy, of New Orleans; two daughters, Grace Ambrose of Wappingers Falls, N.Y., and Stephenie Tubbs of Helena; five grandchildren; and two brothers, Harry, of Virginia, and William, of Maine.

In reflecting on his writing and on his life, Mr. Ambrose customarily paid tribute to the American soldiers of World War II, the object of his admiration for so long.

''I was 10 years old when the war ended,'' he said. ''I thought the returning veterans were giants who had saved the world from barbarism. I still think so. I remain a hero worshiper.''

Mr. STEVENS. Madam President, I ask unanimous consent that I be added as an original cosponsor of the Landrieu resolution.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. It is my understanding Senator REID has some business to conduct before I begin my oration. As the Senator knows, I am getting warmed up to get into the subject of the economy. So I yield the floor to Senator REID and ask unanimous consent that when the Senator is through, I would be recognized.

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

Mr. REID. I appreciate my friend, the Senator from Florida, for being his usual courteous self.

## COMMITTEE ON APPROPRIATIONS REPORTING THIRTEEN APPROPRIATIONS BILLS BY JULY 31, 2002—Continued

Mr. REID. Mr. President, what is the pending business?

The PRESIDING OFFICER. S. Res. 304.

Mr. REID. I ask unanimous consent that the Conrad amendment be modified with the changes at the desk; that the amendment, as modified, be agreed to; the resolution, as amended, be agreed to; and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The amendment (No. 4886), as modified, is as follows:

Strike all after the Resolved Clause and insert the following:

, That the Senate encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

**SEC. ___. BUDGET ENFORCEMENT.**

(a) EXTENSION OF SUPERMAJORITY ENFORCEMENT.—

(1) IN GENERAL.—Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through April 15, 2003.

(2) EXCEPTION.—Paragraph (1) shall not apply to the enforcement of section 302(f)(2)(B) of the Congressional Budget Act of 1974.

(b) PAY-AS-YOU-GO RULE IN THE SENATE.—

(1) IN GENERAL.—For purposes of Senate enforcement, section 207 of H. Con. Res. 68 (106th Congress, 1st Session) shall be construed as follows:

(A) In subsection (b)(6), by inserting after ''paragraph (5)(A)'' the following: '', except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available''.

(B) In subsection (g), by striking ''September 30, 2002'' and inserting ''April 15, 2003''.

(2) SCORECARD.—For purposes of enforcing section 207 of House Concurrent Resolution 68 (106th Congress), upon the adoption of this section the Chairman of the Committee on the Budget of the Senate shall adjust balances of direct spending and receipts for all fiscal years to zero.

(3) APPLICATION TO APPROPRIATIONS.—For the purposes of enforcing this resolution, notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, during the consideration of any appropriations Act, provisions of an amendment (other than an amendment reported by the Committee on Appropriations including routine and ongoing direct spending or receipts), a motion, or a conference report thereon (only to the extent that such provision was not committed to conference), that would have been estimated as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 207 of H. Con. Res. 68 (106th Congress, 1st Session) as amended by this resolution.

The amendment (No. 4886), as modified, was agreed to.

The resolution (S. Res. 304), as amended, was agreed to as follows:

(The resolution will be printed in a future edition of the RECORD.)

Mr. REID. Mr. President, this resolution has been cleared by the minority. I said earlier today how much I appreciate the bipartisan work done on this measure by Senators DOMENICI and CONRAD. It is an example of what can be accomplished when we work together. This is extremely important for the country. As I said earlier today, those two Senators, together with the two leaders, are to be commended.

## THE ECONOMY

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, before the No. 2 Democrat retires from the Chamber, I want to congratulate him. He is a tireless worker. He is the consummate consensus builder. He is someone who in the midst of chaos and fracas calms the waters with the soothing balm that gets reasonable people to suddenly understand they can come together.

This agreement on the budget resolution, which contains the enforcement provisions of the Budget Act, is another testimony to his skill in negotiating, as he does so ably, with the Chairman and the ranking Members. So I am delighted. It is fitting this agreement on a budget enforcement provision has been agreed to, because of the condition of our economy.

The stock market today has gone down another 220 points. Stocks stumbled, slamming the brakes on any kind of rally we might have thought was occurring over the last few days. Sales outlook was weak, there were disappointing earnings, and it has brought profit jitters back into the market.

Is it any wonder investors, large investors such as pension funds or small investors such as the Presiding Officer and myself, with our own little hard-earned savings that we invest in the stock market, all across this land, indeed, have jitters because of the uncertainty of the economy? As a matter of fact, in the last 2 years, stock market wealth has been down 35 percent for a $5.7 trillion loss in that 2 years.

If anyone doubts this, in January of 2001, all the stock markets had a combined asset value of $16.4 trillion. In September of 2002, that value went down to $10.7 trillion, a loss of $5.7 trillion. Is it any wonder that reduction in stock market value, which is huge—35 percent in a year and two-thirds—is a reflection of the feeling of uncertainty people have toward the economy, a slumping economy?

It is one thing that certainly 2 million jobs have been lost since January of 2001. In January of 2001, private sector jobs were at 111 million. In September of 2002, a year and two-thirds later, private sector jobs were down to 109.6 million jobs—2 million jobs lost, another indicator of the slumping economy.

It is not as if we did not have a warning. Early last year it became clear our economy was slowing down. During our Budget Committee hearings on the topic, almost every economic analyst said responsible tax cuts could help solve the problem. They said the best way to stabilize the economy was to get money into the hands of the people who would spend it, those with low-to-moderate incomes. Above all else, we were told that whatever we did, we should not pass any tax package that would cause long-term fiscal harm.

As the Presiding Officer knows, we tried to heed those warnings. Last year, I supported a tax cut to provide immediate tax relief for all families. That tax cut would have made sure every taxpayer, including those who pay only payroll taxes—there are a vast number of Americans who do not pay income tax because they do not have enough income—that monthly payroll tax is deducted from their pay. The tax cut would have made sure that every taxpayer would also get a tax cut.

It would have also reduced the 15-percent income tax rate paid by all income-tax payers. It would have reduced that to 10 percent and to a permanent reduction. It would have been fair. It would have been fiscally responsible, and it would have been economically stimulative. But the final version of last year's tax cut was enacted by this Chamber. This Senator did not vote for it, and I did not vote for it because it did not meet the criteria that the Social Security and Medicare trust funds would not be touched now or in the future.

I remember when I was sworn in as a freshman to the Senate, the talk was so uplifting and upbeat about how we had a surplus that was projected for 10 years and that we were not going to have to invade the Social Security trust fund to pay bills; indeed, that we were going to fence it off. We promised that. We were going to fence off the Social Security trust fund so that by it remaining untouched, its surpluses over the next decade would have paid down most of the national debt, a debt that averages out in the range of about $200 billion to $250 billion a year we pay in interest on the national debt. Just think what that savings on interest payments could provide if we had followed through on the promises and paid down that national debt, what that would have meant to the economy as another indicator that we were getting our fiscal house in order.

The final version of last year's tax cut did not meet that criteria of walling off Social Security trust funds.

Because of the fiscally irresponsible way the bill was drafted, with gimmicks such as changing the beginning and ending dates of key tax provisions, because of those gimmicks the bill amounted to flawed public policy that would, in fact, cost our country much more than the $1.35 trillion at which that tax bill was advertised. The true cost of that tax bill which advertised at $1.35 trillion, and allowed by the budget resolution, over a 10-year period is closer to $2 trillion instead of $1.35 trillion. Now we know. The administration-supported tax cut plan that we passed last year has a cost that explodes to $250 billion in deficit in the year 2011 alone.

Now, after going from record surpluses to real deficits, we are seeing just how bad that decision was last year. Now we are experiencing the worse market decline since the 1930s, as evidenced by the slumping stock market and again the 220-point loss today in the Dow Jones Industrial Average.

The Standard & Poors 500 stock index has lost nearly half of its value. In the last 2 years, Americans have seen the markets lose $5.7 trillion in value. That amounts to $9.5 billion a day in losses in value on the stock market.

Homeowners now are having such a hard time paying bills. Home foreclosure rates have reached the highest rate in 30 years. That is another indicator. The poverty rate has reached an increased mark for the first time in 8 years and 1.3 million more Americans are now falling into poverty. Median household incomes have fallen for the first time in a decade.

Another indicator is consumer confidence. Consumer confidence and consumer spending have both fallen. Retail sales just took their worst drop since November of last year, and consumer sentiment has dropped to levels last seen in the fall almost a decade ago, 1993.

Look at another indicator. The number of Americans without health insurance rose by almost 1.5 million, to 41.2 million. In a nation of plenty, in a nation where we pride ourselves on the best health care in the world, there are 41 million people who do not have health insurance. Not only are the low and middle-income class families losing income, but because of the escalating price of health care premiums and prescription drug costs, they are now also losing their health insurance.

I thank the previous Presiding Officer, my colleague from Minnesota, for his personal interest. He is a soul brother in what I am saying, and I appreciate it so much. In my immediate past government job before having the privilege of coming to the Senate, I was the elected insurance commissioner of Florida. I can see the trends of the rising health insurance premiums. There are a lot of factors on that. But I will tell you, the economy is one big factor. Where it crunches the little guy, where it crunches those in the middle-income and lower levels of income who do not have the beneficence of having the Government provide their health care through the Medicaid Program, where it crunches the little guy is in declining incomes in a slumping economy at the same time of rising health insurance premiums; it gets to the point they cannot afford it. That includes the rising cost of prescription drugs.

Interestingly, we can get 52 votes in this Senate, a majority—plus 2—to modernize Medicare with a prescription drug benefit—but we can't get the 60 votes required to cut off the filibuster.

Because of the slumping economy, Americans are faced with growing uncertainty over job security. With corporate scandals, a slumping stock market, a growing national debt and various forms of economic turbulence related to September 11, it is no surprise that unemployment is rising at a staggering rate. We have recently seen an increase in the number of 60 to 70-year-olds in the workforce. They are trying to make ends meet.

In the last 2 years, unemployment has jumped by 1.5 percent. More than 2 million people, as I said earlier, have lost jobs in the last year and two quarters, and many who have lost their jobs are having trouble finding new work.

In my Orlando office we have a bright college intern. This is a college graduate from one of our State universities who cannot get a job. While this college graduate is biding his time, he has very graciously come to offer his services as an intern in one of our Florida offices.

Many who have lost their jobs, clearly are having trouble finding new work. A million and a half people have been unemployed for over 6 months. Now they are also losing their unemployment insurance.

Last month, the Bureau of Labor Statistics reported that in the previous month, manufacturing lost 68,000 jobs; retail businesses lost 55,000 jobs. Last month, over 8 million Americans were unemployed; over 2 million more, as we said, above January of 2001 figures. Two million fewer people are working to support their families and contribute to the economy. They are gone—two million taxpayers, two million people forced to find other work because they lost their jobs.

In a slumping economy, it is no easy task to find new employment, as that college graduate has found. People are now spending over 17 weeks unemployed compared to an average of 12 weeks a year and a half ago.

The unemployment rate is rising—5.6 percent last month compared to 3.8 percent back in January of 2001, when the three Senators I see on the floor were sworn in. It is a little over a year and a half ago. The economy is failing, and we are arguing about the merits of extending unemployment compensation for American families. That is what some of the argument concerns. But instead of focusing on how to get the economy going again, this administration is proposing new tax cuts for the wealthy and extending those for the wealthy that were passed last year.

New tax cuts in the year 2011 will have no immediate effect on our economy. In fact, adding an additional $4 trillion in debt during the next decade will only hurt our economy in the short term by pushing up interest rates. What we ought to focus on is the slumping economy now and how to correct it.

Right now, most Americans are distracted with thinking about the war in Iraq and thinking about a war that is ongoing against terrorism. These are life-and-death matters. These are the gravest concerns of the Nation and should have our utmost attention, as it has had over the last couple of months. But we also must pay attention to our bottom line and to the economic security and the fundamental financial strength of America.

To have military strength we need an undergirding of moral, and economic strength. With projected huge deficits projected all over the rest of this decade, can we really afford to dig an even deeper hole in the next decade right at the time when the baby boomers are going to start retiring and demanding more in terms of retirement and Social Security and Medicare?

Last year's administration spending and tax cut plan has resulted in today's collision course of more deficits, more debt, more economic insecurity, higher interest rates, lower economic growth, and lower employment. There is no way to sugar-coat that. You may as well say it like it is. To anybody who says, ''Oh, why didn't you support the tax cuts,'' I say I did. I supported a tax cut up to $1.2 trillion over a decade. But what we said at that time was that is a responsible, balanced approach. A $2 trillion tax cut, particularly skewed to the latter end of the decade, is not a responsible way to rejuvenate our economy.

All of this is occurring right under our noses. Yet it doesn't seem as if there are a lot of folks in this Chamber, nor down there on Pennsylvania Avenue, who are paying much attention.

I appreciate this ongoing dialog that we have had, but there seems to be a war coming in the Middle East. So we better be paying attention to other battles. We must do something to reinvigorate our economy. We must pay attention to our Government's bottom line. We must not continue to raise the debt for our grandchildren.

One of the things we can do in a slumping economy is get with the appropriate kind of tax cuts, and we can stimulate the economy by getting dollars into the pockets of people so they can go out and spend it. That could start rejuvenating the economy. We have a Christmas season coming up. It is going to be critical for retailers. We can do that with a responsible tax cut.

We could also do that by extending unemployment benefits. The unemployment insurance system was designed to provide aid when it is needed most. When the economy is healthy, unemployment insurance revenue rises because taxes are being paid. Program spending falls because there are fewer unemployed.

Conversely, in a recession, unemployment insurance revenues fall while spending rises, helping to stimulate the economy.

But the problem now is that American families in this economic decline which has existed over many months are exhausting their benefits, and they need our support. The unemployment insurance program was designed exactly for the situation we are in today. This is the rainy day for which unemployment insurance saves. If we would extend those benefits from the required number of weeks that are under law now, it would amount to an economic stimulus in the most direct way, allowing families to continue functioning while they search for jobs in this poor economy.

In the 1980s, when I had the privilege of being at the other end of the Capitol in the House of Representatives, Democrats and Republicans came together to agree to extend unemployment insurance—three times. That is what we need to do today for some economic stimulus.

What we need to do is provide immediate fiscal relief for States. We heard the Senator from West Virginia talking about the plight of the States. They have this huge additional drain on these Medicaid funds. States have diminished revenues. States need some assistance from the Federal Government on Medicaid, which is health care for the poor. Right now States are facing severe budget shortfalls, and many of them are finding themselves forced to cut bedrock services such as education, health care, and transportation. So the States need assistance with these and other crucial programs.

What we need to do is to provide a strong bill to protect pensions. We have heard these heartrending stories about the people of the Enron Corporation and other corporations such as WorldCom. They have been saving and playing by the rules. They have been working hard and saving. Where have they been saving? They were saving in their corporate pension plan. They had a retirement system.

We had several Floridians come up here because Enron had many employees of the Florida Gas Company in the Orlando area with headquarters in Winter Park. We had a number of those employees come up here and tell how they had their entire life savings, and now—instead of having their nest egg of about $750,000—because of the scandals in that Enron Corporation, and because those pensioners were not protected, they had less than $20,000 of retirement left out of $750,000.

We need a plan that allows workers to hold employers accountable and help workers get their money back. If people responsible for protecting their investments abuse that trust, as we have seen over and over again in the scandals that erupted last fall and that were played out in front of the committees of this Senate—we need to make it easier for workers to sell their company stock in those pension plans and diversify their holdings.

Most importantly, what we need to do is have a serious debate about how best to get our economy moving again. We need to think outside the box and look at some fresh ideas such as those presented at last week's bipartisan economic forum.

What we need to do is get this economy moving again. That is what we need to do. What we need to do is focus on the needs of constituents who elected us to serve here in this Chamber and to make decisions for them, and to protect them in these many ways that I have tried to enumerate in these remarks. What we need to do is focus our attention and our resources on the American working family members.

It is a time of partisan politics. We are just before an election. I guess my only disappointment in Washington in a job that I dearly love—I love the work. I love the people, I love these Senators, and they know I do. It is with a spring in my step that I come to work every day. My only disappointment is that this place gets too excessively partisan, and it gets too excessively ideologically rigid and extreme.

So when the time comes, as the Good Book says, ''Come, let us reason together,'' there is a poisoned atmosphere and there is a rigidity and extremism so that it is hard to reach out and bring people together.

In a slumping economy, you have to be able to reach out and bring people together. You have to be able to have Senators not insist that it is their way or the highway, but yet they have to recognize there are many people in this vast, broad, beautiful, complicated, and very diverse country who need to be represented instead of just that particular Senator's point of view. That is why our title is United States Senator—to represent the entire country and to represent all the people.

I hope as we wind down in the closing days of this session, as we address some of these major economic problems, that we will consider it in the spirit of building a consensus to solve these problems.

Thank you, Madam President, for the privilege of addressing the Senate.

Mr. DAYTON. Madam President, will the Senator yield for a question?

Mr. NELSON of Florida. I certainly yield to a good friend, my colleague, my wonderful companion as a freshman, the Senator from Minnesota.

Mr. DAYTON. I thank the Senator from Florida.

I want to be sure I heard the Senator correctly.

First, I heard the Senator say earlier that the stock market dropped by 35 percent from January of 2001 to the present time. Is that correct? I was doing some mathematics here. Someone had holdings of $50,000 in January of 2001, and those holdings are now worth only $32,500; $17,500 of that would be lost.

Does the Senate recall the tax package which I opposed as being skewed unfairly to the rich and giving a few hundred dollars in rebates to the average taxpayer? I was thinking to myself: Whatever that amount is, to lose $17,500 out of a $50,000 retirement savings in a 401(k) or an IRA, it seems to me, is a pretty bad economic deal for most Americans.

Does the Senator concur or is my math that bad?

Mr. NELSON of Florida. The Senator is absolutely right. And if you just put it in round terms of someone with a nest egg of $100,000 a year and two-thirds ago, in January of 2001, that is only worth $65,000 today. They have lost $35,000 of value in their retirement portfolio, mirroring the stock market wealth, the total stock market wealth down 35 percent between January of 2001 and September of 2002. It is a sad commentary.

Mr. DAYTON. Will the Senator yield for another question?

Mr. NELSON of Florida. I am happy to yield to the Senator.

Mr. DAYTON. I appreciate the Senator going back to that point in time when the two of us and the Presiding Officer were sworn in here. I recall, for myself, the excitement I felt back then of the opportunities we had because the surpluses projected for the next decade, at that time, were $5.4 trillion.

I wonder if the Senator recalls, as I can, the anticipation of all the good things we could do on behalf of the people of Minnesota, Florida, and the rest of the country.

In my campaign, I made a promise of prescription drug coverage for every senior in Minnesota and sent busloads of seniors at the time up to Canada where they could get prescription drugs for half or less than half the cost of those same drugs in the United States.

I recall saying back then the solution was not to bus every senior from Minnesota to Canada—and I think that would have been more problematic to travel from Florida to Canada—but the solution was to provide the kind of coverage here from our Government that the Canadian Government provides.

I wonder if the Senator from Florida recalls other instances of the kinds of hopes and dreams we shared back then as a freshmen group of Senators as to what we could do for this country, and if you can think, as I can, back to the days when we were talking about surpluses for 10 years rather than deficits.

Mr. NELSON of Florida. We had hopes and dreams. Indeed, we had realistic plans, if we had been conservative in our approach, if we had been balanced in our approach with that projected surplus.

First of all, we said: Those economic projections for a surplus are way too

rosy. Let's be conservative in our planning. Let's scale back that projected surplus so we can be conservative in what we plan for the surplus.

Then we said: Let's be balanced. Let's have a substantial tax cut that would be about a third of the surplus, and let's take another third of the surplus and reserve that third, over the next decade, for the spending increases that need to occur, such as the Senator talked about, which is modernizing Medicare with a prescription drug benefit.

We knew, for example, defense expenditures were going to go up and, therefore, there needed to be some spending increases there, and you could go on down a host of other items.

Clearly, education was one of the major ones. We wanted to take a good part of that surplus, projected over 10 years, and invest that in education back to the States and local governments that run the educational systems.

Then what we said was, to balance it out, the remaining third of that surplus we did not want to do anything with. We wanted that to be the surplus from the Social Security trust fund that was not going to be touched. That part of the surplus was going to pay down the national debt over the next 10 years.

That balanced approach of a third, a third, and a third was going to get our fiscal house in order, was going to revive the confidence of the American investor in American companies because the economy was going to be stable. We were not going to have all these dire economic facts we have recited tonight that would not have occurred if we had been balanced in our approach.

Mr. DAYTON. I am glad the Senator brought up the balanced approach and, earlier, the Social Security surpluses. Of course, the Senator from Florida has a great many senior citizens in his State, and I have a quite a number in mine. I would have even more if not so many of them would move to Florida and enjoy your better climate.

But as I recall, President Clinton, when he departed office, had left not only a balanced budget for the first time in this country in almost 30 years, but he had actually balanced the non-Social Security part of the budget. So as the Senator said, the surpluses were accumulating in the Social Security trust fund year by year that would pay down, I believe it was, over $3 trillion of debt that would put our fiscal house in order, that would be ready for the baby boom retirement years.

What happened to all of that financial responsibility in such a short time? Does the Senator recall? Where did all that money go?

Mr. NELSON of Florida. Two-thirds of that projected surplus vanished primarily because of the overeager, rosy, incorrect economic projections of a budget surplus, plus absorbing so much more of the existing surplus from a tax cut that exceeded that balanced approach I talked about.

Mr. DAYTON. The Senator brought up earlier today, along with the Senator from West Virginia, this terrible dilemma we face in the Senate, that we cannot get a conference agreement with the House on concurrent receipt for our veterans, for those who have served this country, for those who have suffered injuries, disabilities, and the like.

I believe the Senator was referring—maybe he could refresh my memory—to the conference committee gathering this afternoon; we both serve on the Armed Services Committee. I could not attend, but the Senator, as I understood correctly, said the House conferees did not even attend the gathering.

They did pass in the House by over 400 votes support for the Senate position. But the White House, if I recall correctly, has now said the President will veto the Defense authorization bill because it includes concurrent receipt because it costs too much money.

Back when this $2 trillion tax cut was being discussed, this Senator does not recall any real concern being expressed that we could not afford it, and I hear now, over and over again, we cannot do prescription drug coverage. We cannot even do Medicare reimbursement equalization. We cannot do concurrent receipt for our veterans. We cannot afford to do anything for benefits for people, such as extending unemployment benefits, as the Senator pointed out, because we don't have the money. But back when it was tax cuts for the wealthy, we seemed to have all the money we needed.

Mr. NELSON of Florida. The Senator is correct. It is a sad commentary all these things that were promised to veterans—that everybody was so eager, elbowing one another aside to try to get to the front of the line to support—through such things as concurrent receipt, eager to get to the front of the line to support a prescription drug benefit for Medicare seniors—have all been cast aside. Yet I cannot believe what I am seeing on the television when I go home. I see all these TV advertisements about how all these people who have blocked a prescription drug benefit to modernize Medicare say they have voted for one. Well, they voted for one. They voted for a version that was a subsidy from the Federal Government to insurance companies supposedly to provide prescription drug benefits. But in every State where a similar law has been passed to get insurance companies to provide a prescription drug benefit, the insurance companies will not do it because they cannot make money on it and, therefore, the senior citizens are the ones who suffer because they do not get the prescription drug benefit.

So isn't it interesting they always want to run to the front of the line and talk about how they are for all of these things, but when it comes to doing it, where are the votes, particularly in a body such as the Senate, in which in order to pass anything you have to get 60 of 100 Senators because of our rules to cut off debate?

Mr. DAYTON. If I may indulge the Senator for just another minute, the Senator from Florida, being a former insurance commissioner and having such a large senior population, I wonder if he could explain the point he just made about how the insurance companies themselves don't want to provide the kind of coverage that some of our colleagues claim would be the solution to this problem.

Mr. NELSON of Florida. Since our colleague from Nevada has joined us, I will use his State as an example. About 4 years ago, the State of Nevada passed a prescription drug benefit that was very similar to the one that has been sponsored by the White House and that, in fact, has passed the House of Representatives. It is a subsidy to insurance companies to provide a prescription drug benefit.

In the case of the bill here, it is a Federal subsidy. In the case of Nevada, it was a State subsidy. But the fact is, not one insurance company stepped forward in Nevada, after the passage of that law, to offer a prescription drug benefit because the insurance companies want to make money. They realized they could not make money.

Sure, we are having a problem with escalating costs of prescription drugs, and we should deal with that, too. The question is, Are we going to fulfill our promise to provide a legitimate and workable prescription drug benefit to senior citizens on Medicare? We have offered that, and we have only gotten 52 votes here. We have to get 60 to cut off debate. We need eight more Senators, and then that thing will pass and pass overwhelmingly.

But you see what is being blocked right now. And then people back home claim credit for voting for a version that really is not going to be a workable version, as experienced in the laboratories that we see out in our States.

Mr. DAYTON. The people who watch us debate must wonder about the mathematics of the Congress. The Senator from Nevada, who is a champion of the concurrent receipts legislation, sees it passed by the Senate and then by over 400 votes in the House. And then it does seem strange that these matters just can't quite make it through the rest of the process to become law.

This Senator holds out hope that the administration, which is going to be visiting my home State of Minnesota—we have not seen such an interest by an administration in our State, in my own recollection—will come in and seize the opportunity to support two things that would be of great benefit to my State. One would be disaster assistance for our farmers who have now suffered the second year in a row, and another would be the support for concurrent receipt for our veterans. It would seem a fitting way to recognize the kind of suffering some are still going through

and also the kind of contributions that have been made, once again, to see that there would be the same enthusiasm for fitting within this budget framework some of the benefits we would like to provide for our citizens, the same as we provide for the very wealthiest corporate executives who seem to be doing very well despite the difficult economic times.

I thank the Senator from Florida for bringing these matters to the Senate this evening. It was an excellent discussion. I look forward to our continuing it again soon.

Mr. NELSON of Florida. I thank my distinguished colleague. It is always a pleasure to hear from him. I appreciate his undergirding of my comments this evening.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak for up to 10 minutes each.

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

## UNANIMOUS CONSENT AGREEMENT—H.J. RES. 123

Mr. REID. Madam President, I ask unanimous consent that when the Senate receives a continuing resolution from the House, provided it is identical to H.J. Res. 123, the Senate proceed to consider the resolution, that it be read three times and passed, and the motion to reconsider be laid upon the table, all without intervening action or debate.

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

Mr. REID. I now ask unanimous consent that a copy of the resolution be printed in the RECORD upon the granting of this consent.

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

H.J. RES. 123

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Public Law 107–229 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof ''November 22, 2002''.

Mr. DASCHLE. Mr. President, as we all know, Congress has not yet completed action on 11 appropriations bills. These bills fund such important domestic priorities as homeland security, education, and veterans medical care.

In order to keep these important functions of Government up and running, we have already worked with the House to pass two continuing resolutions, the last of which expires on Friday.

The House of Representatives has just passed and sent to the Senate a third continuing resolution. House Republicans are now proposing that we leave town and let the Government run on autopilot until November 22.

Why November 22? By picking a Friday a week before Thanksgiving, House Republicans are signaling they are not serious about completing the appropriations bills in November either. It will be extraordinarily difficult, in the several days before Thanksgiving, for us to get all the parties together to settle all the issues that have been insoluble for the past several months.

The House Republican proposal seems designed to be an auto-pilot until next year, a recipe for a CR that starves basic Government programs essential to the health and well-being of millions of Americans. Indeed, several leading Republicans have indicated this is really their preference.

Senators should not be under any illusion: a long-term CR will do just that. It will starve vital functions of Government. And you don't have to take my word for it. According to Representative BILL YOUNG, the Republican chairman of the House Appropriations Committee, a long-term CR, ''would have disastrous impacts on the war on terror, homeland security, and other important Government responsibilities.''

Chairman YOUNG wrote that sentence in a memo he sent to Speaker HASTERT. The memo went even further, detailing the impact of a CR on a host of important domestic programs. Here is a sampling of what Chairman YOUNG said will be cut: FBI, funding to hire additional agents to fight terrorism and to continue information technology upgrades would be denied; bioterrorism, no funding for President's $800 million initiative to increase funding for new basic bioterror research, to develop and test a new improved anthrax vaccine, and to assist universities and research institutions; first responders, no funding for President's $3.5 billion initiative to provide assistance to local law enforcement, fire departments, and emergency response teams; SEC/corporate responsibility, insufficient funding to support current staffing requirements let alone significant staff increases needed to monitor corporate behavior; veterans medical care, long-term CR would leave veterans medical health care system at least $2.5 billion short of expected requirements; firefighting, $1.5 billion taken from other Interior Department programs to pay for firefighting costs will not be replaced; Pell grants, a freeze in this program will result in a shortfall of over $900 million; Medicare claims, no funding for the President's $143 million increase to ensure that the growing number of claims are processed in a timely manner; Special Supplemental Feeding Program for WIC, funding would be reduced by $114 million below current levels, meaning less will be available for families that depend on this program; Social Security claims, no funding for the President's increase to process and pay benefits to millions of Social Security recipients.

In addition to the program cuts listed by Chairman YOUNG, the House CR omits assistance for thousands of farmers all over this country who are confronting the worst drought in more than 50 years.

This is the wrong way to do business. We should be completing our work on the bipartisan appropriations bills, not cutting education, veterans affairs, homeland security and other important priorities.

Each of these bills properly funds key priorities. And, most importantly, each enjoyed the unanimous support of the Democrats and the Republicans on the Committee.

There is no reason why the full Senate cannot do the same. Passage of these bills would fund Government for a year, with no need for any more stopgap, starvation diet CRs.

Regretfully, our Republican colleagues in the House have refused all year to consider appropriate funding levels for crucial functions of Government, even though all Senators on the Senate Appropriations Committee, Democrats and Republicans, were able to agree on all 13 bills.

The difference between the aggregate total of spending for the bipartisan Senate bills and the aggregate total proposed by the House Republican budget resolution is roughly $9 billion in budget authority. That's a tiny fraction of the $5.6 trillion 10-year surplus that's been squandered since the current administration came to office.

To hold up funding for all the non-defense areas of Government in order to claim credit for fiscal responsibility over such a tiny proportion of overall spending is the height of irresponsibility.

Unfortunately, it is crystal clear that is precisely what our Republican colleagues would like to see happen. They want to run the Government on a starvation diet into next year. Because the House resolution is now the only way to keep the Government operating, it will be passed by voice vote. But I want to be very clear that, if there had been a recorded vote on this measure, I would have voted no.

Mr. REID. Madam President, basically what we have just done is pass a continuing resolution until November 22. This is done with some trepidation and really with the complete understanding that this is not the right way to run Government. It would have been so much better had we been able to pass our appropriations bills. We have not been able to do that. We have 13 appropriations bills we should pass every year. I don't have the exact number, but I think following the passage of the Defense appropriations bill, we have

passed four bills, maybe only three, leaving tremendous work that should have been done in committee.

We have tried on a number of occasions to offer consent resolutions that we could pass the appropriations bills. Senator BYRD wanted to ask unanimous consent that we pass them all at once. They passed the Appropriations Committee unanimously; that is, Democrats and Republicans approved these bills. So it is just a shame.

In fact, the chairman of the House Appropriations Committee, a Republican, sent a resolution to Speaker HASTERT, which has been around. Other people have seen it. It is not very private. It is one of those things here in Washington that is about as private as going to Tysons Corner shopping—not very private. It is a memo to the Speaker from the chairman of the Appropriations Committee.

Among other things, he says:

A long-term continuing resolution (CR) that funds government operations at FY02 levels would have a disastrous impact on the war on terror, homeland security, and other important government responsibilities.

He sets out, in a four-page memorandum, all the things that would be hurt. He does list those, including Social Security, Pell grants, Medicare claims, a large number of items. And he leaves out a number of them that I personally believe and many Democrats believe are as important as those he lists in this memorandum that should be passed.

Had this matter come before the Senate and there had been a rollcall vote, there is no question that a significant number of Democrats would have voted in opposition. That is the way things worked out. We could not be responsible for shutting down Government, because that is what it would have amounted to.

We are doing this reluctantly. I hope that when we come back, Chairman YOUNG prevails and at that time we can sit down and pass the appropriations bills. It is important to every State in the Union that we do this.

There is a tremendous need to do things such as Government setup, such as pass the yearly appropriations bills. This is not the right way to fund Government.

Some have said, including Senator Pat Moynihan, that this is a plan. These programs that they want to hurt, they can't do it head on, they can't do it directly, so they do it indirectly.

I am glad that Government is going to be funded. We went through the Gingrich years where he and his compatriots shut down the Government. We are not going to do that. We are going to act responsibly. That is why we allowed this measure to go forward. But we do it with concern, reservation, and, as I have indicated, with trepidation.

I ask unanimous consent to print in the RECORD the memorandum from Chairman YOUNG and Speaker HASTERT to which I referred.

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

MEMORANDUM

To: Speaker Hastert.
From: Chairman C.W. Bill Young.
Re: Impacts of a Long-term Continuing Resolution.
Date: October 3, 2002.

Pursuant to my October 1st correspondence regarding the state of the appropriations process, I want to provide you with further analysis of the potential impacts of a long-term continuing resolution (CR). These projections assume a current-rate CR excluding one time expenditures that extends through February or March.

A long-term continuing resolution (CR) that funds government operations at FY02 levels would have disastrous impacts on the war on terror, homeland security, and other important government responsibilities. It would also be fiscally irresponsible. It would fund low-priority programs the President has proposed to eliminate.

Homeland Security—The President has proposed a nearly $40 billion increase for homeland security in his FY03 budget. None of these funds would be provided under a long-term CR. Assuming Congress completes work on creating a Department of Homeland Security, a long-term CR would leave this new agency with very little resources to carry out its new mission.

Projects—A long-term CR ensures that no Member of Congress would receive a single project. The Committee has received tens of thousands of requests for billions of dollars from almost every Member of Congress.

War Supplemental—It is likely that the first item Congress will consider when we reconvene after the election is a major supplemental to fund possible military operations in Iraq. It would be highly problematic to expect the Congress to complete work on 11 spending bills while working on an urgent war supplemental.

HOMELAND SECURITY IMPACTS OF LONG-TERM CR

FBI—We would not have sufficient funding to hire additional agents to fight terrorism and to continue IT upgrades that will help the FBI ''connect the dots'' through data mining proposals and other information infrastructure enhancements.

TSA—Efforts to improve aviation, maritime and land security would be seriously curtailed. Port, cargo, and trucking security would seriously deteriorate. If emergency funds are excluded from the CR calculation (which is historically the case), TSA would be under an annual rate of $1.5 billion for the life of a long-term CR. This would be only 28% of their FY03 budget request ($5.3 billion). At this level, it is unlikely TSA could maintain their current workforce of 32,000 screeners as well as air marshals. TSA would likely face personnel RIF's. Most airports would not be able to meet the deadlines for security improvements established by Congress last December.

Coast Guard—The Coast Guard is requesting a large ($500 million) budget increase in FY03, and much of this is to hire additional security personnel, such as Maritime Safety and Security Teams to patrol harbors and respond to suspicious activity. It also includes funds to expand the sea marshal program, which escorts DoD and high-risk commercial ships into port. Under the FY02 level, these safety expenses would be deferred, or would require diversion of funds from other critical missions such as drug interdiction or search and rescue. Coast Guard ''deepwater'' program is slated to expand from $500 million in FY02 to $725 million in FY03. The contract was just signed this past June. Under a long-term CR, the effort will have to be scaled back due to lack of funding. This will impact shipyards, design companies, aircraft manufacturers, and integration companies, all around the country.

Bioterrorism—President has proposed a nearly $800 million increase for new, basic bioterror research, $250 million to develop and test a new improved anthrax vaccine, and $150 million to assist universities and research institutions in upgrading research facilities to conduct secure, comprehensive research on biolgogical agents. None of these important initiatives to combat, study and prevent bio-terrorism would be funded under a long-term CR.

Border Patrol/INS—Efforts to deploy any additional Border Patrol agents and immigration inspectors at land ports-of-entry along both the northern and southern borders would be stalled. Likewise, construction projects that are necessary to house these additional Border Patrol agents would be delayed. No funding would be available to continue planning and implementation of the INS' Entry Exit system, a program designed to facilitate more secure and controlled access to this country by non-U.S. citizens.

First Responders—The President has proposed a new initiative to provide $3.5 billion in assistance to local law enforcement, fire departments and emergency response teams across the Nation. No funds would be provided for this program, one of the highest domestic security priorities for the President and his Homeland Security advisor, Tom Ridge.

Hospital preparedness—We would not have sufficient funds to assist hospitals in making the necessary infrastructure improvements and expansions so that they are prepared to respond to bio-terrorism emergencies.

Diplomatic security—We would not have the funds to hire additional State Department security staff for deployment overseas, or to carry out needed technical and physical security upgrades.

Office of Homeland Security—The Office of Homeland Security was funded through the $20 billion supplemental. Under a clean CR, this office would not be funded.

PROGRAMMATIC IMPACTS OF LONG-TERM CR

SEC/Corporate Responsibility—We would not be able to fund current staffing requirements, let alone support significant staff increases needed to fight corporate fraud and protect investors.

Veterans—The veterans medical care system will likely be at least $2.5 billion short of expected requirements. Veterans would be deprived of significant increases in medical care proposed by the President and the House budget resolution.

NIH—We would not be able to scale-up significantly Federal support for bio-preparedness research and development as proposed by the President. Anthrax vaccine research and development also would be slowed. It would forgo the nearly $4 billion proposed for the National Institutes of Health which is consistent with Congress commitment to double funding for NIH over a set period of time.

Foreign Operations—Afghanistan reconstruction, including the famous Presidential ring road, would stall, increasing chances that unrest and killings would resume there as the Iraq matter comes to a head. It will severely cut the U.S. contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria and reduce by 30% funds for Plan Colombia.

Firefighting—Interior has already spent $1.5 billion on firefighting above what provided in FY02. This has come at the expense of other programs including Member

projects. These bills would not be paid under a long-term CR.

Pay—All agencies would have to absorb Federal employee pay increases due in January. This will make it much more difficult for agencies to operate under a current rate and result in widespread layoffs and furloughs.

Pell Grants—A freeze in the Pell program will result in the accumulation of a significant shortfall. There will be a shortfall of over $900 million, even when factoring in the $1 billion supplemental appropriation provided to the program in fiscal year 2002.

DEA—We would be unable to hire new agents in response to FBI restructuring, which shifted 400 FBI drug agents to counter-terrorism. We have proposed to hire hundreds of new agents to fight the war on drugs. Not a single new agent would be hired under a long term CR leaving a significant gap in the federal government's drug enforcement capabilities.

GSA Construction—No new starts for any GSA line-item construction ($630 million); would delay $300 million for 11 courthouse construction projects, $30 million for 6 border station construction projects, and $300 million for 5 other construction projects, including funds for consolidating Food and Drug Administration facilities, a major Census building, and the US mission to the UN in New York. Projects would become more expensive due to inflation.

Campaign Finance Reform—No funding for implementation of the Bipartisan Campaign Reform Act making it difficult for the Federal Elections Commission to implement the reforms signed into law by the President.

Federal Prisons—Insufficient activation funds to four Federal prisons that are scheduled to open in FY 2003, exacerbating the already overcrowded conditions in the Federal prison system.

Medicare claims—We would not be able to provide additional funding, as proposed by the President, to handle the increased Medicare claims volume in a timely manner. The President proposed a $143 million increase to adequately process the growing number of claims. A long term CR would significantly slow down the claims process and unnecessarily inconvenience Senior Citizens who depend on Medicare.

Yucca Mountain—A CR at the FY2002 enacted level of $375M would significantly cut DOE's nuclear waste repository program by over $200 million. This would cause real delays in the scheduled opening of the facility.

The Special Supplemental Feeding Program for Women, Infants, and Children (WIC) would be reduced $114 million from current levels. This would result in less assistance being available for families who depend on this important program, especially in uncertain economic times.

The Food and Drug Administration would be reduced by $138 million which would result in immediate furloughs and RIFs among newly hired employees responsible for enhanced availability of drugs and vaccines, and for increased food safety activities (primarily surveillance of imported food products, an identified vulnerability).

Social Security—The President also asked for a significant increase in funds to process and pay benefits to the millions of Social Security recipients.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, my understanding is we are in a period of morning business. Is that right?

The PRESIDING OFFICER. The Senator is correct.

## MISSING CHILDREN'S ASSISTANCE ACT

Mr. BIDEN. Mr. President, I rise today as an original cosponsor of the Missing Children's Assistance Act and to urge its prompt consideration by this body.

The Justice Department recently reported that in 1999, 797,500 children were reported missing to police or to missing children's agencies. That is equivalent to a startling 11.4 children per 1,000 in the U.S. population. There were 58,200 children who were victims of a non-family abduction in 1999. One hundred fifteen of these children were taken in a manner that we would think of as a stereotypical kidnapping, and tragically, in half of these cases, the child victim was sexually assaulted by the perpetrator. These statistics are unacceptable. As a Nation we should strive every day to eliminate the scourge of abducted children.

That's exactly what the National Center for Missing and Exploited Children is all about. Since it was established in 1984, the Center has served as a resource to parents, children, law enforcement, schools, and the community to assist in the recovery of America's abducted children. It has worked on over 73,000 cases of missing and exploited children and successfully returned more than 48,000 of these children to their families. The Center is constantly striving to raise the Nation's awareness of preventative measures that can be taken to keep our children safe from abduction, sexual exploitation, and molestation. These notable endeavors have contributed to a substantial increase in nation's recovery rate of missing children from a dismal 61 percent in the 1980s to 91 percent today.

For these reasons, I rise today with the Senator from Utah and the Senator from Vermont to introduce the Missing Children's Assistance Act. This act will expand the ability of the National Center for Missing and Exploited Children to protect our children by doubling the Federal contribution to the Center to $20 million a year and by ensuring that Congress will continue to support the Center's noteworthy efforts through 2006. The act also authorizes the creation of a CyberTipline. As technology continues to transform and modernize our lives, we must make provisions to insure that our children will be safe from perpetrators who prey on children through the Internet. The CyberTipline will provide a forum for individuals to contribute tips and suspicions of Internet-related and other types of sexual impropriety directed towards minors to the authorities. It will allow those wary of contacting law enforcement a safe place to do so, while making it possible for law enforcement and missing children agencies to send email alerts to thousands of individuals instantaneously.

In the end, I believe that this act will make the Nation a safer place for our children. The National Center for Missing and Exploited Children has done a tremendous job of raising the nation's awareness of child abduction, and this act will make it possible for the Center to continue with these endeavors. I urge support for the Missing Children's Assistance Act. It is fundamental that our children's safety remain at forefront of our national agenda.

## BANKRUPTCY CONFERENCE REPORT

Mr. GRASSLEY. Mr. President, I would like to inform my colleagues that I have requested to be notified of any unanimous consent agreement before the Senate proceeds to the consideration of S. 3074 or any other legislation creating new bankruptcy judgeships. I believe that these changes should be enacted as part of the comprehensive bankruptcy reform conference report. Majority Leader DASCHLE has indicated that there will be a lame duck session, and he has indicated that the bankruptcy conference report will be taken up and passed. So I urge my colleagues in the House and Senate to pass the comprehensive bankruptcy reform conference report.

## CONFLICT DIAMONDS

Mr. LEAHY. Mr. President, recently, the Prosecutor for the Special Court for Sierra Leone briefed the staff of the Foreign Operations Subcommittee. He spoke about his efforts to prosecute those responsible for the horrific crimes that were committed there and to help this nation emerge from a tragic episode in its history.

Whenever something like this occurs, the question that first comes to mind is why did it happen? Was it a political struggle? Was it because of religious extremism or ethnic hatred? Unlike Yugoslavia or Rwanda, most experts believe that the driving force behind this brutal conflict was control of resources, especially diamonds.

The problems associated with conflict diamonds in Sierra Leone are not confined to West Africa. They also have an impact in the United States. According to the Washington Post, al Qaeda reaped millions of dollars from the illicit sale of diamonds, and law enforcement officials have said that in order to cut off al Qaeda funds, you have to cut off the diamond pipeline.

With all that is happening in the world, it may be understandable that the issue of conflict diamonds is not front page news. However, we are starting to make some progress on this important issue.

The Administration has been working to help create an international regime aimed at stopping the trade in conflict diamonds. Initiated by a group of African nations, the Kimberly process has the support of a diverse group of non-governmental organizations and the diamond industry.

In March 2002, the last full session of the Kimberly process was completed and has now reached a point where the individual countries involved need to pass implementing legislation. In the United States, some modest legislation may be enacted before the end of this year.

While I am glad that Congress may pass something on conflict diamonds this year, there must be a serious effort next year to get stronger legislation signed into law.

Senator DURBIN has introduced important implementing legislation, and he is working with the administration, a bipartisan group of Senators, including Senators DEWINE and BINGAMAN, and a range of non-governmental organizations such as Oxfam and Catholic Relief Services to come up with effective legislation that we can all support.

I am encouraged that the administration is consulting with Congress and has named Ambassador Bindenagle, a career diplomat with experience in complex negotiations, to lead this effort.

But, there must be more than an exchange of views on this issue. The administration must also seriously consider Congressional proposals to move beyond the Kimberly process.

For example, a major flaw in the Kimberly process is that it does not cover polished diamonds. This is important for two reasons. Polished diamonds contribute significantly to the problems associated with the illicit trade in diamonds, and the United States is far and away the world's largest market for these types of diamonds. Clearly, this is an area where the United States needs to show leadership.

As chairman of the Foreign Operations Subcommittee, I will do what I can to ensure that resources are available for developing countries that want to enhance their capacity to implement Kimberly.

I look forward to working with the administration to make substantial progress on this issue next year. It will not be easy, but it can be done.

## DRIVER'S LICENSE FRAUD PREVENTION ACT

Mr. MCCAIN. Mr. President, I am pleased to have joined Senator DURBIN in introducing the Driver's License Fraud Prevention Act.

Today's patchwork of State laws, regulations, and procedures for the issuance of driver's licenses makes it all too easy for problem drivers and criminals to obtain multiple licenses to hide traffic convictions and other criminal activity. The extent of the problem became painfully clear following the terrorist attacks of September 11, 2001, when we learned that a number of the terrorists had obtained State-issued driver's licenses or identification cards using fraudulent documents.

Almost half the States have taken action since the terrorist attacks to tighten licensing procedures and I am encouraged that the National Governors Association has formed a homeland security task force that, among other things, will be working to determine the best way for States to strengthen their driver's license standards and authority. However, Senator DURBIN and I believe there is a legitimate role for the Federal Government to play in leading and coordinating State efforts to improve driver's license security. In addition, because of the estimated costs and coordination required to improve driver's license security, the States cannot resolve the issue on their own.

The proposal we introduced would require the Department of Transportation, DOT, to work in consultation with the States to establish minimum standards for proof of identity by driver's license applicants. Currently, personnel in departments of motor vehicles are called upon to perform the difficult task of verifying numerous different types of birth certificates, licenses from other States, proof of residency, and other documents. Only 18 States verify an applicant's social security number with the Social Security Administration and there is no system today to verify the validity of a driver's license being surrendered to obtain a license in another State.

This legislation would also require DOT, in consultation with the States, to establish minimum standards for the license itself to make it more tamper-proof and less susceptible to counterfeiting. DOT would also be directed to complete a study of the feasibility, costs, benefits and impact on personal privacy of using a biometric identifier on driver's licenses. The intent is not to create a national driver's license or identification card, but to improve the security of State-issued licenses through the use of digital photographs, holograms and other devices.

In addition, the bill would use the existing database for commercial motor vehicle drivers as the platform for creating a driver record information system on all licensed drivers. The new system, like the current one, would be a pointer system to State records, rather than a national database of information on drivers. It is this new system that would help States verify the validity of licenses previously held, determine whether an individual holds more than one license, and provide information on the individual's driving record. Further, the bill would prohibit the disclosure or display of an individual's social security number of a driver's license, increase criminal penalties for fraudulently issuing, obtaining or facilitating the issuance of fraudulent licenses, and call for the timely posting of convictions incurred in any State on the driver's license.

Driver's licenses are used by minors to purchase alcohol and cigarettes, by criminals involved in identity theft, and for many other illegal purposes. Improving the security of the license is a matter of common sense.

I am confident that this legislation will provoke meaningful and lively debate, as well as more ideas about how to approach driver's license security. It may not be possible, given the press of other business, for the bill to be passed this year. Nevertheless, this proposal will provide a foundation for discussion and deliberations next year as we work to reauthorize the Transportation Equity Act for the 21st Century, TEA–21.

## REMEMBERING CHARLES GUGGENHEIM

Mr. HOLLINGS. Mr. President. Let me first ask unanimous consent to have printed in the RECORD ''The Filmmaker Who Told America's Story'' by Phil McCombs that appeared in the Washington Post last week.

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

[Washington Post, Oct. 10, 2002]

THE FILMMAKER WHO TOLD AMERICA'S STORY

(By Phil McCombs)

He raced against death, and won.

Oh, how Charles Guggenheim would have not liked putting it so directly!

The great film documentarian, who died at Georgetown University Hospital yesterday of pancreatic cancer at 78, left a life's work of subtle, passionate cinematic hymns to what he called, in a last message to friends, ''the essential American journey.''

His final film, finished just weeks ago, limns a shocking episode of that journey—the ''selection'' by Nazis of 350 U.S. troops captured in the Battle of the Bulge in 1944 for deportation to a concentration camp because they were Jews or ''looked Jewish.''

Guggenheim, the son of a well-to-do German Jewish furniture merchant in Cincinnati, easily might have been one of them. His unit was decimated in the battle, but he'd been left behind in the States with a life-threatening infection.

For more than half a century, as hints and incomplete versions of the story surfaced, it gnawed at him. A few years ago, he began searching for survivors—and found them.

Early this year, just as Guggenheim was working on the ''death march'' sequence, his cancer was diagnosed.

For the next six months, he'd work all week on the film, have chemotherapy on Friday, sleep through the weekend and be back on the job Monday.

A few weeks ago, as he and his daughter, Grace—producer of this and many of his films—were ''mixing'' the final version, he began suffering painful attacks. The cancer had invaded his stomach.

''He'd have to lie on the couch while we worked,'' Grace Guggenheim recalled.

By then, her father was thin and drawn—not unlike his former comrades after they were liberated by U.S. forces following months of slave labor in a satellite camp of Buchenwald.

''Does it occur to you,'' Guggenheim's old friend, historian David McCullough, asked

him in an interview last month, ''that maybe you were spared to make this film?''

''Well,'' Guggenheim answered, ''I felt a deep obligation more after I met the [survivors] than I did before. . . . I said, 'I owe them something.' '' Thoughts of his old comrades courage, he added, were a ''source of strength for me'' as he persevered in his battle with cancer to finish the film.

Just as ''Berga: Soldiers of Another War'' was done, Guggenheim's strength evaporated. He began staying home, sleeping most of the time as his wife, Marion—his steadfast supporter for half a century—tended to him.

When I visited a few days after McCullough, Guggenheim was weak but still very much himself—that enormous charm, the bright sense of humor, that smile of his that sparkled like the sun.

He worried that ''Berga'' was being discussed in the media too soon, since it's not due for release until next April. But he was sure of one thing.

''This film will hit you right in the gut.''

STARRING EVERYDAY PEOPLE

Guggenheim was a giant.

In a career that spanned almost six decades, he received 12 Academy Award nominations and four Oscars for his documentaries—a feat matched only by Walt Disney.

Yet acclaim never sullied this modest, friendly man who lived a quiet family life in Washington. Though many of his friends were powerful figures, ''he can sort of take it or leave it,'' as former Missouri representative Jim Symington once said. ''He's an artist.''

Understatement was Guggenheim's signature—but it mounts in his films until, often, you can't help but cry.

In ''The Shadow of Hate'' (1995), his wrenching study of bigotry, a dead African American male is shown, hanging from a branch, in a long-faded archival photo.

Guggenheim's camera pans the white crowd, posing under the lynching tree; stops at a little girl in a pretty dress; slowly zooms in.

She has a shy smile.

Yet his outrage at injustice (''Nine From Little Rock,'' on the 1957 school integration crisis; ''The Johnstown Flood,'' about neglect of a dam by wealthy industrialists that led to 2,200 deaths in 1889; and ''A Time for Justice,'' on the civil rights movement, all won Academy Awards) merely underscored his fierce love of America.

''The truth is, we're living in wonderful times and a wonderful place,'' he once told a filmmakers' organization that had given him an award. ''This country provides more possibility to learn about oneself, and what the journey of humanity has been, than any other place.

''There are great stories in what is very common.''

He crafted celebratory documentaries on presidents Truman, Kennedy and Johnson; on U.S. fighting men in the Normandy invasion (''D-Day Remembered''); on workers constructing iconic American symbols (''Monument to the Dream,'' on the building of the 660-foot Gateway Arch in St. Louis, ''The Making of Liberty,'' on refurbishing the Statue of Liberty); on the immigrants who passed through Ellis Island (''Island of Hope/Island of Tears''); and on American politics (''Robert Kennedy Remembered'' won an Oscar in 1968).

Guggenheim was awed by the spiritual depth and gritty determination of everyday people—the patriotism of Japanese Americans interned in a camp; workers at the Arch who proudly brought their families on Sundays to show what they'd accomplished; frightened troops riding the launches into Normandy, ready to offer up their lives.

I remember seeing Guggenheim at the July 4 festivities at the National Archives on the Mall last year. He could have sat with the dignitaries on a dais above the crowd but chose to stand at a spot down below where he could watch the faces of the people.

''Look at them!'' he marveled. ''They'll wait in line all day just for a chance to see the Constitution and Declaration of Independence.''

Born dyslexic, he had a gift for hearing the nuances of common speech. In his films, he lets the voices of participants carry the stories whenever possible.

''It was over. I mean, it was quiet, as if nothing had happened,'' says the haunting voice of a former GI in ''D-Day Remembered.'' ''The beach was not any general's business. They had no say, none what-someever.''

''I cry when I hear that,'' Guggenheim once confided.

And these, from the liberation sequence in ''Berga'':

Sanford Lubinsky: ''It got quiet. And then we heard that firing start up again.''

Edward Slotkin: ''And we look out the front . . .''

Leo Zaccaria: ''And up the road comes this tank. American tank.''

Lubinsky: ''When I saw that American flag coming down that road, nothing looked so beautiful in all our born days. That American flag, our flag, sure looked beautiful. It's a very beautiful thing when you haven't seen it for a long while. It's a beauty!''

The narrations Guggenheim wrote in support of the voices were spare, existential.

''The sea was welcoming,'' narrates a deep-voiced McCullough in the D-Day film, ''as if it were paying its respects to the men who had fallen, who out of a nation of millions had been selected, for reasons known only to fate, to represent us on the beach that day.''

Guggenheim had a second hat, too. He was a founding father of the televised political campaign commercial.

As a young independent filmmaker in St. Louis in 1956, he'd accepted an offer to run presidential candidate Adlai Stevenson's TV campaign—Guggenheim needed the money—and then gone on to work for other candidates.

His client list amounted to a veritable political lexicon, including Kennedy, Gore Sr., Symington, McGovern, Moss, Shapp, Brown, Hays, Brademas, Ribicoff, Metzenbaum, Goldberg, Mondale, Pell, Bayh, Church, Biden, Danforth, Hollings.

Eventually, Guggenheim became disillusioned with what was evolving into a somewhat infamous institution.

''If you play a piano in a house of ill repute,'' he told PBS's ''NewsHour With Jim Lehrer'' a few years ago, ''it doesn't make any difference how well you play the piano.''

By the late '80s, he'd turned full time to his beloved documentaries.

''Why have you stayed with this . . . art form of yours all these years?'' McCullough asked in the interview last month. ''What . . . makes you want to get up out of bed in the morning?''

''I just feel compelled to say something, if I feel strongly about it,'' Guggenheim replied. ''And I think it was . . . [director] David Lean [who] said that the greatest moment in making films, and probably the most satisfying moment in film, is getting a story you're in love with.

''So you search for those things.''

Last week, as Guggenheim lay dying, ''Berga'' was screened for the board of the Foundation for the National Archives, a nonprofit advisory and fund-raising group of which Guggenheim was president. For most of his films, the archives was a primary source.

Grace Guggenheim read a message to the group dictated by her dad from the hospital.

''Many people know about the Constitution and the Declaration of Independence,'' he'd said, ''but few know the treasures held in the millions of feet of film, in the countless maps and pictures and letters . . .

''Story after story is revealed from the work that is accomplished every day at the archives—the incomparable truths, all telling and retelling what is the essential American journey.''

The guests filed into the theater, the lights went down.

A long-faded archival photo appeared on the screen, the camera panning slowly across it—fresh-faced American GIs of World War II, in formation.

Then the narrator's voice—clear, strong:

''This picture was taken over 50 years ago. World War II. My company. I'm in there someplace. I can remember their faces just like yesterday. And they went overseas, and I didn't, and some of them didn't come back.

''And I've been thinking about it for 50 years, wondering why it didn't happen to me.

''That's why I had to tell this story.''

THAT GUY FROM ST. LOUIS

Heavily medicated in the hospital last week, Guggenheim still had glorious moments with Marion, Grace and his sons, Davis and Jonathan, both in film work.

''One day he had a resurrection of being alert,'' Grace said. ''He hugged us all and said, 'I just want to live with you!' ''

''He charmed the doctors and hospital staff. He wanted to show them the film and tell them, 'This is what you helped me make.' ''

Through his window, ''he could look out and see a big American flag.''

They reminisced: How Davis practically had to order his reticent father to narrate ''Berga'' in the first person . . . how everything had gone so perfectly filming on location in Germany, snow just when they needed it.

Then, a letter arrived from Guggenheim's old friend, producer George Stevens Jr., and Grace read it to her father.

In 1962, Stevens recalled, he'd just arrived from Hollywood to do documentaries for Edward R. Murrow's U.S. Information Agency when word came that a young filmmaker from St. Louis had seen a USIA film so bad it made him ''ashamed to be an American.''

''Find me that guy from St. Louis!'' Stevens had ordered.

''You possessed then and ever since,'' Stevens wrote, ''an absolute true compass when it came to the integrity of your work—and our fights to keep the films we made from being dumbed down or made prosaic . . . were stimulating.

''I remember 'United in Progress' and the beautiful footage you shot of President Kennedy in Costa Rica . . . our venture to LBJ's ranch for 'The President's Country' . . . and, too, when I took you [in 1964] to meet Bob Kennedy . . . and my good fortune in having you at my side to start the Kennedy Center Honors—it was just a little scheme back then . . .

''I cherish those memories, Charles.''

A long, long row of candles.

THE MASTER'S VOICE

In the closing sequence of ''Berga,'' Guggenheim—knowing his time was short—offers a powerful, transcendent final message:

Milton Stolon (survivor): ''Ah, it's no good to remember. . . . But you have to remember because people, people forget what went on.''

Then old photos of the survivors returning home to their families flash on the screen—one after another, with their wives and sweethearts and kids.

The final shot: a joyful GI, the camera panning down to his smiling little girl sitting on a tricycle.

And Guggenheim's clear voice-over:

''These are just a few of the faces in my story, but there are millions of faces, and millions of stories.

''That have never been told. And deserve to be.

''You should remember that.''

Mr. HOLLINGS. The great advantage of serving in the U.S. Senate is the exposure to your colleagues in the Senate, all who are talented, and the exposure to various individuals in Washington involved in the issues. The principal issue for one serving in the U.S. Senate is reelection. That's how I met Charles Guggenheim.

It was 30 years ago. Charles had the reputation of producing the best candidate films and after handling me, remarkably, he retained that reputation. My staff had just contacted him when they came back to me and surprised me with the request that Charles wanted to follow me when I went home that weekend. I said let's wait, it's too early for filming. The answer was no, it's not for filming, Mr. Guggenheim wants to travel with you to see if he likes you. I said fair enough. I want to see if I like him. I will never forget that weekend. After reciting the Pledge of Allegiance at the Rotary Club, the Realtors, the tobacco barn, the Democratic Party rally, and nine other times, I thought I may lose Charles. But he stuck with me. I learned to love him.

There are two kinds of geniuses in this world: the intellectual and the sensitive. The intellectual is the type who goes through a magazine just turning the pages and catching up in the back part with the story, remembering it all. Or the type that reads a book in a couple of evenings. But then there is the sentimental genius. They feel the words. You tell me that a friend is sick and I feel sorry for him. You tell Charles a friend is sick and he starts feeling bad. No one could read people better. He would have me do one take over and over and over just to make sure the light was right, or the sound was exact, very sensitive to the environment and feelings of those around him. No doubt this made him an Oscar winner four times and a nominee twelve times. But this search for the authentic also made him give up on us politicians 20 years ago. The political short was no more the positive attributes of the candidate depicting his record in a colorful way, but the framing of the opponent with a half-truth, with a negative spin that meets the poll. Outrageous hypocrisy. Charles would have none of it and he turned exclusively to documentaries.

Charles' brilliance was in telling the story so that you were there in the historic moment. I watched him in his work. We would meet at 6:30 in the morning two or three times a week at Ali Rosenberg's St. Albans for tennis. Ali didn't let us start until just before 7:00 so the three of us would chat about the events of the day. Charles had the keenest wit about the political happenings in Washington and, talking along, I realized his genius. It wasn't just the sensitivity, but the historian. For the D-Day film he searched the Pentagon archives for 2 years finding things that the military historians had no idea of. Then, to give life to the depiction, he searched to identify the exact outfit, down to the platoon or squad. Then he found a member of that platoon or squad still living to narrate the scene. For another 2 years he looked for Jewish POWs for his most recent film. He was mainly concerned about his own outfit from which he was separated. They were captured in the Battle of the Bulge; the Jewish prisoners separated and inflicted with torture and death. He wanted to tell this story of the POW Holocaust that had never been told. He was tickled that the weather was kind, just right for his takes at the prison camps in Germany. He smiled at his luck. And then the cancer hit. He struggled this year to finish the course. Amazing Grace, his beautiful daughter, worked with him to complete the film. In this city of families split asunder, the Guggenheims have shone as a star of cohesion. Jonathan worked as a Senate Page and now produces on the West coast. Davis has just completed a cameo production on education. And that gracious lovable Marion continues to worry about everybody except herself. Charles was particularly proud when he went west for his last nomination. His daughter-in-law, Elizabeth Shue, won an Oscar. Knowing Charles, the sensitive, the authentic, his was not to receive Oscars but to render to others in his film. But surely, if he had one to give, it would be to Marion.

## TRIBUTE TO SENATOR PHIL GRAMM

Mr. SHELBY. Mr. President, I rise today to pay tribute to Texas Senator PHIL GRAMM, highly respected on both sides of the aisle for his tremendous intellect, deep convictions and relentless tenacity, he will long be remembered in the U.S. Senate.

I have known Senator GRAMM and his lovely wife Wendy for many years. I first served with Senator GRAMM in the House of Representatives in 1978 where we both served on the House Energy and Commerce Committee. As conservative southern Democrats we had much in common and found ourselves on the same side of most issues, although not always on the same side as our party. Indeed, while we both came to Congress as Democrats, we later found our ideology and values best reflected in the beliefs of the Republican Party. Senator GRAMM finding the light a little more quickly than I did. However, when I finally made my decision to switch from the Democrat to Republican Party, it was more than symbolic that I stood between two great men who represented the heart of the Republican Party in the U.S. Senate, Bob Dole and PHIL GRAMM.

When I switched parties in 1994, Senator GRAMM said of my ability to help deliver the message of the Republican party: ''There are no greater zealots than converts.'' This certainly applied to me at the time, and it still applies today. I think he spoke from what he knew to be true himself. As someone who values freedom above all else, his life has been a perfect model of what he preaches every day, and his lifetime achievements testify to that fact.

Senator GRAMM embodies what can be achieved in America through hard work, education and determination. He grew up in modest means in Georgia, helping to contribute to the families' finances by working delivering newspapers. The strong work ethic instilled in him by his upbringing led Senator GRAMM to the University of Georgia where he received his PhD in Economics in 1967. Senator GRAMM then moved to Texas, where he met and married his wife, Wendy Lee, who was also an economics PhD.

Elected to serve in the House of Representatives from the 6th district of Texas in 1978, Senator GRAMM quickly developed a reputation as a conservative Democrat who was committed to fiscal responsibility. Through his position on the Budget Committee, Senator GRAMM helped to craft bipartisan legislation which laid the foundation for Ronald Reagan's 1981 tax cuts and defense buildup. In 1983, PHIL GRAMM displayed the courage of his convictions by resigning from the Democratic party to run as a Republican. His reelection was a success, making him not only the first Republican in the history of the 6th District of Texas, but the only member of Congress in the 20th Century to resign from Congress and successfully seek re-election as a member of another party.

When John Tower announced his retirement from the Senate in 1984, Senator GRAMM seized the opportunity, and won an overwhelming victory in the general election. Senator GRAMM wasted no time becoming actively involved within the Senate. One of his first initiatives, the Gramm-Rudman-Hollings Deficit Control Act of 1985, required automatic budget cuts if the deficit was not reduced to specific levels. Together with a rapidly growing economy, this legislation was credited with producing the first balanced budget in twenty five years. Since then, Senator GRAMM has established a long record of initiatives and achievements during his tenure in the Senate, which included negotiating the final package of budget cuts, spending caps and tax increases at the 1990 budget summit, pressing for balanced budget amendments, the exposure and elimination of budget gimmickry, electricity deregulation and improving the relationship and cooperation between the United States and Mexico.

Senator GRAMM took the gavel of the Banking, Housing and Urban Affairs Committee in January of 1999. It was from this post, that he worked to repeal the 1933 Glass-Steagall Act, which

separated banks from investment banking and commercial firms. Through a lot of hard work, dogged tenacity and a little compromise, Senator GRAMM shepherded the bill through the committee and out of the Senate. The result was that in 1999 financial services deregulation was passed and signed into law, which may have been the biggest legislative achievement of the 106th Congress.

Senator GRAMM has the ability to do something that not many people can do. He can take very complex issues and break them down into their most basic elements, so that just about anybody can understand them. The intricacies of the budget process, the solvency of Social Security, the implications of national health care, are all brought down to kitchen table common sense. This is an amazing gift, and a formidable one for anyone who stands on the other side of an issue from him. There is simply no rhetoric to hide behind in a debate with Senator GRAMM. He is not afraid to fight or to lose, and so he rarely loses.

Senator GRAMM's absence from the U.S. Senate will truly leave a substantial void. I will certainly miss his expertise on the Senate Banking Committee and the broad policy experience that he brings to every debate. I would like to extend my sincere best wishes to Senator GRAMM on his retirement from the Senate and wish him luck in his new career.

## ONE YEAR ANNIVERSARY OF ENRON SCANDAL

Mr. LEVIN. Mr. President, one year ago today, the public first began to learn of the accounting frauds that led to the collapse of Enron Corporation. For the first time, investors learned of special purpose entities used to make Enron's financial condition look better than it was and of partnerships run by Enron's chief financial officer. One year ago today, the press first reported the $1 billion loss in Enron's shareholder equity and a $700 million loss in earnings. Less than 2 months later, Enron's reputation as a well-run company and a good investment morphed into that of a bankrupt operation with billions in unpaid debt.

As the scandal unfolded, Enron's employees lost their jobs and their pensions. Its stockholders lost their shirts. Its accounting firm lost its credibility and its ability to operate as an auditor. About the only ones to walk away from Enron's fall intact were a number of executives who pocketed millions of dollars in compensation despite the company's collapse. Other executives are now beginning to pay the piper for their misdeeds.

Of course, Enron was only the beginning. Within 6 months, the press was inundated with reports of multi-billion-dollar accounting frauds at other major publicly traded corporations in the United States. We learned that Worldcom had misreported $3 billion in expenses, a figure which has since doubled to more than $7 billion. We learned that Adelphia had made billions of dollars in unsecured loans to corporate insiders, especially members of the Rigas family. We learned that Tyco had made not only unreported loans to corporate executives and directors, but its CEO appears to have cheated on his taxes. The list of companies associated with accounting frauds or other corporate misconduct kept increasing, shaking not only Wall Street, but also Main Street where more than half of U.S. households are directly or indirectly invested in the stock market.

The result is that, today, investor confidence in U.S. financial statements and the U.S. accounting profession lies in tatters. The stock market itself has compiled its worst record in years.

The breadth and depth of this corporate misconduct galvanized Congress. Over the past year, we conducted detailed investigations into what happened. We subpoenaed documents. We held hearings. We issued reports. And during the summer, we enacted into law the Sarbanes-Oxley Act, a corporate reform law which calls for a host of changes in the way U.S. business operates, including overhauling accounting oversight, restoring auditor integrity, and strengthening investor protections. This legislation was a strong response to the corporate scandals, but the work is far from over.

Enron's 1-year anniversary is a good time to recall what still needs to be done.

First, the SEC needs to implement the Sarbanes-Oxley Act. The most important next step here is naming the members of the new Public Company Accounting Oversight Board. This Board is charged with strengthening auditor ethics, disciplinary proceedings, and conflict of interest prohibitions to restore confidence in the U.S. accounting profession. This work will require a frank acknowledgment of past problems, a fresh examination of what works and what has failed, and a willingness to break from past practice to increase investor protections.

Some impressive candidates have stepped forward to express their willingness to serve on this board. One terrific candidate is John H. Biggs who is about to retire from his post as chairman and CEO of TIAA–CREF. Mr. Biggs has the stature, expertise, and backbone needed to lead this board. He is the right man at the right moment to restore integrity to U.S. financial statements and the U.S. accounting profession, and the SEC ought to immediately accept his offer to serve the public as a member of this important new board.

The SEC also has a host of important regulations to issue over the coming year—a task that will require continued congressional oversight. One of the most important is the requirement that companies disclose all material off-the-books transactions, arrangements, obligations and relationships. While the Financial Accounting Standards Board, or FASB, has issued a proposal to strengthen accounting rules regarding special purpose entities, that addresses only a portion of the problem and the SEC can and must do much more to strengthen disclosure.

The SEC must also set up the policies and procedures necessary to identify and administratively bar those persons who are substantially unfit to serve as officers or directors of public companies. Too many officers and directors have turned their eyes away from misconduct, failed to ask tough questions, or allowed fraudulent or questionable activities to continue unchecked at the companies that are now the subject of legal proceedings. We need stronger leadership in corporate America and to eliminate those unwilling or unable to act as fiduciaries for investors.

These are just two of the many pressing regulatory issues facing the SEC in implementing the Sarbanes-Oxley reform law. But it will take more than Sarbanes-Oxley to end corporate misconduct and restore investor confidence in U.S. markets. The list of unfinished business includes at least the following items.

First, Congress needs to recognize that the SEC is outgunned and outspent and give the SEC the resources it needs to police financial statements and detect and punish corporate misdeeds.

Second, we need to give the SEC new civil enforcement authority to impose administrative fines on company officers, directors, auditors, lawyers, and others who violate federal securities laws. Right now, the only wrongdoers the SEC can fine in administrative proceedings are broker-dealers and investment advisers. My amendment to broaden its authority to fine other violators of the securities laws never received a vote during consideration of the Sarbanes-Oxley Act. I intend to keep trying until that vote takes place.

Another festering problem involves stock options. Stock option abuses have not stopped, and dishonest accounting of stock option expenses continues. That means that Congress still needs to set a deadline for FASB to take appropriate action on the issue of expensing stock options. Over 120 publicly traded companies have announced their intention—on a voluntary basis—to begin expensing options. That is a huge and welcome change from past practice. But many other public companies have indicated they have no intention of expensing options until required to do so. It is time to level the playing field in favor of honest accounting of stock options.

Still another continuing problem involves so-called corporate inversions, when U.S. companies pretend to move their headquarters to an offshore tax haven in order to avoid paying their fair share of taxes. These offshore shenanigans are not only unpatriotic, they are unfair to the taxpayers who have to

pick up the slack and pay for this country's military, security, law enforcement, and other needs, many of which benefit the companies avoiding their fair share of taxes. I plan to spend a significant amount of time over the next year looking at issues related to offshore tax evasion and corporate nonpayment of tax.

A few years ago, this country had billions of dollars in surplus and a growing economy. But that is over. One contributing cause is the corporate scandals over the last year. Those arguing for tepid reforms or the status quo will not provide the leadership needed to end the corporate misconduct and investor fears now plaguing U.S. markets. We need not only to complete the implementation of the Sarbanes-Oxley law, but also to move ahead with additional measures needed to restore investor faith in U.S. business. The one-year anniversary of the Enron scandal is a good time to renew the call for that unfinished business.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today 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 September 15, 2001 in San Francisco, CA. Two men, Robin Clarke and Sean Fernandes, were brutally attacked by a man who thought Fernandes was an Arab. The assailant passed the two men on the street, called Fernandes a ''dirty Arab'', then punched both men and stabbed Clarke in the chest. The assailant escaped in a blue Mustang coupe after the attack.

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.

## BURMA

Mr. LEAHY. Mr. President, I want to add my voice to the growing chorus in Washington condemning the State Peace and Development Council's brutal and inhumane treatment of the people of Burma—including refugees and internally displaced persons.

We recently heard from the senior Senator from Kentucky, Senator MCCONNELL, who has been a consistent, strong voice for human rights and democracy in Burma. He spoke of the many abuses committed by the SPDC and his concerns that the SPDC's proclaimed interest for reconciliation with the legitimate leaders of Burma—led by Daw Aung San Suu Kyi and the National League for Democracy—ring hollow.

I am in complete agreement with his assessment.

It is past time for the SPDC and its armed forces to respect the human rights and dignity of the people of Burma and to punish those in the military who are responsible for killing and injuring innocent men, women and children.

I was appalled to learn this week that Burma Army Column Commander Khin Mau Kyi, who is reportedly responsible for burning churches and villages and torturing pastors and Buddhist monks, said. ''I don't respect any religion, my religion is the trigger of my gun.''

Mr. President, Khin Mau Kyi's so-called ''religion'' is, according to information I have received, responsible for the murder of the following people at Htee Law Belh on April 28, 2002: Saw Hto Paw, Naw Hsar Kay, Naw Kri Htoo, Naw Ble Po, 5 years old, Daw Htwe Ye, Naw Mu Tha, Mu Pwat Pwat, 7 year old, Saw Ka Pru Moo, Naw Plah, 5 years old, Naw Dah Baw 2 years old, and Naw Pi Lay and her infant.

The State Department should publicly condemn the SPDC for these atrocities, and call on the SPDC to investigate these crimes and bring those responsible to justice. Unfortunately, there is no reason to believe the SPDC will act against its own officers.

We and the international community should do our utmost to provide assistance to the SPDC's victims. In the days to come, I will confer with my friend from Kentucky on appropriate actions we can take to help refugees and internally displaced persons in Burma, including engagement with Thailand to ensure that Burmese fleeing SPDC abuses can enter into Thailand, that international journalists are given free and unfettered access to refugee camps and ethnic minorities, and the UN High Commissioner For Refugees is allowed to provide a safe haven for those fleeing SPDC oppression.

## THE TUSKEGEE AIRMEN 17TH ANNUAL SALUTE

Mr. LEVIN. Mr. President, this weekend hundreds of individuals from throughout the Nation will be gathering in my hometown of Detroit, MI, to honor, remember, and pay tribute to one of the most illustrious and feared U.S. Army units in the Second World War, the Tuskegee Airmen. These individuals will be gathering for the Tuskegee Airmen National Historical Museum's 17th Annual Salute Reception and Dinner.

The story of the Tuskegee Airmen is unique in many ways but starts with similarities to the story of so many members of the ''Greatest Generation'' who fought in the Second World War. It is a story of young men who answered the call of duty and fought to defend our Nation with courage, pride, and zeal against the forces of tyranny and oppression. These men have earned our Nation's enduring respect for their actions and deeds in defense of the United States.

But of course their story is also unique. In addition to being one of the most successful air combat units in the Second World War, the Tuskegee Airmen, whose pilots trained at the Tuskegee Army Air Field in Tuskegee, AL, overcame a pattern of rigid segregation and prejudice that questioned their ability to serve as Airmen and prevented them from training and working with their white counterparts.

Led by the recently departed General Benjamin O. Davis, the first black general in the Air Force, the Tuskegee Airmen flew over 15,500 sorties, completed over 1,500 combat missions, and downed over 260 enemy aircraft. They even sunk an enemy destroyer. Amazingly, no bomber escorted by the Tuskegee Airmen was ever downed. But 66 Tuskegee pilots flying escort did make the supreme sacrifice for our Nation and another 32 were taken as prisoners of war. Collectively, these actions won the Tuskegee Airmen 3 Presidential Citations, 95 distinguished Flying Crosses, 8 Purple Hearts and 14 Bronze Stars.

Upon returning home from war, these Airmen found a society still deeply segregated. The Tuskegee Airmen themselves remained segregated from the larger military and were unable to provide their skills and aptitude to other units that were in dire need of qualified airmen. It was not until President Truman issued Executive Order 9981 that segregation was ended in the United States Armed Services. This Executive Order played a vital role in the subsequent integration of our Nation. The valor and dedication of the Tuskegee Airmen played a vital role in changing our Nation's attitude toward integration and racial diversity.

In recent years, our Nation has rightly sought to honor those who served in the Second World War and to recognize the challenges faced and overcome by the Tuskegee Airmen. I know my Senate colleagues join me in commending the Tuskegee Airmen for their willingness, to paraphrase Philip Handleman, an aviation historian from Oakland County, MI, to fight two wars at the same time: one war against the forces of totalitarianism abroad and the other against the forces of intolerance and prejudice at home, and to have the determination to win them both.

## THE ALL-CALIFORNIA WORLD SERIES

Mrs. FEINSTEIN. Mr. President, I rise today to commend and congratulate the two teams from California who will compete for the 2002 World Series Championship: the National League Champion San Francisco Giants, and the American League Champion Anaheim Angels.

This will be the fourth All-California World Series—following the 1974 and 1988 Los Angeles Dodgers-Oakland Athletics match-ups and the 1989 ''Bay Bridge Series'' between the Giants and the Athletics—and I am confident it will go down in history as one of the best.

Both teams have beaten the odds and overcome huge obstacles to advance to the fall classic. In fact, this will be the first World Series between two wild-card teams.

My hometown team, the Giants, won the National League Wild Card with a 95 and 66 record, edging another California team, the Los Angeles Dodgers, by 3½ games. They then defeated the heavily favored Atlanta Braves in the National League Divisional Series 3 games to 2, before finishing off a tough and determined St. Louis Cardinals team 4 games to 1, to win their third National League Pennant since moving to San Francisco in 1958.

The Anaheim Angels overcame a 6 and 14 start to win the American League Wild Card with a 99 and 63 record, just 4 games behind yet another California team, the Oakland Athletics. They upset the New York Yankees in the American League Divisional Series 3 games to 1 and defeated the Minnesota Twins 4 games to 1, to win the first American League Pennant in the 42-year history of the Angels organization. I only wish Gene Autry had lived to see his beloved team succeed with such brilliance.

The Giants and Angels epitomize the word ''team.'' Each has its share of All-Stars, but they have advanced to the final round because of the dedication and hard work of each player.

Everyone knows the Giants are led by four-time National League Most Valuable Player, newest member of the 600 Home Run club and 2002 National League Batting Champion, Barry Bonds. But Barry would be the first to say that the Giants would not be where they are without the contributions of players such as National League Championship Series Most Valuable Player Benito Santiago, David Bell, Jeff Kent, J.T. Snow, and pitchers Russ Ortiz, Jason Schmidt, Kirk Rueter and Rob Nenn. The list goes on.

And, what Giants fan will ever forget Kenny Lofton, a center-fielder acquired in a mid-season trade, who drove in the winning run in game 5 of the National League Championship Series with a two-out base-hit?

The Angels got to the World Series by hitting .320 as a team in the postseason and scoring 60 runs in 9 games. They are led by David Eckstein, Garret Anderson, Troy Glaus, Tim Salmon, and pitchers Troy Percival, Jarrod Washburn, and 20-year-old rookie, Felix Rodriguez.

American League Championship Series Most Valuable Player Adam Kennedy made history by becoming only the fifth player—following the likes of Hall of Famers Babe Ruth, Reggie Jackson, and George Brett—to hit three home runs in a playoff game in the deciding game 5 of the American League Championship Series.

Every great team has a great manager and the Giants and the Angels have two of the best: three-time National League Manager of the Year Dusty Baker and Mike Scioscia, who has led the Angels to a World Series in only his third year as manager. Former teammates on the Los Angeles Dodgers, both set high standards for their teams, stuck with them through thick and thin, and provided the leadership for success.

Finally I want to pay tribute to the front office staffs of both organizations: President and managing partner Peter Magowan, executive vice-president and chief operating officer Larry Baer, and general manager Brian Sabean of the Giants and chairman and CEO of the Walt Disney Company Michael Eisner and general manager Bill Stoneman of the Angels. Not only have they built championship franchises, but they have established the Giants and Angels as class organizations.

Normally, the Senators from the States of the teams represented in the World Series place a friendly wager on the outcome. This year, Senator BOXER and I will simply take pleasure in watching two California teams battle for the title.

From Edison Field to Pacific Bell Park, each game will showcase a different part of California and the great fans of both teams. The Giants and the Angels have done California proud and may the best team win.

## THE ROMA

Mr. LEAHY. Mr. President, I rise to discuss the situation of the Roma people in Serbia and Montenegro, which together make up the Federal Republic of Yugoslavia, FRY.

I am among those who believe that the United States should continue to strongly support the development of democratic institutions and reconciliation among ethnic groups throughout the FRY and Senator MCCONNELL and I have tried to do that in the fiscal year 2003 Foreign Operations spending bill.

As in the past, we have provided funds to support democratic reformers in the FRY, as they continue to work to overcome the hatred and destruction caused by Slobodan Milosevic.

The United States is dedicated to ensuring that Serbia develops a solid commitment to peace, the rule of law, and to protecting the rights and well-being of its minority communities. That is why the funding level for Serbia—and indeed throughout the Balkans—recommended by the Committee on Appropriations is above what the President requested in his Fiscal Year 2003 budget.

Our law requires that the President certify to the Committee on Appropriations that the FRY is continuing to cooperate with the War Crimes Tribunal. He must also certify that the FRY is implementing policies which reflect a commitment to the rule of law, a commitment to end support for separate Republika Srpska institutions, and a commitment to ensure and protect the rights of minority groups.

Progress toward those goals has been made. But it has been slow, and the FRY has an inconsistent record of compliance with our law.

I recognize that the process of reform is difficult. Breaking down old hatreds can take generations. I have been very disappointed that even the reformers in positions of authority have not done more to support the Tribunal, and to expose the truth about Milosevic's crimes. However, even their inconsistent efforts are resisted at every turn by powerful nationalists who are far less committed to justice.

That political dynamic is the cause of much friction within the FRY, and is the cause of continuing difficulties between Serbia and the international community.

It is my hope, and I think I speak for everyone here, that the Balkans will eventually become a stable, peaceful, and tolerant region in which Serbia is the leading force for trade and democracy. Such a hope will become a reality only if our commitment to it remains strong.

As the world's attention has shifted toward Afghanistan and a possible war with Iraq, it is important that our concerns for the FRY are not drowned out by events elsewhere.

In addition to ensuring FRY compliance with the Tribunal, there is still serious work to be done on behalf of minority groups there.

In particular, a higher level of attention must be focused on the plight of the Roma people, whose history is one of discrimination and suffering.

The Roma are an ethnic group that traces their heritage back about one thousand years to the north of India. They first settled in Eastern Europe in the 14th Century. Today, Roma reside in all parts of Europe.

Over the centuries, the Roma have been the victims of murderous violence and debilitating discrimination that has poisoned their relations with their host nations, stunted their growth as a community, and perpetuated a vicious cycle of poverty, unemployment, sickness, and every form of social ostracism.

It is a cycle that has sentenced the Roma to shorter lives, lower literacy rates, and often horrid living conditions—living conditions that are far below those of the general populations of their host nations.

I read in a recent publication that in England, during the time of Elizabeth I, there was a law which made it illegal to be a Roma person, and under that law one could be put to death simply for being born to Roma parents. Also during that time, in Switzerland, it was legal to hunt Roma for sport.

During the Second World War, the Roma were among the first ethnic groups targeted for eradication by Hitler. Until the 1970s, in other parts of

Europe, policies have resulted in separating Romani children from their parents so they could be raised by non-Roma families.

The last decade has been no kinder to the Roma. During the Balkan wars of the 1990s, the Roma were severely victimized. And the abuse of the Roma continues now during peacetime.

The FRY has officially registered the Roma as a minority group, and has mandated that more Romani language programs appear on state television. These are important steps and are to be commended.

Much progress toward equitable and lawful treatment of the Roma, however, is yet to be made by the FRY, where the Roma are reportedly subject to frequent police brutality.

They often live in illegal settlements on the outskirts of towns, without electricity, running water, or sanitation.

International nongovernmental organizations willing to assist the Roma in constructing more permanent housing have been forced to cancel their projects, because the FRY and local authorities denied them the necessary land.

Roma in the FRY are also the targets of humiliating social discrimination. They are frequently denied access to privately owned restaurants and sports facilities. Roma do not receive adequate education, health care, or equitable access to public goods and services. In many FRY communities they are treated as a public nuisance.

Very little effort is made by state prosecutors to pursue cases of discrimination against Roma in the courts, partially due to widespread apathy for the Roma and partially because of weak legislation protecting the rights of minorities.

The Roma experience is one of suffering. Their's is a life of waiting, and one of hope lost as the tide of history threatens to sweep them aside.

As with its cooperation with the Hague Tribunal, the FRY's respect for the rights of the Roma must be closely monitored and verified. The President's certification to the Committee on Appropriations concerning funds appropriated for the FY should address both issues.

Continuing progress by the FRY in ensuring the safety and dignity of all its citizens, including the Roma, is the intent of our law and essential to the future stability of the former Yugoslavia.

## ADDITIONAL STATEMENTS

### 10TH ANNIVERSARY OF THE CAB CALLOWAY SCHOOL OF THE ARTS

• Mr. BIDEN. Mr. President, we often talk about how best to encourage the talents of our young citizens. In my home town of Wilmington, DE, there is a school that fulfills that mission literally, and with great success—the Cab Calloway School of the Arts, which will celebrate its 10th anniversary at a ceremony on Friday, November 22, 2002.

Cab Calloway students have performed in prestigious venues from New York City to Washington, DC. Our colleague, Senator CLINTON, has been in their audience, as have Secretary of State Powell and members of the National Governors Association. They have earned recognition in the National Shakespeare Competition, the Delaware Theatre Company's Young Playwright's Festival, and various vocal and band competitions.

In the visual arts, Cab Calloway students have won repeatedly in Delaware's Youth in Art Month Flag Competition, and their work has been included in the Delaware Foundation for the Visual Arts Calendar. When artists were invited to decorate downtown Wilmington with dinosaurs this past spring, a Cab Calloway student designed and made sculpture was in the display. Visual arts students have also worked with the March of Dimes to create educational materials, and they have been honored with Regional Scholastic Art Awards.

That would be impressive as the whole story, but it is just one chapter. Cab Calloway students have excelled academically, earning as many honors for their work in the classroom as for their talents on the stage or in the studio. The school has been recognized for its innovative programs, and it proudly boasts the best attendance record among all secondary schools in the district.

For a decade, Cab Calloway has given many of our State's most talented young citizens a chance to excel as student-artists. It is a true success story in public education, and we in Delaware are very proud to congratulate the administration, faculty, students and their families, as we all join to celebrate the 10th anniversary of the Cab Calloway School of the Arts.•

### TRIBUTE TO RANDY ATCHER

• Mr. BUNNING. Mr. President, I rise today among my fellow colleagues to honor and pay tribute to one of Kentucky' finest individuals. Last Wednesday, at the age of 83, Randy Atcher passed away in his bed at the Audubon Hospital in Louisville, KY. He had been suffering from lung cancer for many years. He will be missed and mourned by all.

Randy Atcher was born in Tip Top, KY in 1918 and from very early on, people could see that he was headed for big things. Randy grew up in a family of entertainers and musicians. His father played the fiddle, his mother the piano, his brother Bob the mandolin, his brother Raymond the bass and finally his brother Francis played the guitar. At age 13, Randy and his brother Bob were playing their catchy country tunes for WLAP radio in Louisville. Before Randy was even out of high school, he and Bob had a successful morning show on WHAS radio which aired from 8 to 8:15 Monday through Friday. He always finished the show with just enough time to beat the bell for his first class.

After graduating from high school, Randy and Bob hit the road running, showcasing their musical talents all across the Commonwealth. However, this seemingly endless road adventure came to an abrupt halt when, in 1941, the Japanese maliciously and without warning bombed Pearl Harbor. Shortly thereafter, Randy joined the Army Air Corps, serving in such places as Australia, the Philippines and Okinanwa. While in the South Pacific, Randy purchased a guitar and played his tunes for his fellow soldiers, bringing a little happiness and laughter into a very dark and frightening place and time.

After the war ended, Randy picked up right where he left off in 1941. He traveled around the country and worked for radio stations in places like Chicago. In 1946, Randy returned to Louisville and remained there for the rest of his days.

Randy Atcher's big break came in 1950 when his old friends at WHAS came to him with an idea for a daily TV show for Kentucky's children. The show, T–Bar-V, was an instant success and was on the air from March 28, 1950 until June 26, 1970. Many Kentucky children grew up watching this show and learning from the lessons it taught. In many ways, Randy Atcher became an integral part of many Kentucky families. He taught the children to save their money and to respect their elders. His warmth and sincerity were felt by all that tuned in. Throughout its 20 years on television, T–Bar-V celebrated 153,000 children's birthdays. When the show ended, many children felt as if they had lost their best friend.

Even after the show ended however, Randy couldn't keep the performer in him quiet. He sang his songs and entertained children at schools and the elderly at nursing homes. He was on the board of the Muscular Dystrophy Association and the Dream Factory, a group that grants the wishes of gravely ill children. He also recorded books on tape for the blind.

I ask that my fellow colleagues join me in honoring Randy Atcher. He devoted his entire life to bringing happiness to the lives of others. He represented a code of morality that seems almost lost today. I believe we all can learn from his example of caring for and serving others.•

### TRIBUTE TO THE HON. JOHN S. MARTINEZ

• Mr. LIEBERMAN. Mr. President. I rise today with great sadness to pay tribute to the late State Representative John S. Martinez, Deputy Majority Leader of the Connecticut General Assembly, who lost his life on October 10 in a tragic automobile accident. Mr. Martinez served New Haven's 95th Assembly District where he served on the

Finance, Revenue & Bonding Committee and the Judiciary Committee. He leaves behind a career of compassionate public service, particularly to the underprivileged.

Mr. Martinez was born in 1953 in the City of New York to Puerto Rican parents. His family has resided in the City of New Haven for 39 years.

From 1991 to 1997, Mr. Martinez developed and served as Project Director of the Hill Health Center/Grant Street Partnership, a Substance Abuse Intensive Day Treatment Program for women and men.

Mr. Martinez worked for 15 years with the homeless and substance abusing population. He was very active on both local and state-wide level community service boards and commission, including the Community Action Agency in New Haven, LULAC Headstart, Community Partners In Action, Latino Youth, Inc., New Haven Parking Authority Commission and Children Center in Hamden.

Mr. Martinez was also President of the National Hispanic Caucus of State Legislators, and a member of the Council of State Governments/ERC, the National Criminal Justice Task Force/CSG, the Fighting Back Treatment Intervention Committee and the Connecticut Hispanic Addiction Commission, CHAC.

My thoughts and prayers are with the Martinez family, and the people of Connecticut, who will all feel this great loss.●

## TRIBUTE TO DOTTY VATTES ON HER RETIREMENT

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Dorothy Vattes upon her retirement from service with the Federal Government.

Dotty has been a member of my staff for 18 years as a senior caseworker and immigration specialist. She has been a trusted friend and outstanding employee. She is committed to the people of New Hampshire, and has helped hundreds of citizens with problems they may have had with the Federal Government. She has helped re-unite families, helped seniors receive the benefits they deserve, and has exhibited tireless devotion to serving the people.

Dorothy Burnham Vattes, was born in Manchester, NH. She has been married for 41 years to John, also a good friend. They have four children, Wendy, Lori, Mark and Shane. I have seen her children grow into wonderful, responsible, adults—most of them also work in Government service. Her son Mark, who also works on my staff, and his wife Kathy, gave Dotty her greatest joy last year—a grandson, Benjamin.

Dotty began work in the 1960s, which was followed by a career as a legal secretary. She stayed at home to raise her family for 7 years, but returned to work in a law firm until 1981 when she began her career in public service. She worked for Senator Gordon Humphrey, who held this seat before me, and then came to work for my office when I was elected to the House in 1984.

Dotty's retirement will enable her to spend the time doing what she enjoys: traveling, crafts, and community activities like the Manchester Federated Republican Women's Club and the National Association of Retired Federal Employees, NARFE. She and her husband will spend winters at their home in Florida, and summers back in New Hampshire.

Dotty's service to the people of New Hampshire will be missed by all of those whose lives she touched. Her commitment, devotion, and the special way in which she helped so many, will not be forgotten. I commend her on her years of service, and her excellence as a valuable member of my staff. Best wishes, Dotty, for a wonderful retirement.●

## TRIBUTE TO SENATOR CRAIG THOMAS

● Mr. ENZI. Mr. President, I rise today to congratulate my friend and colleague, Senator CRAIG THOMAS, who this weekend will be honored with the Distinguished Alumni Award from his alma mater, the University of Wyoming. I know how much CRAIG loves the Cowboys and the University, so this is a special honor indeed, and one all of us are proud that he has achieved. Senator THOMAS graduated from the UW in 1954 with a Bachelors degree in Agriculture.

As a student from Wapiti, WY, Senator THOMAS wanted to pursue a career as a veterinarian, but his 4–H experience steered him toward animal production. Aside from his studies, he also took an interest in wrestling, and as I understand it he was even good enough to earn a wrestling scholarship. If you ask him, he will tell you that his participation on the UW wrestling team was one of the biggest influences during his college career and that it taught him discipline and sportsmanship. There's no doubt it gave him a strong will to succeed.

Ultimately, it was those special years as a University of Wyoming Cowboy, or Pokes as we call them, that helped shape the life of the man who has served three terms in the U.S. House of Representatives and is now in his second term in the U.S. Senate. Despite his busy schedule, CRAIG continues to give his time and energy to the university, serving several terms on the College of Agriculture's Advisory Board and earning an Outstanding Alumni Award in 1995.

This is not the first time my friend has been recognized for his dedication to community and learning. After serving two years as president of the Wyoming State 4–H Foundation, and serving on its board for 10 years, CRAIG was inducted in April into the National 4–H Hall of Fame. This past August, he took first place at the State Fair during an honorary 4–H steer showmanship class, and he always is a welcome face for 4–H participants who come to Washington, DC, for the national trips. These awards are a testament to his deep roots and the connection he still has to our great state and the people who make it work.

I believe the University of Wyoming selected an exemplary recipient for this award and I know he is both humbled and proud for the recognition. CRAIG is being honored not only because of what he did at UW, but for what he continues to do, he is a forceful advocate for the University here in Washington. The benefits of his labor on their behalf can be seen everywhere around campus.

Let me again say congratulations to my colleague and also to the University for recognizing someone so deserving of the distinguished Alumni Award. CRAIG, your hard work and dedication to the University of Wyoming have not gone unnoticed. Your on-going legacy will continue to be felt by many students and graduates to come.●

## RECOGNITION OF ROBERT PORE

● Mr. JOHNSON. Mr. President, I rise today to recognize and honor Robert Pore on the occasion of his extraordinary reporting career at the Huron Daily Plainsman in Huron, SD.

Robert graduated from Northwest Missouri State in Maryville, MO in December 1978. Before coming to Huron, Robert worked a variety of positions for several newspapers. He was a regional editor for the McCook Daily Gazette in McCook, NE for three years; managing editor for the Hope, Arkansas newspaper; regional director editor of the Le Mars Daily Sentinel in Le Mars, IA; and publisher of the Hillsboro Banner in Hillsboro, ND. He will be ending his South Dakota career on Friday, October 18 after 10 years as the lead agriculture reporter for the Huron Daily Plainsman.

Robert earned the respect and admiration of all those who had the opportunity to work with him. His love for South Dakota and passion for agriculture set him apart from other outstanding agriculture reporters in the state. Robert's friendly demeanor and wealth of knowledge helped him develop close relationships with various agriculture groups and state and federal officials. These relationships allowed Robert unique insight and access to news affecting South Dakota's agriculture community.

Robert and his wife Bette, a former editor at the Huron Daily Plainsman, will be greatly missed by the people of Huron for their years of valuable community service. On the occasion of his retirement, I want to congratulate Robert Pore for his tireless dedication to the Huron Daily Plainsman and commitment to quality journalism. The lives of countless people have been enormously enhanced by Robert's skilled reporting. His achievements will serve as a model for other talented

reporters throughout our state to emulate.

I wish Robert Pore the best on all his future endeavors.●

## IN RECOGNITION OF ERICA AND SAMUEL BRASHER

● Mr. SHELBY. Mr. President, I rise today to pay special recognition to two young Alabamians who made the journey to Washington D.C. this summer to learn about and celebrate America's heritage. Erica Brasher, who is 15, and Samuel Brasher, who is 12, spent 2 weeks in Washington and Northern Virginia traveling to the many historical sites located throughout the area. Most importantly, they were chosen for the honor of raising the flag at Mount Vernon on the Fourth of July. For this distinction, they received special citations which commemorated the annual celebration. Erica and Samuel Brasher's trip also included visits to Williamsburg, Harper's Ferry, and the many museums and monuments located in Washington, D.C. Upon their return home, a terrific account of Erica and Samuel's trip was written in their local newspaper, the Shelby County Reporter.

Erica and Samuel Brasher are both grandchildren of Howard and Pattie Brasher of Shelby County. Samuel is also the grandson of Tom and Chestine Cardin of Columbiana. Erica is also the granddaughter of Corinne Williams and the late Bob Williams of Shelby and the daughter of the late Martha Williams-Brasher. I had the chance to meet these two wonderful children when they visited, and I was proud to see young Alabamians so interested in American history.●

## WORLD POPULATION AWARENESS WEEK

● Mr. EDWARDS. Mr. President, Governor Mike Easley of my State of North Carolina has issued a proclamation designating the week of October 20–26, 2002 as ''World Population Awareness Week.'' This proclamation highlights the need to better understand the environmental and social consequences of rapid population growth, particularly those issues surrounding the education and health of youth and adolescents around the world. I join Governor Easley in his recognition of World Population Awareness Week, and I ask unanimous consent to have his proclamation printed in the RECORD

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

A PROCLAMATION

Whereas, more than one billion people—one sixth of the world's population—are between the ages of 15 and 24, the largest generation ever in this age bracket; and

Whereas, nearly half the world's population, and 63% in the least developed countries, is under age 25; and

Whereas, 17 million young women between the ages of 15 and 19 gave birth every year, including about 13 million who live in less developed countries; and

Whereas, early pregnancy and childbearing are associated with serious health risks, less education, and lower future income potential; and

Whereas, the risks of dying from complications of pregnancy or childbirth are 25 times higher for girls under 15, and two times higher for women between the ages of 15 and 19; and

Whereas, approximately half of the 5 million people infected with HIV last year were young people between the ages of 15 and 24; and

Whereas, almost 12 million young people now live with HIV, and about 6,000 more become infected every day; and

Whereas, the choices young people make today regarding their sexual and reproductive lives, including responsible male behavior, will determine whether world population stabilizes at 8 billion or less or 9 billion or more; and

Whereas, the theme of World Population Awareness Week in 2002 is ''Population and the Next Generation'';

Now, therefore, I, Michael F. Easley, Governor of the State of North Carolina, do hereby proclaim October 20–26, 2002, as ''World Population Awareness Week'' in North Carolina, and commend this observance to all our citizens.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY WITH THE RESPECT TO THE SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—PM 116

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect beyond October 21, 2002, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on October 19, 2001 (66 Fed. Reg. 3073).

The circumstances that led to the declaration on October 21, 1995, of a national emergency have not been resolved. The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad. For these reasons, I have determined that it is necessary to maintain economic pressure on significant narcotics traffickers centered in Colombia by blocking their property or interests in property that are in the United States or within the possession or control of United States persons and by depriving them of access to the United States market and financial system.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 16, 2002.*

## PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA THAT WAS DECLARED IN EXECUTIVE ORDER 12978 OF OCTOBER 21, 1995—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report that my Administration has prepared on the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 16, 2002.*

## MESSAGES FROM THE HOUSE

## ENROLLED BILL AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on October 11, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill joint resolution:

H.R. 5531. An act to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

H.J. Res. 122. A joint resolution making further appropriations for the fiscal year 2003, and for other purposes.

Under the authority of the order of the Senate of January 3, 2001, the enrolled bill and joint resolution were signed by the President pro tempore (Mr. BYRD) on October 11, 2002.

## ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on October 15, 2002, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 114. A joint resolution to authorize the use of United States Armed Forces against Iraq.

Under the authority of the order of the Senate of January 3, 2001, the enrolled joint resolution was signed by the President pro tempore (Mr. BYRD) on October 15, 2002.

At 11:22 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks announced that the House has passed the following bill, without amendment:

S. 1339. An act to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4757. An act to improve the national instant criminal background check system, and for other purposes.

H.R. 4967. An act to establish new nonimmigrant classes for border commuter students.

H.R. 5590. An act to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

H.R. 5599. An act to apply guidelines for the determination of per-pupil expenditure requirements for heavily impacted local educational agencies, and for other purposes.

At 8:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 123. A joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1339. An act to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 2558. An act to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

H.J. Res. 113. A joint resolution recognizing the contributions of Patsy Takemoto Mink.

At 8:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5200. An act to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes.

H.R. 5651. An act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

## 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–354. A resolution adopted by the House of the Legislature of the State of Michigan relative to an independent review and analysis of generic drugs; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 293

Whereas, the United States Food and Drug Administration (FDA) is a vital agency responsible for ensuring safety in foods and medicines. The work it undertakes has a direct impact on each citizen. The FDA oversees the approval of drugs for the market and provides information to the health care network; and

Whereas, a key component of our health care resources is the availability of generic drugs, which can offer a less costly means of treatment. The use of this option, however, is only as good as the level of assurance that a generic drug is as safe as possible. The FDA considers generic drugs submitted for approval through its Office of Generic Drugs; and

Whereas, in spite of repeated assurances from the FDA and pharmaceutical companies that generic drugs are safe and are identical in the ingredients to their brand-name counterparts, there have been concerns over the safety of some generic drugs. Any concern must be investigated thoroughly to ensure that all standards of ingredients, preparation, and packaging are met. We must do all we can to ensure the highest standards for all prescription medications. Most importantly, there can be no doubt that the review of submitted medications is completely unaffected by criteria other than scientific evidence and the impact of the drugs in question on patients. Citizens as well as health care providers must have faith in the independence and reliability of all tests and determinations; Now, therefore, be it

*Resolved by the House of Representatives,* That we memorialize the Congress of the United States and the Food and Drug Administration to provide for an independent review and analysis of generic drugs submitted for approval; 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, the members of the Michigan congressional delegation, and the Food and Drug Administration.

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POM–355. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania relative to Medicare home health benefits and home health providers; to the Committee on Finance.

HOUSE RESOLUTION NO. 576

Whereas, there are 321 Medicare-certified agencies in Pennsylvania providing critical care each year in the homes of nearly half a million Pennsylvanians; and

Whereas, home health patients receiving Medicare services are typically the sickest, frailest and most vulnerable of Pennsylvania's elderly population; and

Whereas, the Congress of the United States in 1997 sought to cut growth in the Medicare home health benefit by $16.2 billion over five years but resulted in cutting more than $72 billion; and

Whereas, nearly one million fewer Medicare beneficiaries qualify for Medicare-reimbursed home care than in 1997; and

Whereas, additional cuts in the Medicare home health benefit would force many low-cost, efficient agencies in Pennsylvania which are struggling under the current system to go out of business, thereby harming access to Medicare beneficiaries; and

Whereas, total elimination of the 15% cut has been postponed for the past two years; and

Whereas, the impending 15% cut is making it difficult for home health agencies to secure lines of credit and is discouraging investment in advanced technologies and staff benefits; and

Whereas, sixty-five members of the United States Senate have joined in a bipartisan letter that recommends the elimination of the 15% cut; and

Whereas, one hundred thirteen members of the United States House of Representatives have joined in a bipartisan letter that recommends the elimination of the 15% cut; and

Whereas, the Budget Committee of the United States Senate has voted to set aside the funds necessary to do away with the 15% cut; and

Whereas, the Medicare Payment Advisory Commission (MedPAC), the group established by the Congress to advise on Medicare policy, has called upon the Congress to permanently eliminate the 15% cut in the Medicare home health benefit; and

Whereas, MedPAC has reported that there are three factors that can lead to a cost increase for rural home health providers; travel, volume of services and lack of sophisticated management and patient care procedures; and

Whereas, Medicare home health services are delivered to a large rural population in Pennsylvania which often lives miles apart, increasing the cost of providing home health services: Therefore be it

*Resolved,* That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress to permanently eliminate the 15% cut in the Medicare home health benefit AND EXTEND THE 10% RURAL ADD-ON TO MEDICARE HOME HEALTH PROVIDERS; And be it further

*Resolved*, That the House of Representative urge the President to support the Congress in eliminating the 15% cut in the Medicare home health benefit AND EXTEND THE 10% RURAL ADD-ON TO MEDICARE HOME HEALTH PROVIDERS; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives and to each member of Congress from Pennsylvania.

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POM–356. A joint resolution adopted by the General Assembly of the State of California relative to home health care; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 49

Whereas, California's home health care industry has suffered a loss of over one-third of licensed home health agencies since 1998; and

Whereas, the Medicare home health care benefit started in 1966 and has provided Medicare home health care insurance coverage to hundreds of thousands of homebound Medicare beneficiaries who need care on a part-time or intermittent basis; and

Whereas, Medicare home health care users are older, sicker, poorer, and more disabled than the Medicare population generally, with 26 percent over 85 years of age; and

Whereas, in 1980, Congress changed the home health care benefit by expanding access to care for beneficiaries without a prior hospitalization and by eliminating visit limits; and

Whereas, in 1981 restrictive administrative interpretations of part-time or intermittent care limited spending by denying access to this medically fragile population. As a result of the restrictions, a class action lawsuit was filed that resulted in a 1988 ruling that overturned the restrictions. Duggan v. Bowen (D.C. 1988) 691 F. Supp. 1487. As a result, utilization of home health services grew; and

Whereas, the growth continued until Congress passed the 1997 Balanced Budget Act to restrict spending; and

Whereas, an interim payment system (IPS) was implemented in fiscal years 1998–2000 to immediately control spending; and

Whereas, the IPS system dramatically reduced reimbursement rates, which fell below 1993 payment limits and resulted in 284 closures of California home health care agencies during 1998–99; and

Whereas, a new system, the prospective payment system (PPS), was implemented to cease the IPS unprecedented reductions in payments; and

Whereas, PPS could not correct the 49 percent cut in home health care outlays with further declines expected through 2002; and

Whereas, during IPS implementation and before PPS, a new national standard patient assessment system, the Outcomes and Assessment Information Set (OASIS), was required for all Medicare providers in 1999 and provided burdensome reporting requirements; and

Whereas, the implementation of IPS, PPS, and OASIS collection has resulted in a 36-percent reduction in the number of participating home health care providers, closure of over 340 licensed home health agencies, and reduced access to care for medically fragile Californians; and

Whereas, the 1997 Balanced Budget Act has already reduced utilization and home health care spending significantly below the intended savings that were anticipated due to that act; and

Whereas, the Congressional Budget Office projected home health expenditure reductions of $16.2 billion over five years (fiscal year 1998 to fiscal year 2002), actual reductions from fiscal year 1998 to fiscal year 2000 were $35.8 billion, and current projected reductions for fiscal years 2001 and 2002 are an additional $35.3 billion resulting in $71.1 billion; and

Whereas, California is undergoing an anticipated $20 billion budget deficit, which could result in Medi-Cal reducing current reimbursement rates to 2000 levels, resulting in a double rate reduction guaranteed to devastate the 629 Medicare certified home health care agencies operating California; and

Whereas, the proposed 15 percent cut in home health care reimbursement rates will negatively affect access to care, and leave thousands without a home health care agency that can service their medical needs: Now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California hereby respectfully memorializes the President and the Congress of the United States to enact legislation that contains steps to ensure that Medicare home health care recipients are guaranteed the best care, and that home health providers, who have undergone multiple regulation and administrative changes at the hands of the federal government since the 1997 Balanced Budget Act, are not further harmed; and be it further

*Resolved,* That the Legislature opposes the 15 percent cut in home health payments scheduled for October 1, 2002; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the President's commission to eliminate the pending additional 15 percent cut in home health payments scheduled for October 1, 2002.

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POM–357. A resolution adopted by the Legislative of Guam relative to supporting efforts for a Constitutional amendment to limit the authority of the federal court system to appropriate money through judicial orders; to the Committee on Finance.

RESOLUTION NO. 6 (LS)

Whereas, concerns among state legislatures across the Nation have been raised relative to incursions by the Federal Judicial Branch into areas are clearly defined as powers of the Legislative Branch of government, more specifically, instance where members of the Federal judiciary have exercised the power to levy or increase taxes; and

Whereas, it is incumbent on all Legislative Branches of government, from the U.S. Congress to each state jurisdiction, to insure that the Separation of Powers Doctrine, its spirit, intent and integrity are inviolate; and

Whereas, the Judicial Branch of the Federal Government has ignored constitutional restrictions on its powers to levy or increase taxes, a power clearly reserved and limited to the Legislative Branch; and

Whereas, the only resolution to this threat to the integrity of and challenge to the Separation of Powers Doctrine, must emanate from the U.S. Congress in the form of a Constitutional amendment: Now therefore, be it

*Resolved,* That I Mina'Bente Sais Na Liheslatuan Guahan does hereby, on behalf of the people of Guam, call upon the U.S. Congress to initiate the adoption of an amendment to the Constitution of the United States which would more clearly define and state the restriction upon the power of the Judicial Branch of the Federal Government to levy or increase taxes in any manner, means or form; and be it further

*Resolved,* That Mina'Bente Sais Na Liheslaturan Guahan does hereby, on behalf of the people of Guam, suggest that the form of the amendment to the United Constitutional shall read: ''Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or any official of such state or political subdivision, to levy or increase taxes''; and be it further

*Resolved,* That the Speaker certify, and the Legislative Secretary attests to, the adoption hereof and that copies of the same be thereafter transmitted to the Honorable George W. Bush, President of the United States of America; to the Honorable Richard B. Cheney, President of the United States Senate; to the Honorable J. Dennis Hastert, Speaker of the United States House of Representatives; to Missouri State Senator Walter Mueller; to Mr. John R. Stoeffler, President, The Madison Forum; to the Honorable Robert A. Underwood, Member of Congress, U.S. House of Representatives; and to the Honorable Carl T.C. Gutierrez, I Maga'lahen Guahan.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 486: A bill to reduce the risk that innocent persons may be executed, and for other purposes. (Rept. No. 107–315).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1850: A bill to amend the Solid Waste Disposal Act to bring underground storage tanks into compliance with subtitle I of that Act, to promote cleanup of leaking underground storage tanks, to provide sufficient resources for such compliance and cleanup, and for other purposes. (Rept. No. 107–316).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2817: A bill to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes. (Rept. No. 107–317).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 630: A bill to prohibit senders of unsolicited commercial electronic mail from disguising the source of their messages, to give consumers the choice to cease receiving a sender's unsolicited commercial electronic mail messages, and for other purposes. (Rept. No. 107–318).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 2733: A bill to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration. (Rept. No. 107–319).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2644: A bill to amend chapter 35 of title 31, United States Code, to expand the types of Federal agencies that are required to prepare audited financial statements.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GRAHAM for the Select Committee on Intelligence.

*Scott W. Muller, of Maryland, to be General Counsel of the Central Intelligence Agency.

By Mr. LEVIN for the Committee on Armed Services.

Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

Air Force nomination of Lt. Gen. Glen W. Moorehead III.

Air Force nominations beginning Colonel Chris T. Anzalone and ending Colonel Thomas B. Wright, which nominations were received by the Senate and appeared in the Congressional Record on March 21, 2002.

Air Force nomination of Col. Frederick F. Roggero.

Army nomination of Lt. Gen. Burwell B. Bell III.

Army nomination of Maj. Gen. Robert W. Wagner.

Army nomination of Maj. Gen. Richard A. Hack.

Army nomination of Brigadier General George A. Buskirk, Jr.

Army nomination of Brig. Gen. David C. Harris.

Marine Corps nomination of Maj. Gen. James T. Conway.

Navy nomination of Rear Adm. Lowell E. Jacoby.

Navy nomination of Rear Adm. David L. Brewer III.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of James M. Knauf.

Air Force nomination of Gary P. Endersby.

Air Force nomination of Mark A. Jeffries.

Air Force nomination of John P. Regan.

Air Force nomination of John S. McFadden.

Air Force nomination of Larry B. Largent.

Air Force nomination of Frank W. Palmisano.

Air Force nominations beginning David S. Brenton and ending Brenda K. Roberts, which nominations were received by the Senate and appeared in the Congressional Record on October 1, 2002.

Air Force nominations beginning Cynthia A. Jones and ending Jeffrey F. Jones, which nominations were received by the Senate and appeared in the Congressional Record on October 1, 2002.

Air Force nomination of Mario G. Correia.

Air Force nomination of Michael L. Martin.

Air Force nominations beginning Xiao Li Ren and ending Jeffrey H.* Sedgewick, which nominations were received by the Senate and appeared in the Congressional Record on October 1, 2002.

Air Force nominations beginning Thomas A.* Augustine III and ending Charles E.* Pyke, which nominations were received by the Senate and appeared in the Congressional Record on October 1, 2002.

Army nomination of Scott T. Williams.

Army nomination of Erik A. Dahl.

Navy nomination of Ralph M. Gambone.

Air Force nominations beginning Errish Nasser G. Abu and ending Ernest J. Zeringue, which nominations were received by the Senate and appeared in the Congressional Record on October 4, 2002.

Air Force nominations beginning Dana H. Born and ending James L. Cook, which nominations were received by the Senate and appeared in the Congressional Record on October 8, 2002.

Army nomination of James R. Kimmelman.

Army nomination of John E. Johnston.

Army nominations beginning Janet L. Bargewell and ending Mitchell E. Tolman, which nominations were received by the Senate and appeared in the Congressional Record on October 8, 2002.

Army nominations beginning Leland W. Dochterman and ending Douglas R. Winters, which nominations were received by the Senate and appeared in the Congressional Record on October 8, 2002.

Army nominations beginning Glenn E. Ballard and ending Marion J. Yester, which nominations were received by the Senate and appeared in the Congressional Record on October 8, 2002.

Army nomination of Robert D. Boidock.

Army nomination of Dermot M. Cotter.

Army nomination of Connie R. Kalk.

Army nomination of Michael J. Hoilien.

Army nomination of Romeo Ng.

Navy nomination of Thomas E. Parsha.

Army nominations beginning Judy A. Abbott and ending Dennis C. Zachary, which nominations were received by the Senate and appeared in the Congressional Record on October 10, 2002.

Army nominations beginning Jose Alamocarrasquillo and ending Matthew L. Zizmor, which nominations were received by the Senate and appeared in the Congressional Record on October 10, 2002.

Army nominations beginning Arthur L. Arnold, Jr. and ending Mark S. Vajcovec, which nominations were received by the Senate and appeared in the Congressional Record on October 10, 2002.

Army nominations beginning Adrine S. Adams and ending Maryellen Yacka, which nominations were received by the Senate and appeared in the Congressional Record on October 10, 2002.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## 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. LEAHY (for himself, Mr. JEFFORDS, and Ms. COLLINS):

S. 3114. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits; to the Committee on the Judiciary.

By Mr. GRAHAM:

S. 3115. A bill to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CORZINE:

S. 3116. A bill to permanently eliminate a procedure under which the Bureau of Alcohol, Tobacco, and Firearms can waive prohibitions on the possession of firearms and explosives by convicted felons, drug offenders, and other disqualified individuals; to the Committee on the Judiciary.

By Mr. BURNS:

S. 3117. A bill to extend the cooling off period in the labor dispute between the Pacific Maritime Association and the International Longshore and Warehouse Union; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN (for himself, Mr. ALLARD, and Ms. CANTWELL):

S. 3118. A bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM (for himself and Mr. FITZGERALD):

S. 3119. A bill to amend the Public Health Service Act to ensure the guaranteed renewability of individual health insurance coverage regardless of the health status-related factors of an enrollee; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, and Ms. COLLINS):

S. 3120. A bill to impose restrictions on the ability of officers and employees of the United States to enter into contracts with corporations or partnerships that move outside the United States while retaining substantially the same ownership; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself, Mr. LUGAR, Mr. DOMENICI, Mrs. CLINTON, Mr. GREGG, and Mr. SCHUMER):

S. 3121. A bill to authorize the Secretary of State to undertake measures in support of international programs to detect and prevent acts of nuclear or radiological terrorism, to authorize appropriations to the Department of State to carry out those measures, and for other purposes; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself and Mr. HELMS):

S. 3122. A bill to allow North Koreans to apply for refugee status or asylum; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 3123. A bill to expand certain preferential trade treatment of Haiti; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, and Mr. DURBIN):

S. 3124. A bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWNBACK (for himself, Mr. NELSON of Florida, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. SESSIONS, and Mr. MILLER):

S. 3125. A bill to designate ''God Bless America'' as the national song of the United States; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. SANTORUM, and Mr. SARBANES):

S. 3126. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. LANDRIEU (for herself, Mr. STEVENS, Mr. BREAUX, Mr. KOHL, Mr. LOTT, Mr. FEINGOLD, and Mr. REID):

S. Res. 342. A resolution commemorating the life and work of Stephen E. Ambrose; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 343. A resolution to authorize representation by the Senate Legal Counsel in Newdow v. Eagen, et al; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 344. A resolution to authorize representation by the Senate Legal Counsel in Manshardt v. Federal Judicial Qualifications Committee, et al; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 582

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 582, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance program.

S. 952

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 952, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1291

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1291, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

S. 1617

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1617, a bill to amend the Workforce Investment Act of 1998 to increase the hiring of firefighters, and for other purposes.

S. 1712

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1712, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 2006

At the request of Mr. GRAHAM, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2006, a bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit.

S. 2562

At the request of Mr. REID, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2584

At the request of Mr. ALLARD, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2584, a bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnerships Act, and for other purposes.

S. 2613

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for Historically Black Colleges and Universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2667

At the request of Mr. DODD, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2667, a bill to amend the Peace Corps Act to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

S. 2842

At the request of Mrs. CARNAHAN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2842, a bill to amend the Older Americans Act of 1965 to authorize appropriations for demonstration projects to provide supportive services to older individuals who reside in naturally occurring retirement communities.

S. 2848

At the request of Ms. COLLINS, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2848, a bill to amend title XVIII of the Social Security Act to provide for a clarification of the definition of homebound for purposes of determining eligibility for home health services under the medicare program.

S. 2869

At the request of Mr. KERRY, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maryland (Mr. SARBANES), the Senator from Virginia (Mr. WARNER) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2869

At the request of Mr. BENNETT, his name was added as a cosponsor of S. 2869, supra.

S. 2876

At the request of Mrs. MURRAY, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. DODD) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2876, a bill to amend part A of title IV of the Social Security Act to promote secure and healthy families under the temporary assistance to needy families program, and for other purposes.

S. 2968

At the request of Mr. SARBANES, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2968, a bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program.

S. 3009

At the request of Mr. WELLSTONE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3009, a bill to provide economic security for America's workers.

S. 3018

At the request of Mr. BAUCUS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. 3018

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 3018, supra.

S. 3094

At the request of Mr. DORGAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3094, a bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the rates applicable to marketing assistance loans and loan deficiency payments for other oilseeds, dry peas, lentils, and small chickpeas.

S. 3096

At the request of Mr. KOHL, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3096, a bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies.

S. RES. 338

At the request of Mr. MCCAIN, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. SMITH), the Senator from Missouri (Mr. BOND), the Senator from Illinois (Mr. FITZGERALD) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 338, a resolution designating the month of October, 2002, as ''Children's Internet Safety Month.''

S. RES. 339

At the request of Mrs. MURRAY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 339, a resolution designating November 2002, as ''National Runaway Prevention Month.''

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from New York (Mr.

SCHUMER) was added as a cosponsor of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. Con. Res. 142, a concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Ms. COLLINS):

S. 3114. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today with Senators JEFFORDS and COLLINS to introduce the Hometown Heroes Survivors Benefits Act of 2002. Our bipartisan legislation will improve the Department of Justice's Public Safety Officers' Benefits, PSOB, Program by allowing families of public safety officers who suffer fatal heart attacks or strokes to qualify for Federal survivor benefits.

Public safety officers are among our most brave and dedicated public servants. I applaud the efforts of all members of fire, law enforcement, and rescue organizations nationwide who are the first to respond to more than 1.6 million emergency calls annually, whether those calls involve a crime, fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident, without reservation. They act with an unwavering commitment to the safety and protection of their fellow citizens, and are forever willing to selflessly sacrifice their own lives to provide safe and reliable emergency services to their communities. Sadly, this dedication to service can result in tragedy, as was evident by the bravery displayed on September 11th.

In the days and months since September 11th, I have been particularly touched by the stories of unselfish sacrifices made by scores of New York City first responders who bravely entered the World Trade Center that day with the singular goal of saving lives. More than one hundred firefighters in America lose their lives every year and thousands are injured in the line of duty. While PSOB benefits can never be a substitute for the loss of a loved one, the families of all our fallen heroes deserve to collect these funds.

The PSOB Program provides a one-time financial benefit to the eligible survivors of federal, state, and local public safety officers whose deaths are the direct and proximate result of a traumatic injury sustained in the line of duty. Last year, Congress improved the PSOB Program by streamlining the process for families of public safety officers killed or injured in connection with prevention, investigation, rescue or recovery efforts related to a terrorist attack. We also retroactively increased the total benefits available by $100,000 as part of the USA PATRIOT Act. The PSOB Program now provides approximately $250,000 in benefits to the families of law enforcement officers, firemen, emergency response squad members, and ambulance crew members who are killed in the line of duty. Unfortunately, the issue of including heart attack and stroke victims in the PSOB Program was not addressed at that time.

The PSOB Program does not cover deaths resulting from occupational illness or pulmonary or heart disease unless a traumatic injury is a substantial factor to the death. However, if toxicology reports demonstrate a carbon monoxide level of 10 percent or greater, 15 percent or greater for the smoker, at the onset of a heart attack benefits are paid. The PSOB Program has developed a formula that addresses oxygen therapy provided to the victim prior to the death.

Heart attack and cardiac related deaths account for almost half of all firefighter fatalities, between 45–50 deaths, and an average of 13 police officer deaths each year. Yet the families of these fallen heroes are rarely eligible to receive PSOB benefits. In January 1978, special Deputy Sheriff Bernard Demag of the Chittenden County Sheriff's Office suffered a fatal heart attack within two hours of his chase and apprehension of an escaped juvenile whom he had been transporting. Mr. Demag's family spent nearly two decades fighting in court for workers' compensation death benefits all to no avail. Clearly, we should be treating surviving family members with more decency and respect.

Public safety is dangerous, exhausting, and stressful work. A first responder's chances of suffering a heart attack or stroke greatly increase when he or she puts on heavy equipment and rushes into a burning building to fight a fire and save lives. The families of these brave public servants deserve to participate in the PSOB Program if their loved ones die of a heart attack or other cardiac related ailments while selflessly protecting us from harm.

First responders across the country now face a new series of challenges as they respond to over 1.6 million emergency calls this year, from responding to fires and hazardous material spills to providing emergency medical services to reacting to weapons of mass destruction. They do this with an unwavering commitment to the safety of their fellow citizens, and are forever willing to selflessly sacrifice their own lives to protect the lives and property of their fellow citizens. It is time for Congress to show its support and appreciation for these extraordinarily brave and heroic public safety officers. We should quickly work to pass the Hometown Heroes Survivors Benefit Act.

Mr. JEFFORDS. Mr. President, I am pleased to join with Senators LEAHY and COLLINS in introducing the Senate counterpart of the Hometown Heroes Survivors Benefits Act of 2002. This legislation closes a gap in the survivor benefits the Federal Government provides to the families of public safety officers who die in the line of duty.

These public safety officers are the people that keep our streets safe, help to fight fires, and respond to emergency calls. The Federal Government has rightfully created a one-time financial benefit for the families of public safety officers who die in the line of duty to recognize the sacrifice and importance of public safety officers in our society.

Unfortunately, due to a technicality in the law some families of public safety officers that die of a heart attack or stroke are being denied this important financial benefit. This is unacceptable and we need to make sure that we enact this legislation to ensure that the families of these public safety officers are covered.

Many years ago I was a volunteer firefighter in my small town of Shrewsbury, VT. It was a very demanding, stressful, and exhausting job. Every year almost half the firefighter fatalities in the United States are from heart attack or cardiac related reasons. Not all of these deaths occur while fighting the fire, but are related to their unselfish dedication to the task at hand.

This legislation would provide that a public safety officer who dies as the result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty for purposes of survivor benefits. These public safety officers are out there everyday ensuring our safety; Congress needs to ensure that the surviving families receive this important financial benefit.

I encourage my colleagues to join me in recognizing the heroism and sacrifice of public safety officers by cosponsoring this important legislation.

By Mr. CORZINE:

S. 3116. A bill to permanently eliminate a procedure under which the Bureau of alcohol, Tobacco, and Firearms

can waive prohibitions on the possession of firearms and explosives by convicted felons, drug offenders, and other disqualified individuals; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, I rise today to introduce important gun control legislation that would shut down permanently the guns for felons program.

For too many years the Federal Government spent millions of dollars a year to restore the gun privileges of convicted felons. Fortunately, for the last ten years, Congress has seen fit to defund the program, through annual funding restrictions.

Congress was right to defund a program that, according to the Violence Policy Center, restored gun privileges for thousands of convicted felons, at a cost of millions of dollars to the taxpayer. As the Violence Policy Center demonstrated, a number of these felons went on to commit violent crimes.

I believe strongly that we must do all we can to keep guns out of criminals' hands. I am pleased that every year Congress has renewed the funding ban, which prohibits ATF from processing firearms applications from convicted felons. Indeed, by introducing this legislation today, I do not in any way intend to imply that the annual funding bans are not sufficient to shut down the guns for felons program.

Today the Supreme Court is hearing arguments in a case that could jeopardize our efforts to ensure that convicted felons do not have access to guns by possibly giving Federal judges the power to rearm those felons regardless of the Congressional funding ban. I have been active in pushing for the funding ban, and it certainly was not my intention, nor do I believe it was anyone else's intention, to give judges power to unilaterally give felons their firearm privileges back. It is hard enough for ATF, after conducting an intensive investigation, to make judgments about an individual felon; for a court to do it on its own is completely inappropriate. To put it simply, courts will lack the resources to make an informed judgment in this regard. In any case, Congress' intent, and the appropriate rule, is that felons should be prohibited from owning guns period. Enacting my legislation will eliminate the guns for felons program permanently and prevent the need for Congress to revisit this issue every year.

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By Mr. BURNS:

S. 3117. A bill to extend the cooling off period in the labor dispute between the Pacific Maritime Association and the International Longshore and Warehouse Union; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURNS. Mr. President, last year our Nation's economy was briefly held hostage by an attack on American soil. We have overcome that challenge and are now charging ahead in the right direction.

It is this kind of American resolve that has built this Nation into the thriving world power it is today.

However, recent developments on the West Coast have created a different kind of crisis but no less damaging to America's economy.

On Sunday, September 29, the Pacific Maritime Association, PMA, locked out workers in twenty-nine West Coast ports for more than a week in response to a reported work-slow down by members of the International Longshore and Warehouse Union, ILWU.

Last week, President Bush invoked the Taft-Hartley Act that ended the lock out allowing workers to go back to work and negotiators to work through these problems over the course of an 80-day cooling-off period.

I applaud the President's action. However, I am concerned about conflicting messages being sent by the ILWU and the PMA. More importantly, I am concerned about the lack of interest either party, management or labor, has regarding the economic fate of America's workers and America's agricultural economy.

The economic impact of this labor dispute has temporarily crippled our Nation's economy. This dispute has threatened America's national health and safety. In many economic sectors, jobs were lost, workers were sent home and Americans will temporarily pay higher prices for consumer goods.

However, once the President made his intention known to invoke Taft-Hartley, the AFL–CIO issued an Oct. 7 press release charging the President's action: ''preempts the collective bargaining process and undermines the rights of workers with union representation to negotiate on equal footing with their employers''.

Neither side in a collective bargaining negotiating process should be able to leverage the nation's economy in an attempt to control the debate. Doing so is a very selfish act. And criticizing the President for his action is a very shortsighted approach to these negotiations.

The ILWU claims they want to go back to work. Due to the only recourse available on behalf of the American economy, they are, today, back at work.

I question the AFL–CIO's interest in the American economy. Does the AFL–CIO not recognize the impact this labor disruption has on the nation's economy? At stake are thousands of jobs and millions of dollars in commerce. Let me clarify that impact and put a Montana stamp on it.

Exports are critical to the American economy. American exporters ship their products overseas, including agricultural exports such as wheat, corn, soybeans, and pork products, and manufactured goods of all shapes and sizes.

West Coast ports are crucial to U.S. trade, handling over $300 billion in trade each year. These ports handle more than half of all containerized imports and exports.

West Coast ports handle 25 percent of all U.S. grain exports, 40 percent of all wheat, 14 percent of all corn, and seven percent of all soybeans exports.

Sixty-five percent of all U.S. containerized food trade moved through these ports in 2001. During the lockout, the dispute was estimated to have cost the America's economy $2 billion a day.

Trade with Asia is particularly affected. Japan, Korea, Taiwan, Hong Kong, China, Indonesia, Thailand, the Philippines, India, and Malaysia are the top 10 destinations for containerized U.S. agriculture products. Together, these nations receive 85 percent of all agricultural shipments from the West Coast.

If these countries cannot count on U.S. exports, they will turn to our competitors. Our farmers and ranchers spend precious resources on market development activities. It's very frustrating to lose shares of those markets solely because a small group of labor and management representatives cannot agree on a resolution.

Again, I applaud President Bush's decision last week. I encouraged his action and stand by him now. Invoking Taft-Hartley was the only short-term remedy for the dispute that temporarily closed the West Coast ports.

Furthermore, during the cooling off period, I urge the President to use his powers to judicially enforce productivity is not purposely restricted.

I do not stand here today in support of the PMA's position, nor do I stand here today in support of the ILWU's position. Rather, I stand here today in support of the Nation's economy, the American worker, the Montana farmer, the retailer, the food distributor, the truck and rail operators, the consumer, and every other American that is being harmed by this action.

I believe collective bargaining can and has worked more often than not. However, it is arrogant for any management or labor group to paralyze commerce in our nation.

Reopening the ports, even if only for 80 days, will benefit the economy. The parties will be given time to settle the dispute. Manufacturers and retailers will be given additional time to adjust and prepare.

Invoking Taft-Hartley was the right thing to do. It was the appropriate action to take to protect our economy, to protect American workers, to ensure we have a healthy and happy holiday season.

The 80-day cooling-off period will allow both parties to re-evaluate their respective positions. Furthermore, it will give the ports an opportunity to clear up a mounting backlog that has

paralyzed much of our West Coast export and import commerce. And finally, it will allow the ILWU workers to go back to work earning a living for their families.

Today, I would like to introduce a bill that would extend the cooling-off period thirty days until the end of January. At present the 80 day cooling off period will end between Christmas Day and New Years Day.

This is a move that will not impact the negotiations between the two parties. However, it will allow the cooling-off period to end at the end of January rather than the end of December and between Christmas and New Years.

Extending the deadline beyond the Holiday season will help to unsnarl the mess created by this dispute; give the ports another thirty days to clear up the backlog. Finally, it will give Congress and the American people an ability to approach the end of this cooling-off period fully aware of the importance of this negotiation and uninterrupted by the holiday season.

If negotiators are able to work out a resolution, we have lost nothing. However, if in the case, there is no resolution by the end of the cooling-off period, this extension could save thousands of American jobs and millions of dollars in economic losses.

I encourage my colleagues to join me in this effort.

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By Mr. ENSIGN (for himself, Mr. ALLARD, and Ms. CANTWELL):

S. 3118. A bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENSIGN. Mr. President, I am pleased to be joined by Senators ALLARD and CANTWELL to introduce the Animal Fighting Enforcement Act. I would like to thank my colleagues for their support in this endeavor to protect the welfare of animals. This legislation targets the troubling, widespread and sometimes underground activities of dogfighting and cockfighting where dogs and birds are bred and trained to fight to the death. This is done for the sheer enjoyment and illegal wagering of the animals' handlers and spectators.

These activities are reprehensible and despicable. Our States' laws reflect this sentiment. All 50 States have prohibited dogfighting. It is considered a felony in 46 States. Cockfighting is illegal in 47 States, and it is a felony in 26 States. In my home State of Nevada, both dogfighting and cockfighting are considered felonies. In fact, it is a felony to even attend a dogfighting or cockfighting match.

Unfortunately, in spite of public opposition to extreme animal suffering, these animal fighting industries thrive. There are 11 underground dogfighting publications, and several above-ground cockfighting magazines. These magazines advertise and sell animals and the materials associated with animal fighting. They also seek to legitimize this shocking practice.

During the consideration of the Farm Bill, a provision was included that closed loopholes in Section 26 of the Animal Welfare Act. Both the House and the Senate increased the maximum jail time for individuals who violate any provision of Section 26 of the Animal Welfare Act from one year to two years, making any violation a Federal felony. However, during the conference, the jail time increase was removed.

The legislation that I am introducing today seeks to do three things. First, it restores the jail time increase to treat the violations as a felony. I am informed by U.S. Attorneys that they are hesitant to pursue animal fighting cases with merely a misdemeanor penalty. To illustrate this, it is important to note that only three cases since 1976 have advanced, even though the USDA has received innumerable tips from informants and requests to assist with state and local prosecutions. Increased penalties will provide a greater incentive for federal authorities to pursue animal fighting cases.

Second, the bill prohibits the interstate shipment of cockfighting implements, such as razor-sharp knives and gaffs. The specific knives are commonly known as ''slashers.'' The slashers and ice-pick-like gaffs are attached to the legs of birds to make the cockfights more violent and to induce bleeding of the animals. These weapons are used only in cockfights. Since Congress has restricted shipment of birds for fighting, it should also restrict implements designed specifically for fights.

Finally, the bill updates language regarding the procedures that enforcement agents follow when they seize the animals. This regards the proper care and transportation of the animals that are seized. It also states that the court may order the convicted person to pay for the costs incurred in the housing, care, feeding, and treatment of the animals.

I appreciate the support of both Senators ALLARD and CANTWELL in this effort, and look forward to the overwhelming support of my other colleagues in the Senate. I also wish to recognize Representative ROBERT ANDREWS for his leadership on the House version of this bill. Surely, this is an issue that must be addressed as soon as possible. We cannot allow this barbaric practice to continue in our civilized society.

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By Mr. GRAHAM (for himself and Mr. FITZGERALD):

S. 3119. A bill to amend the Public Health Service Act to ensure the guaranteed renewability of individual health insurance coverage regardless of the health status-related factors of an enrollee; to the Committee on Health, Education, Labor, and Pensions.

Mr. GRAHAM. Mr. President, I am pleased to introduce the ''Health Insurance Fairness Act of 2002'' and I am very pleased to have Senator FITZGERALD join me as an original cosponsor. This legislation would prohibit the insurance practice of reunderwriting at renewal, thereby protecting the millions of Americans relying on individual health insurance policies.

The need for this legislation was brought to my attention by an excellent April 9, 2002 article in the Wall Street Journal that documented the impact of reunderwriting on a married couple from Florida.

Shaneen Wahl of Port Charlotte, FL was diagnosed with breast cancer in 1996. At that time, she and her husband Tom were paying $417 a month for health insurance. In addition to coping with cancer, the Wahls began to face rapidly increasing premiums, and by August 2000 their insurer informed them that their new rate would be $1,881 a month. This premium increase wasn't due to non-payment of premiums or any other action of the Wahls. It was the result of reunderwriting conducted by the Wahl's insurance company.

Reunderwriting at renewal is a practice that forces people who have become ill to pay substantial premium increases or lose their health insurance. While most insurers evaluate an individual's medical history only at the outset, some have adopted the practice of reviewing customers' health status annually. The purpose of this review is to determine if the individual has developed a medical condition or has filed claims; if such a determination is made, the company raises the individual's premium. This practice contributes enormously to the instability of health insurance by making it difficult, it not impossible, for people who have paid insurance premiums for years to continue that health insurance at the very time they need it the most.

How does it work? Carriers reunderwriting at renewal charge substantially higher renewal premiums to policyholders who have been diagnosed with an illness or had medical claims than they charge other policyholders. The carriers do this by transferring a policyholder to a higher risk class than the policyholder was in when the policy was issued or in some cases by manually adjusting the policyholder's rate based on his or her medical claims. In either case, the individual's premium is based on his or her claims or health status during the policy year. For example, in another case from Florida, Bruce and Wanda Chambers of St. Augustine saw their rates increase from $300 per month to $780 per month in just one year after Wanda was diagnosed with diabetes.

Consumers purchase insurance so that they will have access to health care should they become ill, as in the example of Wanda Chambers. If carriers are allowed to increase premium rates based on health status at renewal, consumers face a choice between the very two outcomes they had

planned to avoid by purchasing insurance in the first place: they can drop the insurance policy and thus likely forgo access to health care in times of illness, or they can pay the grossly inflated premiums and thus face financial ruin.

The practice of reunderwriting at renewal violates the spirit of health insurance guaranteed renewability requirements under state and federal law. In the 1990's, the National Association of Insurance Commissioners, NAIC, developed model laws to prohibit insurance companies from canceling policies once an individual became sick. In 1997, the Health Insurance Portability and Accountability Act, HIPAA, applied this requirement to all health insurance policies subject to HIPAA. As a result, carriers can no longer cancel individuals because of their medical claims.

Reunderwriting is a way to circumvent these requirements, and has been justified as a means of holding down premiums, for the healthy. However, a July 17, 2002 memo to all NAIC Members from Steven B. Larsen, Chair of the Health Insurance & Managed Care (B) Committee clarifies that the practice of reunderwriting is illegal under NAIC Model Laws:

The committee also noted that the practice is contrary to adopted NAIC policy, and is illegal under NAIC Model Laws governing the individual market. The Small Employer and Individual Health Insurance Availability Model Act (Model #35) provides for adjusted community rating, and health status is not one of the factors that can be used to set rates. The Individual Health Insurance Portability Model Act (Model #37) provides for the use of rating characteristics, and health status is not one of the listed characteristics. More specifically that model also provides that changes in health status after issue, and durational rating, are not to be used in setting premiums for individual policies.

Insurance companies should not be allowed to manage health-care costs by targeting individuals for premium increases because an individual was diagnosed with an illness or has had medical claims. Doubling or tripling premiums for only the individuals who have been diagnosed with an illness forces those individuals to drop their policies and is functionally the same as not renewing coverage.

Not only is reunderwriting bad for consumers, but it creates a competitive disadvantage to the many reputable insurance companies that agree that this practice is contrary to the public interest and undermines the theory behind insurance. Faced with the practice being used by some companies, the Wall Street Journal has reported that other carriers are ''closely watching'' this practice intending to adopt a similar practice either to avoid a competitive disadvantage or to improve their bottom line. While selective targeting improves the profitability of the reunderwriter, it shifts the responsibility for higher risk people to other insurers or employers or local and state government health programs.

The legislation we are introducing today would make health insurance more secure. The legislation would clarify that guaranteed renewal of health insurance means that insurers cannot target individuals for premium increases because the have had claims or a new disease diagnosis. The bill would ensure that individuals will not be priced out of the market for health insurance at the very time that they need it most.

The goals of this legislation are simple: 1. To strengthen HIPAA's promise of guaranteed renewable coverage and make private health insurance more secure for millions of Americans, and 2. to hold all insurers accountable to a level playing field of reasonable standards so they can compete fairly without dumping customers when they get sick.

The ''Health Insurance Fairness Act'' will help the many millions of people who rely on the individual health insurance market: those that are self-employed, those employed by small businesses unable to get group coverage, early retirees who rely disproportionately on individual health insurance if their COBRA runs out before Medicare begins, and others whose employers don't provide health benefits.

I urge my colleagues to cosponsor the ''Health Insurance Fairness Act'' and I thank the Chair.

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By Mr. GRASSLEY (for himself, Mr. BAUCUS, and Ms. COLLINS):

S. 3120. A bill to impose restrictions on the ability of officers and employees of the United States to enter into contracts with corporations or partnerships that move outside the United States while retaining substantially the same ownership; to the Committee on Governmental Affairs.

Mr. GRASSLEY. Mr. President, I rise today to offer a bill on behalf of Sen. BAUCUS and myself to address the issue of inverting corporations that are awarded contracts by the federal government. Our bill is the ''Reclaiming Expatriated Contracts and Profits'', RECAP, Act.

Inverting corporations set up a folder in a foreign filing cabinet or a mail box overseas and call that their new foreign ''headquarters.'' This allows companies to escape millions of dollars of Federal taxes every year. In April of this year, Sen. BAUCUS and I introduced the ''Reversing the Expatriation of Profits Offshore'', REPO, Act to shut down these phony corporate inversions. Today, our REPO bill sits in the Care Act, awaiting Senate passage.

You would think that the ''greed-grab'' of corporate inversions would satisfy most companies, but unfortunately it is not enough. After these corporations invert and save millions in taxes, they then come back into the United States to obtain juicy contracts with the Federal Government.

Imagine the nerve. They create phony foreign headquarters to escape taxes and then use other peoples' taxes to turn a profit. That's really something, something that needs to be stopped.

Let's look at some of the numbers. Tyco had over 1700 contracts in 2001, worth over $286 million dollars. Accenture had contracts worth nearly $279 million. Ingersoll Rand left the United States for Bermuda, where it reportedly pays less than $28,000 a year to register its phony headquarters and receives $40 million in U.S. tax savings. Ingersoll Rand had more than 200 government contracts in 2001, worth over $12 million.

I was the first member of Congress to disclose that inverting corporations were receiving Federal contracts, back in March of this year. Out of respect for the committee system, I have waited for the committees with jurisdiction over government contracts to act on this issue. They have not. Instead, we have seen a series of politically-inspired amendments offered in Congress, all of which are ineffective, easily evaded, and, if enacted, could cost thousands of Americans their jobs. I then read in the paper last week that the Defense Appropriations conferees dropped one of those amendments, rather than try to rewrite it. I decided enough is enough. It is time for serious legislation on this issue.

Chairman BAUCUS and I offer our bipartisan RECAP bill as a compliment to our earlier REPO bill on corporate inversions. For future corporate inversions, our RECAP bill will bar the inverting company from receiving Federal contracts. For the inversions that have already gotten out before the REPO bill can be enacted, our RECAP bill will make them send back their ill-gotten tax savings by forcing them to lower their bids in order to obtain government contracts. The RECAP bill does not unwind Federal contracts that were legal when they were entered into. Therefore, unlike the other proposals, our RECAP bill will not throw thousands of Americans out of a job. The bill we submit today has only one objective: to permanently place corporate inversions on the endangered species list.

I am aware that many of my colleagues believe this measure is unnecessary because inverting corporations pay U.S. taxes on their profits from Federal contracts. It is generally true that profits earned from a Federal contract are taxable in the United States, but those profits are easily reduced when an inverter creates phony deductions through its inversion structure. For example, most inverted companies create phony interest deductions for interest that is fictitiously paid to the ''file folder'' foreign headquarters. Objections to this bill simply overlook the real insult to the American people: these inverted companies take other peoples' tax dollars to make a profit, but they won't pay their share of taxes to keep America strong. And that's just wrong.

So let me be clear to everyone developing or contemplating one of these inversion deals, you proceed at your own peril. We are not only going after the

corporate expatriation abuse, but also the abusers who seek big government contracts while skirting their U.S. tax obligations. I intend to pursue this issue throughout the remainder of this Congress and into the next.

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

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

S. 3120

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Reclaiming Expatriated Contracts and Profits Act''.

**SEC. 2. RESTRICTIONS ON FEDERAL CONTRACTS WITH CERTAIN INVERTED ENTITIES.**

(a) RESTRICTIONS.—

(1) BAN ON CERTAIN INVERTED ENTITIES.—Notwithstanding any other provision of law—

(A) no officer or employee of the United States may enter into, extend, or modify a contract with a foreign incorporated entity treated as an inverted domestic corporation under subsection (c) during the restriction period for the entity, and

(B) any officer or employee of the United States entering into a contract after the date of the enactment of this Act shall include in the contract a prohibition on the subcontracting of any portion of the contract to any foreign incorporated entity treated as an inverted domestic corporation under subsection (c) during the restriction period for the entity.

(2) MANDATORY REDUCTION IN CONTRACT EVALUATION OF CERTAIN ENTITIES.—

(A) IN GENERAL.—If, during the restriction period for an acquired entity to which this section applies, the entity makes an offer in response to a solicitation of offers for a contract with the United States, any officer or employee of the United States evaluating the offer shall, solely for purposes of awarding the contract, adjust the evaluation as follows:

(i) In the case of a contract to be entered into with an offeror selected solely on the basis of price, the price offered by such acquired entity shall be deemed to be equal to 110 percent of the price actually offered.

(ii) In the case of a contract to be entered into with an offeror on the basis of two or more evaluation factors, the quantitative evaluation of the offer made by such acquired entity shall be deemed to be reduced by 10 percent.

(B) APPLICATION TO CERTAIN CONTRACTORS.—If a person other than an entity to which this paragraph applies makes an offer for a contract with the United States, and it is reasonable to assume at the time of the offer that any portion of the work will be subcontracted to such an entity, subparagraph (A) shall be applied to such offer in the same manner as if the person making the offer were such an entity.

(3) APPLICATION TO RELATED ENTITIES.—Paragraphs (1) and (2) shall also apply during the restriction period for an entity to—

(A) a member of an expanded affiliated group which includes the entity, and

(B) any other related person with respect to the entity.

(b) EXCEPTIONS.—

(1) PRESIDENTIAL WAIVER.—The President of the United States may waive the application of subsection (a) with respect to any contract if the President determines that the waiver is necessary in the interest of national security.

(2) EXCEPTION WHERE NO TAX AVOIDANCE PURPOSE.—

(A) IN GENERAL.—This section shall not apply to a foreign incorporated entity or an acquired entity if the entity requests, and the Secretary of the Treasury issues, a determination letter that the acquisition described in subsection (c)(1)(A) with respect to the entity did not have as one of its principal purposes the avoidance of Federal income taxation.

(B) PROCEDURES.—The Secretary of the Treasury shall prescribe the time and manner of filing a request under this paragraph.

(C) STAY OF RESTRICTION PERIOD.—

(i) IN GENERAL.—The restriction period with respect to an entity filing a request under this paragraph shall not begin until the Secretary of the Treasury notifies the entity that it will not issue a determination letter with respect to the request.

(ii) NO ACTION.—If the Secretary takes no action with respect to a request during the 1-year period beginning on the date of the request (or such longer period as the Secretary and the entity may agree upon), the Secretary shall be treated as having issued a determination letter described in subparagraph (A). This clause shall not apply to a request if the entity does not submit the request in proper form or the entity does not provide the information the Secretary requests to process the request.

(c) INVERTED DOMESTIC CORPORATION.—For purposes of this section—

(1) IN GENERAL.—A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(A) the entity completes after the date of the enactment of this Act the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(2) RULES FOR APPLICATION OF SUBSECTION.—In applying this subsection, the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of paragraph (1)(B)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in paragraph (1)(A).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of paragraph (1)(B) are met with respect to such corporation or partnership, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying this subsection to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(d) ACQUIRED ENTITY TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to an acquired entity if a foreign incorporated entity would be treated as an inverted domestic corporation with respect to the acquired entity if subsection (c)(1)(B) were applied by substituting ''50 percent'' for ''80 percent''.

(2) APPLICATION TO CERTAIN ACQUISITIONS BEFORE ENACTMENT.—This section shall apply to an acquired entity if a foreign incorporated entity would be treated as an inverted domestic corporation if subsection (c)(1) were applied—

(A) by substituting ''after December 31, 1996, and on or before the date of the enactment of this Act,'' for ''after the date of the enactment of this Act'' in subparagraph (A), and

(B) by substituting ''50 percent'' for ''80 percent'' in subparagraph (B).

(3) ACQUIRED ENTITY.—For purposes of this section—

(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (c)(1)(A) to which this subsection applies.

(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) of the Internal Revenue Code of 1986 to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

(e) DEFINITIONS.—For purposes of this section—

(1) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b)(3) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(2) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is treated as a foreign corporation for purposes of such Code.

(3) RELATED PERSON.—The term ''related person'' means, with respect to any entity, a person which—

(A) bears a relationship to such entity described in section 267(b) or 707(b) of such Code, or

(B) is under the same common control (within the meaning of section 482 of such Code) as such entity.

(4) RESTRICTION PERIOD.—

(A) IN GENERAL.—The term ''restriction period'' means, with respect to any entity, the period—

(i) beginning on the date substantially all of the properties to be acquired as part of the acquisition described in subsection (c)(1)(A) are acquired, and

(ii) to the extent provided by the Secretary of the Treasury, ending on the date the income and gain from such properties is subject to United States taxation in the same manner as if such properties were held by a United States person.

(B) SPECIAL RULES FOR ACQUIRED ENTITIES.—

(i) 10-YEAR LIMIT.—In the case of an acquired entity to which subsection (a)(2) applies, the restriction period shall end no later than the date which is 10 years from the date described in subparagraph (A)(i) (or, if later, the date of the enactment of this Act).

(ii) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

(I) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary of the Treasury may prescribe, if, after an acquisition described in subsection (c)(1)(A) to which subsection (a)(2) applies, a domestic corporation the stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities, then the restriction period for any such acquired entity with respect to which the requirements of clause (ii) are met shall end immediately after such acquisition.

(II) REQUIREMENTS.—The requirements of this subclause are met with respect to a transaction involving any acquisition described in subclause (I) if—

(aa) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b) of such Code, and was not under common control (within the meaning of section 482 of such Code), with the acquired entity, or any member of an expanded affiliated group including such entity, and

(bb) after such transaction, such acquired entity is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

(5) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the same meanings given such terms by section 7701(a) of such Code.

(f) ASSISTANCE.—The Secretary of the Treasury or his delegate shall assist officers and employees of the United States in carrying out the provisions of this section, including providing assistance in identifying entities to which this section applies.

Mr. BAUCUS. Mr. President, I join the Ranking Republican Member of the Finance Committee, Senator GRASSLEY, in introducing bipartisan legislation to further address the increasing problem of U.S. corporations reincorporating to tax haven countries to avoid taxes, a practice also known as a corporate inversion. I am pleased to cosponsor the Reclaiming Expatriated Contracts and Profits, RECAP, Act which prohibits the most egregious inverted corporations from receiving Federal Government contracts.

Last March, Senator GRASSLEY and I announced our intention to introduce legislation to curb the proliferation of U.S. corporations changing their Articles of Incorporation to become a corporation of a foreign tax haven country. On April 11, 2002, we introduced legislation to address this problem. S. 2119, the Reversing the Expatriation of Profits Offshore, REPO, Act, was designed to put the brakes on the potential rush to move U.S. corporate headquarters to tax haven countries. On June 18, 2002, the Senate Finance Committee sent a strong message to corporate America by passing S. 2119 by unanimous vote.

But the REPO Act was just the first step to curb inversions. Senator WELLSTONE led the effort to eliminate another incentive for these corporations by restricting them from qualification for government contracts. The idea is simple. If a corporation wants to, in essence, renounce their U.S. citizenship, then they shouldn't be entitled to compete for U.S. government contracts. I applaud Senator WELLSTONE for his leadership and willingness to press ahead with restricting inverted corporations from winning government contracts.

Today, Senator CHUCK GRASSLEY and I cosponsor legislation focused on the same goal as that of Senator WELLSTONE. The legislation we introduce today will prevent the most egregious of these inverted corporations from receiving any U.S. government contracts. These companies have placed tax avoidance as their first priority and their U.S. identity as their second priority. The reduction in taxes for inverted corporations allows them to underbid those corporations that choose to remain U.S. corporations. This is wrong.

I welcome the opportunity to support RECAP and I urge Congress to act quickly on this legislation, as it will go a long way toward restoring public confidence in corporate America.

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By Mr. BIDEN (for himself, Mr. LUGAR, Mr. DOMENICI, Mrs. CLINTON, Mr. GREGG, and Mr. SCHUMER):

S. 3121. A bill to authorize the Secretary of State to undertake measures in support of international programs to detect and prevent acts of nuclear or radiological terrorism, to authorize appropriations to the Department of State to carry out those measures, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today I am introducing the ''Nuclear and Radiological Terrorism Threat Reduction Act of 2002.'' This is a bill to strengthen the efforts of the world community to gain control over the vast amounts of radioactive materials that, left uncontrolled, could cause economic disruption and sow terror in American cities.

In the Senate Foreign Relations Committee's hearing on March 6 of this year, experts testified that an amount of ground up radioactive cobalt-60 the size of the ball in your ball point pen could contaminate an area of Manhattan greater than the footprint of the World Trade Center. The damage and risk would be so great that buildings in the affected area might have to be abandoned, destroyed, and trucked away as radioactive waste.

We learned that if a terrorist dispersed a few hundred curies of radioactive material, the resulting public panic could make much of downtown Washington, DC uninhabitable without a difficult and expensive clean-up. Decontamination is a serious and poorly understood problem because many of the radioactive isotopes a terrorist might choose will bind chemically to construction materials such as marble and stone used in our most precious buildings.

One curie of radioactive cesium-137, strontium-90, cobalt-60 or iridium-192 poses a significant risk. But sources as strong as several hundred curies are used every day in world-wide commerce. They serve to estimate the oil in active oil wells, to provide a compact and convenient source of x-rays to check the quality of welds in the field, and to provide pencil beams of radiation to measure the amount of soda or beer in an aluminum can.

Hospitals, primarily in poorer countries, but also in the United States, use cesium-137 or cobalt-60 sources as strong as several thousand curies to provide radiation therapy in cancer treatment. Some of these sources are used in Southern California in mobile treatment centers mounted in trucks. These rolling radioactive sources move on the highways and through the streets of our country and perhaps of other countries, where they are vulnerable to accident or foul play.

Each year many radioactive sources, world wide, are abandoned or stolen and leak out of the existing control system. They become ''orphan'' sources, unwanted and with nobody to care for them or keep them out of trouble. Sometimes industrial sources are abandoned in place when their owners go out of business. They can then find their way into the scrap metal pool, and may arrive on the doorstep of a steel mill.

That happened shortly before our March 6 hearing. A 2-curie cesium-137 source turned up on the conveyor belt of the Nucor Steel Mill in Hertford, NC. Caught just before it would have gone into the furnace, it was identified, removed, and taken into safe custody by the North Carolina radiation protection authorities. Where did it come from? A bankrupt chemical company in the Baltimore area whose equipment was sold for scrap. But when the records were traced it was found that the company had bought not one, but four, such sources. Fortunately, two more were traced and recovered, but one of those ''gauge sources'' still is missing.

If the source found at Nucor had gone into the molten steel, the clean-up would have cost the company millions of dollars. If it had gotten into the

hands of a terrorist who could disperse it with high explosives, it could have contaminated many square blocks of an American city and the recovery might have run into the billions.

Far more intense radioactive sources turn up in strange places from time to time.

In 1987, two junk collectors in Brazil broke open an abandoned gamma ray cancer treatment machine containing 1,400 curies of Cesium-137. Inside they found about 2/3 of an ounce of softly glowing powder. Several people were delighted at the idea of glowing in the dark and they rubbed the powder on their bodies. They contaminated not only themselves, but their homes and families. The toll: 5 people dead, 21 requiring intensive care, 49 requiring some hospitalization, 249 contaminated, and 111,800 people tested in improvised medical facilities at a local soccer stadium.

And that was an accident. A deliberate attack using the same 20 grams of material could have had far greater consequences, as our witnesses told the Committee.

''Dirty bombs'' do not even need to explode. Murders have been committed by the simple act of inserting a small radioactive source in the victim's desk chair and simply waiting until radiation sickness and death followed. If a terrorist is willing to die, he could merely fling finely powdered material from the window of a tall building and allow the wind to spread his poison.

Finally, I worry that other terrorist groups, not just Al Qaeda, could make a radiological dispersion device. Radioactive material is out there for the taking, especially in the former Soviet Union.

In January of this year, three hunters gathering firewood in a forest in the former Soviet republic of Georgia found two abandoned cans of strontium-90, each containing 40,000 curies of material. Because the heat from these sources melted the snow for yards around, the hunters were delighted to find free warmth for their tent. They picked up and carried off the sources in their backpacks. All three woodsmen were critically injured, but since they did not break open the two cans, environmental contamination was limited.

A team from the government of Georgia, assisted by the International Atomic Energy Agency, recovered the sources, but several more are apparently missing and unaccounted for. The nuclear industry of the former Soviet Union made hundreds of similar devices.

In fact, 40,000 curies of strontium-90 represents a small source by Soviet standards. A string of 131 arctic sites in Russia is powered by radioisotope thermal generators—portable power plants that draw energy from the heat liberated by the decay of radioactive nuclei. Each site uses a 300,000-curie source. That raises the maximum damage that a terrorist dirty bomb could do by a factor of ten beyond anything the Committee heard at our March hearing.

There once were 136 sites in this chain, but the Norwegian government replaced five with solar-powered installations. The remaining 131 should be replaced as soon as possible so as to remove a potential source of truly destructive dirty bombs.

We must, and we can, raise significant and sensible barriers to protect against terrorists who would use the power of the atom to do us harm. To that end, Senators LUGAR, DOMENICI, CLINTON, GREGG and SCHUMER join me today in introducing the ''Nuclear and Radiological Terrorism Threat Reduction Act of 2002.''

The bill's principal cosponsors, Senators LUGAR and DOMENICI, have been among the Senate's long-time leaders in the causes of non-proliferation, threat reduction and counter-terrorism, and I welcome their support. Senator GREGG's position on the Appropriations Committee has sensitized him to the need to protect our embassies. And both of the Senators from New York, Mr. SCHUMER and Mrs. CLINTON, attended the Foreign Relations Committee's classified session where we learned some of the specifics regarding the threat of nuclear and radiological terrorism.

Our bill takes the initiative in several significant areas:

One, it creates a new program to establish a network of five regional shelters around the globe to provide secure, temporary storage of unwanted, unused, obsolete and orphaned radioactive sources. The bill authorizes $5 million to get started in Fiscal Year 2003, and up to $20 million a year for construction and operation of the facilities in the future. We envision accomplishing our goals through bilateral negotiations with the host nations or, when advantageous to the United States, through special contributions to the International Atomic Energy Agency, the IAEA. Regional storage facilities can remove some of the most dangerous material from circulation.

Two, to round up the sources to be stored in the regional facilities, we propose an accelerated program—in cooperation with the IAEA—to discover, inventory, and recover unwanted radioactive material from around the world. This would be similar to the Department of Energy's Off-site Source Recovery Program, but aimed at material outside our borders. This bill will make a modest start by authorizing $5 million a year in special voluntary contributions to the IAEA.

Three, recognizing the threat posed by the very intense radioactive sources packaged by the former Soviet Union to provide electric power to very remote locations, such as lighthouses, weather stations, communications nets, and other measuring equipment, the bill authorizes funding to replace that equipment with non-nuclear technologies. We believe that $10 million a year over the next three years should not merely make a dent in this problem; it should largely solve it.

Four, other bills this year have provided funding to train American first responders to handle a radiological emergency. The bill we introduce today authorizes $5 million a year for the next three years to train responders abroad. This is a matter of self-protection for the United States: we have diplomatic missions at risk around the world, and we will be funding the construction and operation of temporary storage sites for radioactive material. Should accidents or incidents occur, we would like to be able to rely upon competent responses by our host countries.

Five, this bill requires the Secretary of State to conduct a global assessment of the radiological threat to U.S. missions overseas and to provide the results to the appropriate committees of the Congress in an unclassified form, but with a classified annex giving details if he deems necessary. We hope the Secretary will take into account the locations of the interim storage facilities and also the results of this threat assessment in choosing where first to provide the overseas first responder training authorized by this bill.

Six, the Customs Service is charged with preventing illicit shipments of radioactive material and fissile material from reaching our shores. Inspection of today's large cargo containers for fissile material, in particular, is a technologically challenging task, one performed most safely and easily before the containers are loaded aboard ship. Customs has agreements to permit U.S. inspectors to do their jobs in ports of embarkation. In order to assist the Service, the Nuclear and Radiological Threat Prevention Act establishes a special representative with the rank of ambassador within the State Department for negotiation of international agreements that ensure inspection of cargoes of nuclear material at ports of embarkation. This special representative will work in close cooperation with the Customs Service to make certain that the agreements meet the Service's needs.

Seven, we could diminish the threat of Dirty bombs by reducing use of radioactive material where other technologies could be substituted. This bill mandates a study by the National Academy of Sciences to tell us how and where safe sources of radiation can replace dangerous ones. Some substitutions are well known: for many applications, X-ray machines powered by the electric grid are almost as convenient as the gamma ray ''cameras'' that use intense iridium-178 sources. Powered radiation sources can replace radioactive sources in some oil well logging work. Linear accelerators are replacing radioactive cobalt and cesium in cancer therapy. All of the substitute sources have one thing in common: a switch. When that switch is turned ''off,'' the radiation source is safe. There may be many more applications

in which a switchable source can replace a radioactive one and be at least as economical, particularly when the risks of dirty bombs are accounted for properly.

Fissile material is the indispensable element of a true nuclear weapon. At our March 6, 2002, hearing experts from the Department of Energy weapons laboratories told the Committee that terrorists in possession of highly enriched uranium or plutonium could assemble a crude ''improvised nuclear device'' with a yield large enough to smash Washington from the White House to the Capitol. Such an improvised nuclear device would not require a Manhattan Project. In a study done in the 1970s, the Congressional Office of Technology Assessment wrote that a group of two or three technically competent individuals in possession of enriched uranium or weapons-grade plutonium could probably build a one-kiloton device in a few months.

For that reason, one provision of this bill deals specifically with developing the tools to guard against illicit traffic in highly enriched uranium and plutonium.

Last summer, a meeting in Washington to discuss ''nuclear science and Homeland Security'' was sponsored by the Department of Energy, the National Science Foundation, NSF, and other Federal science funding agencies. It brought together some of the best scientists in our universities and colleges, all of whom were willing to put aside their normal research to help strengthen our security at home. But few of those scientists can use the research money they already have for this work. Research support given for one purpose usually may not be channeled into other uses.

Therefore, this bill establishes a small program within the NSF to support researchers at colleges and universities who will work on the detection of fissile materials—the hardest and most critical task or on real-time identification of radioisotopes and decontamination of buildings after a dirty bomb goes off.

The Department of Energy has a special role to play in this program: we expect that Department and its national laboratories to work in cooperation with NSF to transition laboratory apparatus into field-ready operational hardware. This bill authorizes $10 million a year for research funded by the NSF and an additional $5 million a year for the Department of Energy to accomplish the transition.

The threat of radiological terrorism, and even of true nuclear terror attacks, is real. We know that most radiological attacks will kill few Americans, but there is little doubt they will lead to economic crimes of the greatest consequence. The radioactive source that killed only a few people in Brazil cost hundreds of millions of dollars to clean up. And nobody tried to cause that destruction.

We must do something to head off the nuclear and radiological terrorist threat where it will most likely first appear: in foreign countries.

The ''Nuclear and Radiological Terrorism Threat Reduction Act'' gives us a good start at doing just that.

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

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

S. 3121

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Nuclear and Radiological Terrorism Threat Reduction Act of 2002''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) It is feasible for terrorists to obtain and to disseminate radioactive material using a radiological dispersion device (RDD), or by emplacing discrete radioactive sources in major public places.

(2) It is not difficult for terrorists to improvise a nuclear explosive device of significant yield once they have acquired the fissile material, highly enriched uranium, or plutonium, to fuel the weapon.

(3) An attack by terrorists using a radiological dispersion device, lumped radioactive sources, an improvised nuclear device (IND), or a stolen nuclear weapon is a plausible event.

(4) Such an attack could cause catastrophic economic and social damage and could kill large numbers of Americans.

(5) The first line of defense against both nuclear and radiological terrorism is preventing the acquisition of radioactive sources, special nuclear material, or nuclear weapons by terrorists.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) BYPRODUCT MATERIAL.—The term ''byproduct material'' has the same meaning given the term in section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

(3) IAEA.—The term ''IAEA'' means the International Atomic Energy Agency.

(4) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The term ''independent states of the former Soviet Union'' has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(5) NUCLEAR EXPLOSIVE DEVICE.—The term ''nuclear explosive device'' means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(6) RADIOLOGICAL DISPERSION DEVICE.—The term ''radiological dispersion device'' is any device meant to spread or disperse radioactive material by the use of explosives or otherwise.

(7) RADIOACTIVE MATERIAL.—The term ''radioactive material'' means—

(A) source material and special nuclear material, but does not include natural or depleted uranium;

(B) nuclear by-product material;

(C) material made radioactive by bombardment in an accelerator; and

(D) all refined isotopes of radium.

(8) RADIOACTIVE SOURCE.—The term ''radioactive source'' means radioactive material that is permanently sealed in a capsule or closely bonded and includes any radioactive material released if the source is leaking or stolen, but does not include any material within the nuclear fuel cycle of a research or power reactor.

(9) RADIOISOTOPE THERMAL GENERATOR.—The term ''radioisotope thermal generator'' or ''RTG'' means an electrical generator which derives its power from the heat produced by the decay of a radioactive source by the emission of alpha, beta, or gamma radiation. The term does not include nuclear reactors deriving their energy from the fission or fusion of atomic nuclei.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of State.

(11) SOURCE MATERIAL.—The term ''source material'' has the meaning given that term in section 11 z. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

(12) SPECIAL NUCLEAR MATERIAL.—The term ''special nuclear material'' has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

**SEC. 4. INTERNATIONAL REPOSITORIES.**

(a) AUTHORITY.—The Secretary, acting through the United States Permanent Representative to the IAEA, is authorized to propose that the IAEA conclude agreements with up to five countries under which each country would provide temporary secure storage for orphaned, unused, surplus, or other radioactive sources other than special nuclear material, nuclear fuel, or spent nuclear fuel.

(b) VOLUNTARY CONTRIBUTIONS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make a voluntary contribution to the IAEA to fund the United States share of the program authorized by subsection (a) if the IAEA agrees to protect sources under the standards of the United States or IAEA code of conduct, whichever is stricter.

(2) FISCAL YEAR 2003.—The United States share of the costs of the program described in subsection (a) is authorized to be 100 percent for fiscal year 2003.

(c) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide the IAEA, through contracts with the Department of Energy or the Nuclear Regulatory Commission, with technical assistance to carry out the program described in subsection (a).

(d) NONAPPLICABILITY OF NEPA.—The National Environmental Policy Act shall not apply to any activity conducted under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the Department of State $5,000,000 for fiscal year 2003 and $20,000,000 for each fiscal year thereafter to carry out this section.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 5. RADIOACTIVE SOURCE DISCOVERY, INVENTORY, AND RECOVERY.**

(a) AUTHORITY.—The Secretary is authorized to make United States voluntary contributions to the IAEA to support a program to promote radioactive source discovery, inventory, and recovery.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of State $5,000,000 for each of the fiscal years 2003 through 2012 to carry out subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 6. RADIOISOTOPE THERMAL GENERATOR-POWERED FACILITIES IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**

(a) RTG POWER UNITS.—The Secretary is authorized to assist the Government of the Russian Federation to substitute solar (or other non-nuclear) power sources to replace RTG power units operated by the Russian Federation and other independent states of the former Soviet Union in applications such as lighthouses in the Arctic, remote weather stations, unattended sensors, and for providing electricity in remote locations. Any replacement shall, to the maximum extent practicable, be based upon tested technologies that have operated for at least one full year in the environment where the replacement will be used.

(b) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section, the Secretary may use not more than 20 percent of the funds in any fiscal year to replace dangerous RTG facilities that are similar to those described in subsection (a) in countries other than the independent states of the former Soviet Union.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of State $10,000,000 for each of the fiscal years 2003, 2004, and 2005 to carry out this section.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 7. FOREIGN FIRST RESPONDERS.**

(a) IN GENERAL.—The Secretary is authorized to conclude an agreement with a foreign country, or, acting through the United States Permanent Representative to the IAEA, to propose that the IAEA conclude an agreement with that country, under which that country will carry out a program to train first responders to—

(1) detect, identify, and characterize radioactive material;

(2) understand the hazards posed by radioactive contamination;

(3) understand the risks encountered at various dose rates;

(4) enter contaminated areas safely and speedily; and

(5) evacuate persons within a contaminated area.

(b) UNITED STATES PARTICIPATION.—The Department of State is hereby designated as the lead Federal entity for cooperation with the IAEA in implementing subsection (a) within the United States. In carrying out activities under this subsection the Secretary of State shall take into account the findings of the threat assessment report required by section 8 and the location of the interim storage facilities under section 4.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of State $2,000,000 for fiscal year 2003, $5,000,000 for fiscal year 2004, and $5,000,000 for fiscal year 2005 to carry out this section.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 8. THREAT ASSESSMENT REPORT.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit a report to the appropriate congressional committees—

(1) detailing the preparations made at United States diplomatic missions abroad to detect and mitigate a radiological attack on United States missions and other United States facilities under the control of the Secretary; and

(2) setting forth a rank-ordered list of the Secretary's priorities for improving radiological security and consequence management at United States missions, including a rank-ordered list of the missions where such improvement is most important.

(b) BUDGET REQUEST.—The report shall also include a proposed budget for the improvements described in subsection (a)(2).

(c) FORM OF SUBMISSION.—The report shall be unclassified with a classified annex if necessary.

**SEC. 9. SPECIAL REPRESENTATIVE FOR INSPECTIONS OF NUCLEAR AND RADIOLOGICAL MATERIALS.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection:

''(h) SPECIAL REPRESENTATIVE FOR INSPECTIONS OF NUCLEAR AND RADIOLOGICAL MATERIALS.—

''(1) ESTABLISHMENT OF POSITION.—There shall be within the Bureau of the Department of State primarily responsible for nonproliferation matters a Special Representative for Inspections of Nuclear and Radiological Materials (in this subsection referred to as the 'Special Representative'), who shall be appointed by the President, by and with the advice and consent of the Senate. The Special Representative shall have the rank and status of ambassador.

''(2) RESPONSIBILITIES.—The Special Representative shall have the primary responsibility within the Department of State for assisting the Secretary of State in negotiating international agreements that ensure inspection of cargoes of nuclear and radiological materials destined for the United States at ports of embarkation, and such other agreements as may control radioactive materials.

''(3) COOPERATION WITH UNITED STATES CUSTOMS SERVICE.—In carrying out the negotiations described in paragraph (2), the Special Representative shall cooperate with, and accept the assistance and participation of, appropriate officials of the United States Customs Service.''.

**SEC. 10. RESEARCH AND DEVELOPMENT GRANTS.**

(a) IN GENERAL.—Subject to the availability of appropriations, there is established a program under which the Director of the National Science Foundation shall award grants for university-based research into the detection of fissile materials, identification of radioactive isotopes in real time, the protection of sites from attack by radiological dispersion device, mitigation of consequences of such an attack, and attribution of materials used in attacks by radiological dispersion device or by improvised nuclear devices. Such grants shall be available only to investigators at baccalaureate and doctoral degree granting academic institutions. In carrying out the program, the Director of the National Science Foundation shall consult about this program with the Secretary of Energy in order to minimize duplication and increase synergies. The consultation shall also include consideration of the use of the Department of Energy to develop promising basic ideas into field-ready hardware. The Secretary of Energy shall work with the national laboratories and industry to develop field-ready prototype detectors.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the National Science Foundation $10,000,000, and to the Department of Energy $5,000,000, to carry out this section in fiscal years 2003 through 2008.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 11. STUDY AND REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.**

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Chairman of the Nuclear Regulatory Commission, acting through a contract with the National Academy of Sciences, shall conduct a study of the use of radioactive sources in industry and of potential substitutes for those sources.

(b) REPORTS.—Not later than six months after entry into the contract referred to in subsection (a), the National Academy of Sciences shall submit an initial report to the Secretary and the appropriate congressional committees and, not later than three months after submission of the initial report, shall submit to the Secretary and those committees a final report.

Mr. DOMENICI. Mr. President, I'm pleased to join Senator BIDEN and Senator LUGAR in sponsoring the Nuclear and Radiological Terrorism Threat Reduction Act of 2002.

Only a few months ago, I introduced the Nuclear Nonproliferation Act of 2002 with these same Senators and many others as co-sponsors. It's being called the Domenici-Biden-Lugar bill. I am pleased to learn that most provisions of that Act are being incorporated in the Conference on the Armed Services bill.

The current bill and the Domenici-Biden-Lugar bill are highly complementary. The first bill focused entirely on the contributions that the Department of Energy should be authorized to make to minimize risks of nuclear and radiological risks to our citizens. The current bill focuses on the contributions that the Department of State should make in that same arena. And in both cases, there is careful recognition of the importance of a tight partnership between those two Departments in accomplishing this vital mission.

I'm particularly pleased with this bill's focus on assisting in the creation of a number of international repositories that can be used to store radioactive sources safely, while ensuring that they don't become ''orphaned'' sources that might fuel a terrorist's dirty bomb. Other provisions to assist the IAEA in promoting source inventory and recovery are also critical.

One important application of this new bill must be to help the Russian Federation address the large number of Radio-isotope Thermal Generators that rely on large quantities of radioactive material to power many remote installations, especially lighthouses. These large radioactive sources, in isolated locations, are very vulnerable to compromise. With this bill, we can assist other nations, like Norway, in shifting the power for these lighthouses away from radioactive materials to other means of power.

Another important aspect of the bill involves the authorization for the State Department to help other nations in developing their own First Responder program for response to dirty bomb or nuclear threats. In this country, we now have a First Responder program that grows stronger each year, thanks to the Nunn-Lugar-Domenici bill that created the effort. Now we need to share the lessons we have been learning with others.

This new bill is another important contribution to our nation's efforts to ensure that terrorists will never threaten the United States or other nations with radiological or nuclear weapons.

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By Mr. BROWNBACK (for himself and Mr. HELMS):

S. 3122. A bill to allow North Korean's to apply for refugee status or asylum; to the Committee on the Judiciary.

Mr. BROWNBACK. Mr. President, I rise today to introduce legislation that will clarify the status of North Korean refugees.

As a Nation, the United States is the world's leader in the protection of refugees. The world takes its lead from the United States when reacting to asylum-seekers, and the example we set have far-reaching implications for those who flee persecution. For this reason, we have stood firm against excuses for the denial of basic human rights and life's basic liberties.

The tenuous status of North Korean refugees in China is well documented. As we all know from news reports, including several news programs, that few North Koreans are able to seek asylum and refuge, be it in China or elsewhere. The few that do, however, are functionally barred from seeking asylum in the United States or being admitted to the United States as refugees. As I understand it, the State Department has expressed concerns that the legal hurdle to admitting North Koreans refugees is the fact that South Korea automatically conveys its citizenship to any escapee from North Korea who makes it to South Korea. In short, the State Department claims it cannot, as a matter of law, consider any North Korean to be a refugee.

I am not persuaded that this is the case, but even if we assume that to be true, we must stand firm for the proposition that the moral obligation that we have for refugees everywhere seeking basic human liberties should not be laid aside because of that legal technicality and it should not preclude the United State from providing refugee protections to North Korean refugees.

The bill I am introducing today clarifies and fixes that technicality. It says quite simply that, for asylum and refugee purposes, a North Korean is a North Korean. This bill in no way detracts from the generosity of the South Korean government or the South Korean people. It does not encourage refugees to choose the United States over South Korea as a safe haven. Far from it, since those refugees who are able to reach South Korea will go there and will be afforded the rights that refugees escaping from persecution rightfully deserve whether under various international conventions or the South Korean Constitution. Instead, this bill recognizes the physical obstacles facing North Korean refugees and removes the technicality that compromises our ability to help them.

The bill I am introducing today has the support of the Lawyers Committee on Human Rights, Amnesty International, the International Rescue Committee, the U.S. Committee on Refugees, Immigration and Refugee Services of America, among others.

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By Mr. DEWINE:

S. 3123. A bill to expand certain preferential trade treatment of Haiti; to the Committee on Finance.

Mr. DEWINE. Mr. President, I have many long-standing concerns about the dire situation, political, economic, and humanitarian, in Haiti. As one who has witnessed the unbelievable poverty and despair in that tiny nation, I believe we must pay closer attention to what is happening there. We must be engaged.

That is why I am introducing the ''Haiti Economic Recovery Opportunity Act of 2002.'' This bill would help improve the economic and political situation in Haiti through an important tool of our foreign policy, and that is trade. I would like to thank Representatives Gilman and others for introducing a similar measure in the House.

The situation in Haiti is bleak. Haiti is the poorest country in our Hemisphere, with approximately 70 percent of its population out of work and 80 percent living in abject poverty. Less than one-half of Haiti's 8.2 million people can read or write. Haiti's infant mortality rate is the highest in our hemisphere. And, one in four children under the age of five are malnourished.

Roughly one in 12 Haitians has HIV/AIDS, and, according to the Centers for Disease Control projections, Haiti will experience up to 44,000 new HIV/AIDS cases this year, that's 4,000 more than the number expected here in the United States, where our population is 35 times that of Haiti's. AIDS already has orphaned over 163,000 children, and this number is expected to skyrocket to between 323,000 and 393,000 over the next ten years.

The violence, corruption, and instability caused by the flow of drugs through Haiti cannot be overstated. An estimated 15 percent of all cocaine entering the United States passes through Haiti, the Dominican Republic, or both.

Haiti still lacks democracy and political stability. The U.S. policy of not providing assistance directly to the Haitian Government is based on President Aristide's failure to enact necessary reforms to uphold democracy and help the people of his own country.

All of this creates an environment where the logical course of action for many Haitians is simply to flee. We have seen this in the past, and we may see it again. So far this fiscal year, the Coast Guard has interdicted and rescued over 1,485 Haitian migrants at sea, compared to 1,113 during the entire fiscal year 2000. And, according to the State Department, migrants recently interdicted and repatriated to Haiti have cited economic conditions as their reason for attempting to migrate by sea. I do not think that a mass exodus is imminent, but we cannot ignore any increase in migrant departures from Haiti. In addition to being an immigration issue for the United States, these migrant departures frequently result in the loss of life at sea.

The bill I am introducing today attempts to change this situation by granting limited duty-free treatment on certain Haitian apparel articles if, and only if, the President is able to certify that the Haitian government is making serious market, political, and social reforms. The bill would correct a glitch or oversight in U.S. trade law that recognized the special economic needs of least developed countries in Africa, but did not recognize those needs for the least developed country in the Western Hemisphere, Haiti.

Specifically, the bill would allow duty-free entry of Haitian apparel articles assembled from fabrics from countries with which the U.S. has a free trade or a regional trade agreement. It also would grant duty-free status on articles, regardless of the origin of the fabrics and yarns, if the fabrics and yarns were not commercially available in the United States.

The bill would cap duty-free apparel imports made of fabrics and yarns from the designated countries at 1.5 percent of total U.S. apparel imports. This limit grows modestly over time to 3.5 percent.

The enactment of this legislation would promote employment in Haitian industry by allowing the country to become a garment production center. While the benefits of this bill would be modest by U.S. standards, in Haiti they are substantial. It is estimated that the bill could create thousands of jobs, thereby reducing the unemployment rate and breaking the shackles of poverty. Before the 1991 coup, Haiti was one of the largest apparel suppliers in the Caribbean. But today, Haitian apparel accounts for less than one percent of all apparel imports into the United States.

The type of assembly carried out in Haiti would have minimal impact on employment in the United States. In fact, it would encourage the emigration of jobs from the Far East back to our hemisphere, including the United States, because most Haitian foreign exchange earnings, unlike in the Far East, are utilized to purchase American products. And, the ''Trade and Development Act'' already includes strong safeguards against transshipment.

In order for Haiti to be eligible for the trade benefits under the bill, the President must certify that Haiti is making progress on matters like the rule of law. This will not be an easy task for the Haitian government. However, I believe that because of the incentives provided in the bill, it would be more and more apparent to them that it is in their interest to reform.

During my most recent trip to Haiti, I met with President Aristide and raised many concerns. I explained that it is essential that he call for peace and domestic order, and that he take the necessary measures to bring an end to the political impasse. I explained the need to cooperate with the opposition, and to work with the Organization of American States, OAS.

I also met with leaders of the opposition and told them that they, too, must be willing to compromise and cooperate. I am pleased to see that the OAS Special Mission in Haiti is up and running, but I remain cautious about the prospects for resolving the political crisis. In the meantime, the United States must take responsibility by continuing and increasing our humanitarian and trade efforts in Haiti. This is in our own best interest, and we have a moral obligation to remain committed to the people of Haiti.

Adopting the Haiti Economic Recovery Opportunity Act of 2002 would be a powerful demonstration of that commitment. I encourage my colleagues to join in support of this legislation.

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By Mr. MCCAIN (for himself, Mr. FEINGOLD, and Mr. DURBIN):

S. 3124. A bill to amend the Communications Act of 1934 to revise and expand the lowest unit cost provision applicable to political campaign broadcasts, to establish commercial broadcasting station minimum airtime requirements for candidate-centered and issue-centered programming before primary and general elections, to establish a voucher system for the purchase of commercial broadcast airtime for political advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today we begin another chapter in the effort to reform our political campaign system. I am proud to be joined by Senator RUSS FEINGOLD, my longtime colleague on campaign finance reform, and Senator RICHARD DURBIN, in introducing the Political Campaign Broadcast Activity Improvements Act.

The bill establishes a program to provide candidates and national committees of political parties, with vouchers that they may use for political advertisements on radio and television broadcast stations. An annual spectrum use fee paid by broadcasters would fund the voucher system. In addition, the bill requires broadcast television and radio stations to provide candidates and parties with the lowest rate provided to any other advertiser in the previous 120 days, and in most cases, would prohibit states from preempting advertisements purchased by candidates or parties. Finally, the bill requires these stations to air a minimum of two hours per week of candidate-centered or issue-centered programming before a primary or general federal election.

This legislation builds on the long history of requiring broadcasters to serve the public interest in exchange for the privilege of obtaining an exclusive license to use a scarce public resource: the electromagnetic spectrum. The burden imposed on broadcasters pales in comparison to the enormous value of this spectrum, which recent estimates suggest is worth as much as $367 billion.

The purpose of the legislation is to increase the flow of political information in broadcast media and to reduce the cost to candidates of reaching voters. Our democracy is stronger when a candidate's success is achieved by ideas, and not by dollars. The benefits of free airtime are not only for candidates, however. By increasing the flow of political information, free airtime can better inform the public about candidates and invite viewers to become more engaged in their government by learning more about the individuals seeking to represent them.

We recognize that the bill will not be considered during the 107th Congress. We look forward, however, to hearing how we might improve the approach when we reintroduce it in the future.

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

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

S. 3124

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Political Campaign Broadcast Activity Improvements Act.''

**SEC. 2. MEDIA RATES.**

(a) LOWEST UNIT CHARGE; NATIONAL COMMITTEES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''to such office'' in paragraph (1) and inserting ''to such office, or by a national committee of a political party on behalf of such candidate in connection with such campaign,''; and

(2) by inserting ''(at any time during the 120-day period preceding the date of the use)'' in subparagraph (A) of paragraph (1) after ''charge''.

(b) PREEMPTION; AUDITS.—

(1) IN GENERAL.—Section 315 of such Act (47 U.S.C. 315) is amended—

(A) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively and moving them to follow the existing subsection (e);

(B) by redesignating the existing subsection (e) as subsection (c); and

(B) by inserting after subsection (c) the following:

''(d) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a license shall not preempt the use of a broadcasting station by an eligible candidate or political committee of a political party who has purchased and paid for such use.

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program may also be preempted.

''(e) AUDITS.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this section applies is allocating television broadcast advertising time in accordance with this section and section 312.''

(2) CONFORMING AMENDMENT.—Section 504 of the Bipartisan Campaign Reform Act of 2002 is amended by striking ''315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and'' and inserting ''315) is amended by''.

(c) STYLISTIC AMENDMENTS.—Section 315 of such Act (47 U.S.C. 315) is amended)—

(1) by striking ''For purposes of this section—'' in subsection (e), as redesignated by subsection (b)(1)(A) of this section, and inserting ''DEFINITIONS.—In this section:'';

(2) by striking ''the'' in paragraph (1) of that subsection and inserting ''BROADCASTING STATION.—The'';

(3) by striking ''the'' in paragraph (2) of that subsection and inserting ''LICENSEE; STATION LICENSEE.—The''; and

(4) by inserting ''REGULATIONS.—'' in subsection (f), as so redesignated, before ''The Commission''.

**SEC. 3. MINIMUM TIME REQUIREMENTS FOR CANDIDATE-CENTERED OR ISSUE-CENTERED BROADCASTS BY BROADCASTING STATIONS.**

(a) IN GENERAL.—

(1) PROGRAM CONTENT REQUIREMENTS.—In the administration of the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission may not determine that a broadcasting station has met its obligation to operate in the public interest unless the station demonstrates to the satisfaction of the Commission that—

(A) it broadcast at least 2 hours per week of candidate-centered programming or issue-centered programming during each of the 6 weeks preceding a Federal election, including at least 4 of the weeks immediately preceding a general election; and

(B) not less than 1 hour of such programming was broadcast in each of those weeks during the period beginning at 5:00 p.m. and ending at 11:35 p.m. in the time zone in which the primary broadcast audience for the station is located.

(2) NIGHTOWL BROADCASTS NOT COUNTED.—For purposes of paragraph (1) any such programming broadcast between midnight and 6:00 a.m. in the time zone in which the primary broadcast audience for the station is located shall not be taken into account.

(b) DEFINITIONS.—In this section:

(1) BROADCASTING STATION.—The term ''broadcasting station''—

(A) has the meaning given that term by section 315(e)(1) of the Communications Act of 1934.

(2) CANDIDATE-CENTERED PROGRAMMING.—The term ''candidate-centered programming''—

(A) includes debates, interviews, candidate statements, and other program formats that provide for a discussion of issues by the candidate; but

(B) does not include paid political advertisements.

(3) FEDERAL ELECTION.—The term ''Federal election'' has the meaning given that term in section 315A(g)(2) of the Communications Act of 1934.

(4) ISSUE-CENTERED PROGRAMMING.—The term ''issue-centered programming''—

(A) includes debates, interviews, statements, and other program formats that provide for a discussion of any ballot measure which appears on a ballot in a forthcoming election; but

(B) does not include paid political advertisements.

**SEC. 4. POLITICAL ADVERTISEMENTS VOUCHER PROGRAM.**

(a) IN GENERAL.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following:

**''SEC. 315A. POLITICAL ADVERTISEMENT VOUCHER PROGRAM.**

''(a) IN GENERAL.—The Commission shall establish and administer a voucher program for the purchase of airtime on broadcast stations for political advertisements in accordance with the provisions of this section.

''(b) CANDIDATES.—

''(1) DISBURSEMENT OF VOUCHERS.—Beginning no earlier than January of each even-numbered year after 2002, the Commission shall disburse vouchers at least once each month for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each individual certified by the Federal Election Commission under paragraph (2) as an eligible candidate.

''(2) FEC TO CERTIFY ELIGIBLE CANDIDATES.—The Commission may not disburse vouchers under paragraph (1) to an individual, until the Federal Election Commission has made the following certifications with respect to that individual:

''(A) QUALIFICATION.—The individual is a legally-qualified candidate in a Federal election.

''(B) AGREEMENT.—The individual has agreed in writing—

''(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

''(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the individual violated any term of the agreement.

''(C) HOUSE OF REPRESENTATIVES CANDIDATES.—For candidates for election to the House of Representatives, that—

''(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual;

''(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the House of Representatives in excess of, in the aggregate, $125,000; and

''(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

''(D) SENATE CANDIDATES.—For candidates for election to the Senate, that—

''(i) the individual has received at least $25,000 in contributions from individuals, not counting any amount in excess of $250 received from any individual, multiplied by the number of Representatives from the State in which the individual seeks election;

''(ii) the individual agrees not knowingly to make expenditures from the individual's personal funds, or the personal funds of the individual's immediate family, in connection with the campaign for election to the House of Representatives in excess of, in the aggregate, $500,000; and

''(iii) the individual faces opposition by at least 1 other candidate who has received contributions or made expenditures of, in the aggregate, at least $25,000 multiplied by the number of Representatives from the State in which the individual seeks election or who has been certified by the Federal Election Commission under this paragraph as eligible to receive vouchers under paragraph (1).

''(E) PRESIDENTIAL CANDIDATES.—For candidates for nomination for election, or election, to the Office of President—

''(i) the term 'Federal election' includes a primary election (as defined in section 9032(7) of the Internal Revenue Code of 1986 (26 U.S.C. 9032(7))); and

''(ii) in order to be eligible to receive vouchers under this section, the candidate shall execute the agreement described in subparagraph (B).

''(3) CERTIFICATION PROCESS.—In carrying out its duties under paragraph (2), the Federal Election Commission shall—

''(A) provide the requested certification, if the individual meets the requirements for certification, within 7 days after it receives the information necessary therefor; and

''(B) shall comply with the requirements of chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) and take other appropriate steps to minimize the paperwork burden on candidates seeking certification under this subsection.

''(c) POLITICAL PARTIES.—

''(1) DISBURSEMENT OF VOUCHERS.—In January, 2004, and January of each even-numbered year thereafter, the Commission shall disburse vouchers for the purchase of radio or television broadcast airtime for political advertisements on broadcasting stations to each political party committee certified by the Federal Election Commission under paragraph (2) as an eligible committee.

''(2) FEC TO CERTIFY ELIGIBLE COMMITTEES.—The Commission may not disburse vouchers under paragraph (1) to a political party committee, until the Federal Election Commission has made the following certifications with respect to that committee:

''(A) NATIONAL PARTY COMMITTEES.—The committee is the national committee of a political party or the national congressional campaign committee of a political party (as those terms are used in section 323(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i(a)(1))).

''(B) MINOR PARTY COMMITTEES.—In the case of a political party committee that is not described in subparagraph (A), the committee meets the candidate base requirement of subparagraph (C).

''(C) CANDIDATE BASE.—The committee has candidates—

''(i) for election to the House of Representatives who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in at least 22 districts; or

''(ii) for election to the Senate in at least 5 States who have been certified by the Federal Election Commission under subsection (b)(2) as eligible candidates.

''(D) AGREEMENT.—The committee agrees in writing—

''(i) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

''(ii) to repay to the Federal Communications Commission an amount equal to 150 percent of the dollar value of vouchers received from the Commission if the Federal Election Commission makes a final determination that the committee violated any term of the agreement.

''(d) AMOUNTS.—

''(1) CALENDAR YEAR 2004 AGGREGATES.—For calendar year 2004, the Commission shall disburse vouchers in the aggregate amount of not more than $750,000,000, of which—

''(A) not more than $650,000,000 shall be available for disbursement to candidates under subsection (b); and

''(B) not more than $100,000,000 shall be available for disbursement to political parties under subsection (c).

''(2) PER-CANDIDATE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Commission shall disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election equal, in the aggregate, to $3 multiplied by the contributions received by that individual with respect to that election, not counting any amount in excess of $250 received from any individual.

''(B) MAXIMUM.—Except as provided in subparagraph (C), the Commission may not disburse vouchers to an individual candidate under subsection (b)(1) with respect to a Federal election of more than—

''(i) $375,000, for a candidate for election to the House of Representatives; or

''(ii) $375,000 multiplied by the number of Representatives from the State from which the individual seeks election, for a candidate for election to the Senate.

''(C) SPECIAL RULE FOR PRESIDENTIAL CANDIDATES.—The Commission shall disburse vouchers to a candidate for nomination for election, or election, to the Office of President who receives payments under section 9037 or 9006 of the Internal Revenue Code of 1986 (26 U.S.C. 9037 or 9006), respectively, equal to—

''(i) $1 for each dollar received under section 9037 of such Code; and

''(ii) 50 cents for each dollar received under section 9006 of such Code.

''(3) PER-COMMITTEE AMOUNT.—

''(A) IN GENERAL.—The $100,000,000 available to be disbursed to political parties shall disbursed as follows:

''(i) The Commission shall reserve a percentage, determined by the Commission, of the amount available for disbursement as provided in subparagraph (B) to political party committees described in subsection (C)(2)(B) that have been or will be certified by the Federal Election Commission as eligible political party committees.

''(ii) The Commission shall disburse the remainder of the amount available for disbursement in equal amounts among political party committees described in subsection (c)(2)(A) that have been or will be certified by the Federal Election Commission as eligible political party committees.

''(B) MINOR PARTY COMMITTEE AMOUNT.—From the amount reserved under subparagraph (A)(i), the Commission shall disburse to political party committees described in subsection (C)(2)(B) certified by the Federal Election Commission as eligible political party committees—

''(i) the same amount as the Commission disburses to each political party committee under subparagraph (A)(ii) if the political party with which the political committee is affiliated has—

''(I) candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 218 or more districts; or

''(II) candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates in 17 or more of the States in which elections for United States Senator are being held; and

''(ii) a percentage of such amount, determined under subparagraph (C), if the political party with which the political committee is affiliated does not qualify for the full amount under clause (i).

''(C) PROPORTIONATE AMOUNT DETERMINATION.—The amount the Commission may disburse to a political party committee described in subparagraph (B)(ii) is a percentage of the amount disbursed to a political

party committee under subparagraph (A)(2) equal to the greater of the following percentages:

(i) A percentage—

''(I) the numerator of which is the number of districts in which the party has candidates for election to the House of Representatives certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

''(II) the denominator of which is 435.

(ii) A percentage—

''(I) the numerator of which is the number of States in which the party has candidates for election to the Senate certified by the Federal Election Commission under subsection (b)(2) as eligible candidates; and

''(II) the denominator of which is 33 (or 34 in any year in which there are 34 Senators for election).

''(e) INFLATION ADJUSTMENT.—Each dollar amount in this section shall be adjusted for even-numbered years after 2002 in the same manner as the limitations in section 315(b) and (d) of the Federal Election Campaign Act of 1971 are adjusted under section 301(c) of that Act, except that, for the purpose of applying section 301(c)—

''(1) '(commencing in 2004)' shall be substituted for '(commencing in 1976)' in paragraph (1) of that section; and

''(2) '2002' shall be substituted for '1974' in paragraph (2)(B) of that section.

''(f) USE.—

''(1) EXCLUSIVE USE.—Vouchers disbursed by the Commission under this section may be used exclusively for the purpose described in subsection (b) by the candidate or political party committee to which the vouchers were disbursed, except that—

''(A) a candidate may exchange vouchers with a political party under paragraph (2); and

''(B) a political party may use vouchers to purchase broadcast airtime for political advertisements for its candidates in a general election for any Federal, State, or local office.

''(2) EXCHANGE WITH POLITICAL PARTY COMMITTEE.—

''(A) IN GENERAL.—A individual who receives a voucher under this section may transfer the right to use all or a portion of the value of the voucher to a committee, described in subsection (c)(2)(A), of the political party of which the individual is a candidate in exchange for money in an amount equal to the cash value of the voucher or portion exchanged.

''(B) CONTINUATION OF CANDIDATE OBLIGATIONS.—The transfer of a voucher, in whole or in part, to a political party committee under this paragraph does not release the candidate from any obligation under the agreement made under the agreement made under subsection (b)(2) or otherwise modify that agreement or its application to that candidate.

''(C) PARTY COMMITTEE OBLIGATIONS.—Any political party committee to which a voucher or portion thereof is transferred under subparagraph (A)—

''(i) shall account fully, in accordance with such requirements as the Commission may establish, for the receipt of the voucher; and

''(ii) may not use the transferred voucher or portion thereof for any purpose other than a purpose described in paragraph (1)(B).

''(D) VOUCHER AS A CONTRIBUTION UNDER FECA.—If a candidate transfers a voucher or any portion thereof to a political party committee under subparagraph (A)—

''(i) the value of the voucher or portion thereof transferred shall be treated as a contribution from the candidate to the committee for purposes of sections 302 and 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432 and 434);

''(ii) the committee may, in exchange, provide to the candidate only funds subject to the prohibitions, limitations, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.);

''(iii) the money received in exchange by the candidate shall be treated as a contribution from the committee to the candidate for purposes of those sections; and

''(iv) the amount, if identified as a 'voucher exchange' shall not be considered a contribution for the purposes of section 315 of that Act (2 U.S.C. 441a).

''(g) VALUE; ACCEPTANCE; REDEMPTION.—

''(1) VOUCHER.—Each voucher disbursed by the Commission under this section shall have a value in dollars, redeemable upon presentation to the Commission, together with such documentation and other information as the Commission may require, for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(2) ACCEPTANCE.—A broadcasting station shall accept vouchers in payment for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(3) REDEMPTION.—The Commission shall redeem vouchers accepted by broadcasting stations under paragraph (2) upon presentation, subject to such documentation, verification, accounting, and application requirements as the Commission may impose to ensure the accuracy and integrity of the voucher redemption system. The Commission shall use amounts in the Political Advertising Voucher Account established under subsection (h) to redeem vouchers presented under this subsection.

''(4) EXPIRATION.—

''(A) CANDIDATES.—A voucher may only be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on the day before the date of the Federal election in connection with which it was issued and shall be null and void for any other use or purpose.

''(B) EXEPTION FOR POLITICAL PARTY COMMITTEES.—A voucher held by a political party committee may be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on December 31st of the odd-numbered year following the year in which the voucher was issued by the Commission.

''(5) VOUCHER AS EXPENDITURE UNDER FECA.—

''(A) CONGRESSIONAL CAMPAIGNS.—Except as provided in subparagraph (B), for purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), the use of a voucher to purchase broadcast airtime constitutes an expenditure as defined in section 301(9)(A) of that Act (2 U.S.C. 431(9)(A)).

''(B) PRESIDENTIAL CAMPAIGNS.—Notwithstanding any provision of the Federal Election Campaign Act of 1971 or chapter 95 or 96 of the Internal Revenue Code of 1986 to the contrary, the use of a voucher by a candidate for nomination for election, or election, to the Office of President does not constitute an expenditure for purposes of that Act or chapter.

''(h) POLITICAL ADVERTISING VOUCHER ACCOUNT.—

''(1) IN GENERAL.—The Commission shall establish an account to be known as the Political Advertising Voucher Account, which shall be credited with commercial television spectrum use fees assessed under this subsection, together with any amounts repaid or otherwise reimbursed under this section.

''(2) SPECTRUM USE FEE.—

''(A) IN GENERAL.—The Commission shall assess, and collect annually, a spectrum use fee based on a percentage of a broadcasting station's gross revenues in an amount necessary to carry out the provisions of this section.

''(B) LIMITATIONS.—The percentage under subparagraph (A) may not be—

''(i) greater than 1 percent; nor

''(ii) less than .05 percent.

''(C) AVAILABILITY.—Any amount assessed and collected under this paragraph shall be retained by the Commission as an offsetting collection for the purposes of making disbursements under this section, except that—

''(i) the salaries and expenses account of the Commission shall be credited with such sums as are necessary from those amounts for the costs of developing and implementing the program established by this section; and

''(ii) the Commission may reimburse the Federal Election Commission for any expenses incurred by the Commission under this section.

''(D) FEE DOES NOT APPLY TO PUBLIC BROADCASTING STATIONS.—Subparagraph (A) does not apply to a public telecommunications entity (as defined in section 397(12) of this Act).

''(3) ADMINISTRATIVE PROVISIONS.—Except as otherwise provided in this subsection, section 9 applies to the assessment and collection of fees under this subsection to the same extent as if those fees were regulatory fees imposed under section 9.

''(i) DEFINITIONS.—In this section:

''(1) BROADCASTING STATION.—The term 'broadcasting station' has the meaning given that term by section 315(e)(1).

''(2) FEDERAL ELECTION.—The term 'Federal election' means any regularly-scheduled, primary, runoff, or special election held to nominate or elect a candidate to Federal office.

''(3) FEDERAL OFFICE.—The term 'Federal office' has the meaning given that term by section 101(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

''(4) LEGALLY-QUALIFIED CANDIDATE.—The term 'legally-qualified candidate' means a legally qualified candidate within the meaning of section 315.

''(5) POLITICAL PARTY.—The term 'political party' means a major party or a minor party as defined in section 9002(3) or (4) of the Internal Revenue Code of 1986 (26 U.S.C. 9002(3) or (4)).

''(6) OTHER TERMS.—Except as otherwise provided in this section, any term used in this section that is defined in section 301 of the Federal Election Campaign of 1971 (2 U.S.C. 431) has the meaning given that term by section 301 of that Act.

''(j) REGULATIONS.—The Commission shall prescribe such regulations as may be necessary to carry out the provisions of this section. In developing the regulations, the Commission shall consult with the Federal Elections Commission.''.

(b) DELAYED EFFECTIVE DATE FOR PRESIDENTIAL CANDIDATES.—The provisions of subsections (b)(2)(E) and (d)(2)(C) of section 315A of the Commissions Act of 1934, as added by subsection (a), shall take effect on January 1, 2008.

Mr. FEINGOLD. Mr. President, I am pleased to join with the Senator from Arizona, Senator MCCAIN, in introducing legislation that we believe will significantly improve media coverage of elections and reduce the negative impact that skyrocketing TV advertising costs have on Federal campaigns. And I am very glad that the Senator from Illinois, Senator DURBIN, has joined us as an original cosponsor of this bill.

Although broadcast advertising is one of the most effective forms of communication in our democracy, it also diminishes the quality of our electoral process in two ways. First, broadcasters often fail to provide adequate coverage to the issues in elections, focusing instead on the horse race, if they cover elections at all. Second, the extraordinarily high cost of advertising time fuels the insatiable need for candidates to spend more and more time fundraising instead of talking with voters. These two problems interact to undermine the great promise that television has for promoting democratic discourse in our country.

It need not be this way. The public owns the airwaves and licenses them to broadcasters. Broadcasters pay nothing for their use of this scarce and very valuable public resource. Their only ''payment'' is a promise to meet public interest standards, a promise that often goes unfulfilled. A recent study by the Committee for the Study of the American Electorate found that only 18

percent of gubernatorial, senatorial and congressional debates held in 2000 were televised by network TV and an additional 18 percent were covered by PBS or small independent TV stations. More than 63 percent were not televised at all. This is shocking in a democracy that depends on information and open debate.

The bill we introduce today addresses these problems by requiring broadcast stations to devote a reasonable amount of air time to election programming. It would also direct the FCC to create a voucher system in which candidates and parties would receive vouchers they could use for paid radio or TV advertising time financed by a broadcast spectrum usage fee. Candidates would qualify for vouchers based on a ratio matched to the amount of small dollar donations they raise.

Our proposal would allow candidates to leverage their grassroots fundraising and would provide greater campaign resources to candidates without requiring them to become more beholden to special interests. The proposal would also make air time available to political parties, which could be directed to underfunded candidates and challengers who have a harder and harder time getting their message out under the current system as the costs of advertising continue to rise.

Senator MCCAIN and I remain devoted to improving the way our electoral process functions and reducing the impact of big money on our democracy. This new bill will advance that cause in a very significant and necessary way. We recognize, of course, that little will happen on this bill before the end of this session of Congress. We are introducing it now so that the public and our colleagues can review it and make suggestions on how to improve it. We hope to make significant progress on this legislation next year and look forward to working with our colleagues, as we did on campaign finance reform to make this bill even better and then enact it into law.

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By Mr. BROWNBACK (for himself, Mr. NELSON of Florida, Mr. LIEBERMAN, Mr. MURKOWSKI, Mr. SESSIONS, and Mr. MILLER):

S. 3125. A bill to designate ''God Bless America'' as the national song of the United States; to the Committee on the Judiciary.

Mr. BROWNBACK. Mr. President, I rise today to introduce legislation, with Senators NELSON, LIEBERMAN, MURKOWSKI, SESSIONS and MILLER, to honor one of our Nation's most stirring songs, ''God Bless America.''

This patriotic masterpiece was written by Irving Berlin, a man whose background as an immigrant to our shores gave him a keen understanding and appreciation of our nation and how important its existence was. The United States has long been a symbol to peoples across the world, of opportunity, freedom, and the rule of law, but at the time of ''God Bless America,'' the US's importance was even more plain. This is because the song was originally written in 1918 during the height of the First World War, and then released for the first time in 1938 as the clouds of war again gathered over Europe.

When Berlin first wrote ''God Bless America'' in 1918, he intended it to be a solemn paean to his adopted nation as he looked across the ocean to a wartorn Europe. Unfortunately, its somber and serious tone made it incompatible with the musical revue he was working on at the time. When the drums of war again sounded on distant shores, Berlin realized his song had a purpose, and knew it was time to offer it to an anxious country. After revising the lyrics to reflect the difference twenty years and one Great War make, he introduced the song on Armistice Day 1938, a simple song of peace, yet one that reminded both Americans and people of all nations that our Nation was a great one.

This song accomplished exactly the author's intent—it so eloquently expressed his love for our country that it has provided for all of us a means to express our own love and feelings. It is why we have sung it so many times over the past year since those terrible events of September 11, and why we will continue to sing it for the years to come. It captures the feelings every citizen shares, of love, of pride, of patriotism, of sacrifice, and of freedom.

An instant sensation since its release, the power of this song to uplift and comfort us particularly in the dark days of this past year, reminds all of us of the strength of words to inspire. For that reason, the time has come to give this song its long overdue recognition. That is why today I propose legislation to designate ''God Bless America'' as our national ''song.''

This is not to replace our rousing national anthem, which is an unforgettable salute to our hard-fought and triumphant birth as a Nation, but to offer recognition to ''God Bless America.'' For ''God Bless America'' is truly the perfect tribute for a Nation rising from the ashes of September 11 to reclaim our firm and unwavering belief in the goodness of man and the universal rights of liberty.

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

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

S. 3125

**SECTION 1. NATIONAL SONG.**

(a) IN GENERAL.—The composition consisting of the words and music known as ''God Bless America'' is designated as the national song of the United States.

(b) RULE OF CONSTRUCTION.—The designation of a national song shall not be construed as affecting the national anthem.

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GOD BLESS AMERICA

WORDS AND LYRICS BY IRVING BERLIN—COPYRIGHT 1939

While the storm clouds gather far across the sea,
Let us swear allegiance to a land that's free,
Let us all be grateful for a land so fair,
As we raise our voices in a solemn prayer:
God Bless America.
Land that I love
Stand beside her, and guide her
Thru the night with a light from above,
From the mountains, to the prairies,
To the oceans, white with foam,
God bless America,
My home sweet home.
God Bless America,
Land that I love,
Stand beside her,
And guide her,
Through the night,
With the light from above.
From the mountains,
To the prairies,
To the ocean,
White with foam,
God bless America,
My home sweet home.
God bless America,
My home sweet home.

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By Mr. KERRY (for himself, Mr. SANTORUM, and Mr. SARBANES):

S. 3126. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes, to the Committee on Finance.

Mr. KERRY. Mr. President, owning your own home is the foundation of the American dream. It encourages personal responsibility, provides economic security and gives families a greater stake in the development of their communities. Families who own their home are more civic-minded and more willing to help develop the communities where they live. Communities where homeownership rates are highest have lower crime rates, better schools and provide a better quality of life for families to raise their children. However, too many working families and minorities have not been able to share in the dream of homeownership due to the cost or lack of available housing.

That is why I am introducing the Community Development Tax Credit Act, along with Senators RICK SANTORUM and PAUL SARBANES, which will create a new homeownership tax credit program, based on the Low Income Housing Tax Credit program, to encourage the construction and substantial rehabilitation of homes for low and moderate-income families in economically distressed areas. I believe this legislation will increase the supply of affordable homes for sale in innercities, rural areas and low and moderate-income neighborhoods across the United States. The tax credit will bridge the gap that exists between the cost of developing affordable housing and the price at which these homes can be sold in many low-income neighborhoods by providing investors with a tax credit of up to 50 percent of the cost of home construction or rehabilitation.

Over the past decade, we have made substantial progress in increasing the homeownership rate in the United States. In 2000, the U.S. homeownership rate reached a record high of 67.1

percent with some 71 million U.S. Households owning their own home. However, too many working families in low- and moderate-income neighborhoods and minorities across our Nation have not been able to share in this piece of the American Dream due to the high cost or lack of available housing.

According to Census data for the second quarter of 2002, non-Hispanic whites have a 74.3 percent homeownership rate while minority groups have just a 53.7 percent homeownership rate. African-Americans have only a 48 percent homeownership rate and Hispanics have a mere 47.6 percent homeownership rate in the same study. These numbers are unacceptable.

Many middle-income working families increasingly struggle to either find or afford a median-priced home in our Nation's cities. Over the past two generations, many families have moved out of cities and into the suburbs, which has had a negative effect on the development of housing in the inner-city. In 1999, the homeownership rate in the central-city areas was 50.4 percent, this is 23.2 percent lower than the suburban homeownership rate of 73.6 percent. Today, developers are unlikely to invest in any new housing development in inner-cities and rural areas that may not be sold for the cost of construction. This is especially true in low-income areas. There is a lack of affordable single-family housing in areas where a majority of residents are minority families. Properties will sit vacant and neighborhoods will remain undeveloped unless the gap between development costs and market prices can be filled.

Working families in this country are increasingly finding themselves unable to afford housing. A person trying to live in Boston would have to make more than $35,000, annually, just to rent a two-bedroom apartment. This means teachers, janitors, social workers, police officers and other full-time workers are having trouble affording even a modest two-bedroom apartment when they should have a chance to buy a home.

The story of Benjamin and Rita Okafor show how working families in Massachusetts have great difficulty obtaining a decent home of their own. For many years, the Okafor's and their two young children were forced to live in a one-bedroom apartment. Benjamin Okafor, who worked full time as a cab driver in Boston, spent days and months looking for a bigger apartment for his family. However, the lack of affordable housing in the Boston area made it impossible for him to find appropriate housing for his family. When his wife Rita became pregnant with their third child, the Okafor's knew something had to change in their living situation. Luckily, Ben was accepted into the Habitat for Humanity program and worked for 300 sweat equity hours constructing a house. In August 2000, the Okafor family moved into a new home of their own in Dorchester. Ben says that this new home gives them the hope and stability they need. There are still too many working families living in substandard housing and many more families that desperately need assistance from Habitat for Humanity or from the Federal government to become a homeowner.

Today, our Nation is facing an affordable rental housing crisis. Thousands of low-income families with children, the disabled, and the elderly are finding it difficult to obtain or afford privately owned affordable rental housing units. Recent changes in the housing market have limited the availability of affordable housing across the country, while the growth in our economy in the last decade has dramatically increased the cost of the housing that remains. Moving thousands of working families from apartments to homes each year will help ease our rental housing crisis and help many families now living in substandard housing increase their quality of life.

By facing the mounting challenge of affordable housing we can dramatically assist in the economic development low- and moderate-income communities across our country. The production of new homes will create millions of jobs in the inner city and rural areas where unemployment has been for too long fact of life. The production of housing has always been considered a driver of economic growth in our economy. New housing production can turn many low income communities around and help end the spiral of unemployment and crime which plague too many of our inner cities today.

For these reasons, we need a new tax incentive for developers to build affordable homes in distressed areas to allow working families to buy their first home at a reasonable rate.

The Community Development Tax Credit Act, which I am introducing today, bridges the gap between development costs and market value to enable the development of new or refurbished homes in these areas to blossom. The tax credit would be available to developers or investors that build or substantially rehabilitate homes for sale to low- or moderate-income buyers in low-income areas. The credit would generate equity investment sufficient to cover the gap between the cost of development and the price at which the home can be sold to an eligible buyer

The tax credit volume would be limited to $1.75 per capita for each State and allocated by the States themselves. Credits would be claimed over five years, starting when homes are sold. This legislation will result in approximately 50,000 homes built or refurbished annually, assuming about $40,000 per home.

The maximum tax credit equals 50 percent of the cost of construction, substantial rehabilitation, and building acquisition. The eligible cost may not exceed the Federal Housing Administration single-family mortgage limits. The minimum rehabilitation cost is $25,000. Eligible building acquisition costs are limited to one-half of rehabilitation costs. States will allocate only the level of tax credits necessary for financial feasibility. Ten percent of the available credit will be set aside for nonprofit organizations.

The eligible areas for the tax credit are defined as Census Tracts with median income below 80 percent of the area or state median. Rural areas that are currently eligible for USDA housing programs will be eligible for the tax credit. Indian tribal lands will be eligible for the tax credit. State-identified areas of chronic economic distress will be eligible for the tax credit, subject to disapproval by the Department of Housing and Urban Development

Those eligible to buy homes built or refurbished using the tax credit include: individuals with incomes up to 80 percent of the area or state median and up to 100 percent of area median income in low-income/high-poverty Census Tracts.

Individual states will write plans for allocating the tax credits using the following selection criteria: contribution of the development to community stability and revitalization; community and local government support; need for homeownership development in the area; sponsor capability; and the long-term sustainability of the project as owner-occupied residences. Individual developers along with investors then can apply to the State to be awarded a tax credit for developing a property in a low- or moderate-income area. If chosen by the State, investors can start to claim the tax credits as the homes are sold to eligible buyers. They can continue to claim the tax credit over five years. Investors are not subject to recapture. If the home owner sold the residence within five years, a scale would determine the percentage of the gain would be recaptured by the Federal Government. In the first two years, 100 percent of the gain and 80, 70 and 60 percent in the third, fourth, and fifth years, respectively would be recaptured.

This legislation is supported by the U.S. Conference of Mayors, Fannie Mae, Freddie Mac, the Enterprise Foundation, Local Initiatives Support Coalition, Mortgage Bankers Association of America, National Association of Home Builders, National Low Income Housing Coalition, National Association of Local Housing Finance Agencies, National Association of Realtors, National Council of La Raza, National Hispanic Housing Conference, Habitat for Humanity International and others.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 342—COMMEMORATING THE LIFE AND WORK OF STEPHEN E. AMBROSE

Ms. LANDRIEU (for herself, Mr. STEVENS, Mr. BREAUX, Mr. KOHL, Mr. LOTT,

Mr. FEINGOLD, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 342

Whereas Stephen E. Ambrose dedicated his life to telling the story of America;

Whereas Stephen Ambrose's 36 books form a body of work that has educated and inspired the people of this Nation;

Whereas President Bill Clinton awarded Stephen Ambrose the National Humanities Medal for his contribution to American historical understanding;

Whereas Stephen Ambrose made history accessible to all people and had an unprecedented 3 works on the New York Times Bestsellers list simultaneously;

Whereas Stephen Ambrose served as Honorary Chairman of the National Council of the Lewis and Clark Bicentennial and lent his name, time, and resources to innumerable other philanthropic endeavors;

Whereas Stephen Ambrose committed himself to understanding the personal histories of the men and women often referred to as the ''greatest generation'';

Whereas Stephen Ambrose's groundbreaking work on the history of World War II and the D-day invasion culminated in the National D-Day Museum in New Orleans; and

Whereas all Americans appreciate the contribution Stephen Ambrose has made in recapturing the courage, sacrifice, and heroism of the D-day invasion on June 6, 1944: Now, therefore, be it

*Resolved*, That the Senate—

(1) mourns the death of Stephen E. Ambrose;

(2) expresses its condolences to Stephen Ambrose's wife and 5 children;

(3) salutes the excellence of Stephen Ambrose at capturing the greatness of the American spirit in words; and

(4) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Stephen Ambrose.

## SENATE RESOLUTION 343—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN NEWDOW V. EAGEN, ET AL.

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 343

Whereas, Secretary Jeri Thomson and Financial Clerk Timothy Wineman have been named as defendants in the case of *Newdow* v. *Eagen, et al.*, Case No. 1:02CV01704, now pending in the United States District Court for the District of Columbia; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers and employees of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Secretary Thomson and Mr. Wineman in the case of *Newdow* v. *Eagen, et al.*

## SENATE RESOLUTION 344—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN MANSHARDT V. FEDERAL JUDICIAL QUALIFICATIONS COMMITTEE, ET AL.

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 344

Whereas, Senators Dianne Feinstein and Barbara Boxer have been named as defendants in the case of *Manshardt* v. *Federal Judicial Qualifications Committee, et al.*, Case No. 02–4484 AHM, now pending in the United States District Court for the Central District of California; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Senators Diane Feinstein and Barbara Boxer in the case of *Manshardt* v. *Federal Judicial Qualifications Committee, et al.*

## AMENDMENTS SUBMITTED & PROPOSED

SA 4886. Mr. CONRAD (for himself, Mr. DOMENICI, Mr. FEINGOLD, and Mr. GREGG) proposed an amendment to the bill S. Res. 304, encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

SA 4887. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4888. Mr. REID (for Mr. KOHL) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2621, to amend title 18, United States Code, with respect to consumer product protection.

SA 4889. Mr. REID (for Mr. KOHL) proposed an amendment to the bill S. 1233, to provide penalties for certain unauthorized writing with respect to consumer products.

SA 4890. Mr. REID (for Mr. WYDEN (for himself and Mr. ALLEN)) proposed an amendment to the bill S. 2182, to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes.

## TEXT OF AMENDMENTS

**SA 4886.** Mr. CONRAD (for himself, Mr. DOMENICI, Mr. FEINGOLD, and Mr. GREGG) proposed an amendment to the bill S. Res. 304, encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002; as follows:

Strike all after the resolved clause and insert the following:

That the Senate encourages the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002.

**SEC. ___. BUDGET ENFORCEMENT.**

(a) EXTENSION OF SUPERMAJORITY ENFORCEMENT.—

(1) IN GENERAL.—Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through September 30, 2003.

(2) EXCEPTION.—Paragraph (1) shall not apply to the enforcement of section 302(f)(2)(B) of the Congressional Budget Act of 1974.

(b) PAY-AS-YOU-GO RULE IN THE SENATE.—

(1) IN GENERAL.—For purposes of Senate enforcement, section 207 of H. Con. Res. 68 (106th Congress, 1st Session) shall be construed as follows:

(A) In subsection (b)(6), by inserting after ''paragraph (5)(A)'' the following: '', except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available''.

(B) In subsection (g), by striking ''2002'' and inserting ''2003''.

(2) SCORECARD.—For purposes of enforcing section 207 of House Concurrent Resolution 68 (106th Congress), upon the adoption of this section the Chairman of the Committee on the Budget of the Senate shall adjust balances of direct spending and receipts for all fiscal years to zero.

(3) APPLICATION TO APPROPRIATIONS.—For the purposes of enforcing this resolution, notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, during the consideration of any appropriations Act, provisions of an amendment (other than an amendment reported by the Committee on Appropriations including routine and ongoing direct spending or receipts), a motion, or a conference report thereon (only to the extent that such provision was not committed to conference), that would have been estimated as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002) were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 207 of H. Con. Res. 68 (106th Congress, 1st Session) as amended by this resolution.

**SA 4887.** Mr. SMITH of New Hampshire submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place, relating to the responsibilities of the Directorate of Emergency Preparedness and Response, the following:

( ) Developing plans for ensuring the ability to expeditiously move people and goods to and from densely populated areas and critical infrastructure in the United States in the event of an actual or threatened terrorist attack.

**SA 4888.** Mr. REID (for Mr. KOHL) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2621, to amend title 18, United States Code, with respect to consumer product protection; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Product Packaging Protection Act of 2002''.

**SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.**

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

''(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product

that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

''(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

''(3) In this subsection, the term 'writing' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.''.

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**SA 4889.** Mr. REID (for Mr. KOHL) proposed an amendment to the bill S. 1233, to provide penalties for certain unauthorized writing with respect to consumer products; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Product Packaging Protection Act of 2002''.

**SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.**

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

''(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

''(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

''(3) In this subsection, the term 'writing' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.''.

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**SA 4890.** Mr. REID (for Mr. WYDEN (for himself and Mr. ALLEN)) proposed an amendment to the bill S. 2182, to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes; as follows:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Cyber Security Research and Development Act''.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) Revolutionary advancements in computing and communications technology have interconnected government, commercial, scientific, and educational infrastructures—including critical infrastructures for electric power, natural gas and petroleum production and distribution, telecommunications, transportation, water supply, banking and finance, and emergency and government services—in a vast, interdependent physical and electronic network.

(2) Exponential increases in interconnectivity have facilitated enhanced communications, economic growth, and the delivery of services critical to the public welfare, but have also increased the consequences of temporary or prolonged failure.

(3) A Department of Defense Joint Task Force concluded after a 1997 United States information warfare exercise that the results ''clearly demonstrated our lack of preparation for a coordinated cyber and physical attack on our critical military and civilian infrastructure''.

(4) Computer security technology and systems implementation lack—

(A) sufficient long term research funding;

(B) adequate coordination across Federal and State government agencies and among government, academia, and industry; and

(C) sufficient numbers of outstanding researchers in the field.

(5) Accordingly, Federal investment in computer and network security research and development must be significantly increased to—

(A) improve vulnerability assessment and technological and systems solutions;

(B) expand and improve the pool of information security professionals, including researchers, in the United States workforce; and

(C) better coordinate information sharing and collaboration among industry, government, and academic research projects.

(6) While African-Americans, Hispanics, and Native Americans constitute 25 percent of the total United States workforce and 30 percent of the college-age population, members of these minorities comprise less than 7 percent of the United States computer and information science workforce.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

**SEC. 4. NATIONAL SCIENCE FOUNDATION RESEARCH.**

(a) COMPUTER AND NETWORK SECURITY RESEARCH GRANTS.—

(1) IN GENERAL.—The Director shall award grants for basic research on innovative approaches to the structure of computer and network hardware and software that are aimed at enhancing computer security. Research areas may include—

(A) authentication, cryptography, and other secure data communications technology;

(B) computer forensics and intrusion detection;

(C) reliability of computer and network applications, middleware, operating systems, control systems, and communications infrastructure;

(D) privacy and confidentiality;

(E) network security architecture, including tools for security administration and analysis;

(F) emerging threats;

(G) vulnerability assessments and techniques for quantifying risk;

(H) remote access and wireless security; and

(I) enhancement of law enforcement ability to detect, investigate, and prosecute cybercrimes, including those that involve piracy of intellectual property.

(2) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $35,000,000 for fiscal year 2003;

(B) $40,000,000 for fiscal year 2004;

(C) $46,000,000 for fiscal year 2005;

(D) $52,000,000 for fiscal year 2006; and

(E) $60,000,000 for fiscal year 2007.

(b) COMPUTER AND NETWORK SECURITY RESEARCH CENTERS.—

(1) IN GENERAL.—The Director shall award multiyear grants, subject to the availability of appropriations, to institutions of higher education, nonprofit research institutions, or consortia thereof to establish multidisciplinary Centers for Computer and Network Security Research. Institutions of higher education, nonprofit research institutions, or consortia thereof receiving such grants may partner with 1 or more government laboratories or for-profit institutions, or other institutions of higher education or nonprofit research institutions.

(2) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) PURPOSE.—The purpose of the Centers shall be to generate innovative approaches to computer and network security by conducting cutting-edge, multidisciplinary research in computer and network security, including the research areas described in subsection (a)(1).

(4) APPLICATIONS.—An institution of higher education, nonprofit research institution, or consortia thereof seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center and the contributions of each of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as computer scientists, engineers, mathematicians, and social science researchers;

(C) how the Center will contribute to increasing the number and quality of computer and network security researchers and other professionals, including individuals from groups historically underrepresented in these fields; and

(D) how the center will disseminate research results quickly and widely to improve cyber security in information technology networks, products, and services.

(5) CRITERIA.—In evaluating the applications submitted under paragraph (4), the Director shall consider, at a minimum—

(A) the ability of the applicant to generate innovative approaches to computer and network security and effectively carry out the research program;

(B) the experience of the applicant in conducting research on computer and network security and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract and provide adequate support for a diverse group of undergraduate and graduate students group of undergraduate and graduate students and postdoctoral fellows to pursue computer and network security research; and

(D) the extent to which the applicant will partner with government laboratories, for-profit entities, other institutions of higher education, or nonprofit research institutions, and the role the partners will play in the research undertaken by the Center.

(6) ANNUAL MEETING.—The Director shall convene an annual meeting of the Centers in order to foster collaboration and communication between Center participants.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the National Science Foundation to carry out this subsection—

(A) $12,000,000 for fiscal year 2003;
(B) $24,000,000 for fiscal year 2004;
(C) $36,000,000 for fiscal year 2005;
(D) $26,000,000 for fiscal year 2006; and
(E) $36,000,000 for fiscal year 2007.

**SEC. 5. NATIONAL SCIENCE FOUNDATION COMPUTER AND NETWORK SECURITY PROGRAMS**

(a) COMPUTER AND NETWORK SECURITY CAPACITY BUILDING GRANTS.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education (or consortia thereof) to establish, or improve undergraduate and master's degree programs in computer and net work security, to increase the number of students, including the number of students from groups historically underrepresented in these fields, who pursue undergraduate or master's degrees in fields related to computer and network security, and to provide students with experience in government or industry related to their computer and network security studies.

(2) MERIT REVIEW.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) USE OF FUNDS.—Grants awarded under this subsection shall be used for activities that enhance the ability of an institution of higher education (or consortium thereof) to provide high-quality undergraduate and master's degree programs in computer and network security and to recruit and retain increased numbers of students to such programs. Activities may include—

(A) revising curriculum to better prepare undergraduate and master's degree students for careers in computer and network security;

(B) establishing degree and certificate programs in computer and network security;

(C) creating opportunities for undergraduate students to participate in computer and network security research projects;

(D) acquiring equipment necessary for student instruction in computer and network security, including the installation of testbed networks for student use;

(E) providing opportunities for faculty to work with local or Federal Government agencies, private industry, nonprofit research institutions, or other academic institutions to develop new expertise or to formulate new research directions in computer and network security;

(F) establishing collaborations with other academic institutions and academic departments that seek to establish, expand, or enhance programs in computer and network security;

(G) establishing student internships in computer and network security at government agencies or in private industry;

(H) establishing collaborations with other academic institutions to establish or enhance a web-based collection of computer and network security courseware and laboratory exercises for sharing with other institutions of higher education, including community colleges;

(I) establishing or enhancing bridge programs in computer and network security between community colleges and universities; and

(K) any other activities the Director determines will accomplish the goals of this subsection.

(4) SELECTION PROCESS.—

(A) APPLICATION.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(i) a description of the applicant's computer and network security research and infrastitutional capacity, and in the case of an application from a consortium of institutions of higher education, a description of the role that each member will play in implementing the proposal;

(ii) a comprehensive plan by which the institution or consortium will build instructional capacity in computer and information security;

(iii) a description of relevant collaborations with government agencies or private industry that inform the instructional program in computer and network security;

(iv) a survey of the applicant's historic student enrollment and placement date in fields related to computer and network security and a study of potential enrollment and placement for students enrolled in the proposed computer and network security program; and

(v) a plan to evaluate the success of the proposed computer and network security program, including post-graduation assessment of graduate school and job placement and retention rates as well as the relevance of the instructional program to graduate study and to the workplace.

(B) AWARDS.—(i) The Director shall ensure, to the extent practicable, that grants are awarded under this subsection in a wide range of geographic areas and categories of institutions of higher education, including minority serving institutions.

(ii) The Director shall award grants under this subsection for a period not to exceed 5 years.

(5) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under this subsection no later than 6 years after the establishment of the program. At a minimum, the Director shall evaluate the extent to which the program achieved its objectives of increasing the quality and quantity of students, including students from groups historically underrepresented in computer and network security related disciplines, pursuing undergraduate or master's degrees in computer and network security.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $15,000,000 for fiscal year 2003;
(B) $20,000,000 for fiscal year 2004;
(C) $20,000,000 for fiscal year 2005;
(D) $20,000,000 for fiscal year 2006; and
(E) $20,000,000 for fiscal year 2007.

(b) SCIENTIFIC AND ADVANCED TECHNOLOGY ACT OF 1992.—

(1) GRANTS.—The Director shall provide grants under the Scientific and Advanced Technology Act of 1992 (42 U.S.C. 1862i) for the purposes of section 3 (a) and (b) of that Act, except that the activities supported pursuant to this subsection shall be limited to improving education in fields related to computer and network security.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $1,000,000 for fiscal year 2003;
(B) $1,250,000 for fiscal year 2004;
(C) $1,250,000 for fiscal year 2005;
(D) $1,250,000 for fiscal year 2006; and
(E) $1,250,000 for fiscal year 2007.

(c) GRADUATE TRAINEESHIPS IN COMPUTER AND NETWORK SECURITY RESEARCH.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education to establish traineeship programs for graduate students who pursue computer and network security research leading to a doctorate degree by providing funding and other assistance, and by providing graduate students with research experience in government or industry related to the students' computer and network security studies.

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a merit-reviewed competitive basis.

(3) USE OF FUNDS.—An institution of higher education shall use grant funds for the purposes of—

(A) providing traineeships to students who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are pursuing research in computer or network security leading to a doctorate degree;

(B) paying tuition and fees for students receiving traineeships under subparagraph (A);

(C) establishing scientific internship programs for students receiving traineeships under subparagraph (A) in computer and network security at for-profit institutions, nonprofit research institutions, or government laboratories; and

(D) other costs associated with the administration of the program.

(4) TRAINEESHIP AMOUNT.—Traineeships provided under paragraph (3)(A) shall be in the amount of $25,000 per year, or the level of the National Science Foundation Graduate Research Fellowships, whichever is greater, for up to 3 years.

(5) SELECTION PROCESS.—An institution of higher education seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the instructional program and research opportunities in computer and network security available to graduate students at the applicant's institution; and

(B) the internship program to be established, including the opportunities that will be made available to students for internships at for-profit institutions, nonprofit research institutions, and government laboratories.

(6) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (5), the Director shall consider—

(A) the ability of the applicant to effectively carry out the proposed program;

(B) the quality of the applicant's existing research and education programs;

(C) the likelihood that the program will recruit increased numbers of students, including students from groups historically underrepresented in computer and network security related disciplines, to pursue and earn doctorate degrees in computer and network security;

(D) the nature and quality of the internship program established through collaborations with government laboratories, nonprofit research institutions and for-profit institutions;

(E) the integration of internship opportunities into graduate students' research; and

(F) the relevance of the proposed program to current and future computer and network security needs.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $10,000,000 for fiscal year 2003;
(B) $20,000,000 for fiscal year 2004;
(C) $20,000,000 for fiscal year 2005;
(D) $20,000,000 for fiscal year 2006; and
(E) $20,000,000 for fiscal year 2007.

(d) GRADUATE RESEARCH FELLOWSHIPS PROGRAM SUPPORT.—Computer and network security shall be included among the fields of specialization supported by the National Science Foundation's Graduate Research Fellowships program under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869).

(e) CYBER SECURITY FACULTY DEVELOPMENT TRAINEESHIP PROGRAM.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education to establish

traineeship programs to enable graduate students to pursue academic careers in cyber security upon completion of doctoral degrees.

(2) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(3) APPLICATION.—Each institution of higher education desiring to receive a grant under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

(4) USE OF FUNDS.—Funds received by an institution of higher education under this paragraph shall—

(A) be made available to individuals on a merit-reviewed competitive basis and in accordance with the requirements established in paragraph (7);

(B) be in an amount that is sufficient to cover annual tuition and fees for doctoral study at an institution of higher education for the duration of the graduate traineeship, and shall include, in addition, an annual living stipend of $25,000; and

(C) be provided to individuals for a duration of no more than 5 years, the specific duration of each graduate traineeship to be determined by the institution of higher education, on a case-by-case basis.

(5) REPAYMENT.—Each graduate traineeship shall—

(A) subject to paragraph (5)(B), be subject to full repayment upon completion of the doctoral degree according to a repayment schedule established and administered by the institution of higher education;

(B) be forgiven at the rate of 20 percent of the total amount of the graduate traineeship assistance received under this section for each academic year that a recipient is employed as a full-time faculty member at an institution of higher education for a period not to exceed 5 years; and

(C) be monitored by the institution of higher education receiving a grant under this subsection to ensure compliance with this subsection.

(6) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(7) ELIGIBILITY.—To be eligible to receive a graduate traineeship under this section, an individual shall—

(A) be a citizen, national, or lawfully admitted permanent resident alien of the United States;

(B) demonstrate a commitment to a career in higher education.

(8) CONSIDERATION.—In making selections for graduate traineeships under this paragraph, an institution receiving a grant under this subsection shall consider, to the extent possible, a diverse pool of applicants whose interests are of an interdisciplinary nature, encompassing the social scientific as well as the technical dimensions of cyber security.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this paragraph $5,000,000 for each of fiscal years 2003 through 2007.

**SEC. 6. CONSULTATION.**

In carrying out sections 4 and 5, the Director shall consult with other Federal agencies.

**SEC. 7. FOSTERING RESEARCH AND EDUCATION IN COMPUTER AND NETWORK SECURITY.**

Section 3(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking ''Congress.'' in paragraph (7) and inserting ''Congress; and''; and

(3) by adding at the end the following:

''(8) to take a leading role in fostering and supporting research and education activities to improve the security of networked information systems.''.

**SEC. 8. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY PROGRAMS.**

(a) RESEARCH PROGRAM.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by moving section 22 to the end of the Act and redesignating it as section 32;

(2) by inserting after section 21 the following new section:

''SEC. 22. RESEARCH PROGRAM ON SECURITY OF COMPUTER SYSTEMS

''(a) ESTABLISHMENT.—The Director shall establish a program of assistance to institutions of higher education that enter into partnerships with for-profit entities to support research to improve the security of computer systems. The partnerships may also include government laboratories and nonprofit research institutions. The program shall—

''(1) include multidisciplinary, long-term research;

''(2) include research directed toward addressing needs identified through the activities of the Computer System Security and Privacy Advisory Board under section 20(f); and

''(3) promote the development of a robust research community working at the leading edge of knowledge in subject areas relevant to the security of computer systems by providing support for graduate students, postdoctoral researchers, and senior researchers.

''(b) FELLOWSHIPS.—

''(1) POST-DOCTORAL RESEARCH FELLOWSHIPS.—The Director is authorized to establish a program to award post-doctoral research fellowships to individuals who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act.

''(2) SENIOR RESEARCH FELLOWSHIPS.—The Director is authorized to establish a program to award senior research fellowships to individuals seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act. Senior research fellowships shall be made available for established researchers at instructions of higher education who seek to change research fields and pursue studies related to the security of computer systems.

''(3) ELIGIBILITY.—

''(A) IN GENERAL.—To be eligible for an award under this subsection, an individual shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(B) STIPENDS.—Under this subsection, the Director is authorized to provide stipends for post-doctoral research fellowships at the level of the Institute's Post Doctoral Research Fellowship Program and senior research fellowships at levels consistent with support for a faculty member in a sabbatical position.

''(c) AWARDS: APPLICATIONS.—

''(1) IN GENERAL.—The Director is authorized to award grants or cooperative agreements to institutions of higher education to carry out the program established under subsection (a). No funds made available under this section shall be made available directly to any for-profit partners.

''(2) ELIGIBILITY.—To be eligible for an award under this section, an institution of higher education shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

''(A) the number of graduate students anticipated to participate in the research project and the level of support to be provided to each;

''(B) the number of post-doctoral research positions included under the research project and the level of support to be provided to each;

''(C) the number of individuals, if any, intending to change research fields and pursue studies related to the security of computer systems to be included under the research project and the level of support to be provided to each; and

''(D) how the for-profit entities, nonprofit research institutions, and any other partners will participate in developing and carrying out the research and education agenda of the partnership.

''(d) PROGRAM OPERATION.—

''(1) MANAGEMENT.—The program established under subsection (a) shall be managed by individuals who shall have both expertise in research related to the security of computer systems and knowledge of the vulnerabilities of existing computer systems. The Director shall designate such individuals as program managers.

''(2) MANAGERS MAY BE EMPLOYEES.—Program managers designated under paragraph (1) may be new or existing employees of the Institute or individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970, except that individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970 shall not directly manage such employees.

''(3) MANAGER RESPONSIBILITY.—Program managers designated under paragraph (1) shall be responsible for—

''(A) establishing and publicizing the broad research goals for the program;

''(B) soliciting applications for specific research projects to address the goals developed under subparagraph (A);

''(C) selecting research projects for support under the program from among applications submitted to the Institute, following consideration of—

''(i) the novelty and scientific and technical merit of the proposed projects;

''(ii) the demonstrated capabilities of the individual or individuals submitting the applications to successfully carry out the proposed research;

''(iii) the impact the proposed projects will have on increasing the number of computer security researchers;

''(iv) the nature of the participation by for-profit entities and the extent to which the proposed projects address the concerns of industry; and

''(v) other criteria determined by the Director, based on information specified for inclusion in applications under subsection; (c); and

''(D) monitoring the progress of research projects supported under the program.

''(4) REPORTS.—The Director shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science annually on the use and represponsibility of individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970 who are performing duties under subsection (d).

''(e) REVIEW OF PROGRAM.—

''(1) PERIODIC REVIEW.—The Director shall periodically review the portfolio of research awards monitored by each program manager designated in accordance with subsection (d). In conducting those reviews, the Director shall seek the advice of the Computer System Security and Privacy Advisory Board, established under section 21, on the appropriateness of the research goals and on the quality and utility of research projects managed by program managers in accordance with subsection (d).

''(2) COMPREHENSIVE 5-YEAR REVIEW.—The Director shall also contract with the National Review Council for a comprehensive review of the program established under subsection (a) during the 5th year of the program. Such review shall include an assessment of the scientific quality of the research conducted, the relevance of the research results obtained to the goals of the program established under subsection (d)(3)(A), and the progress of the program in promoting the development of a substantial academic research community working at the leading edge of knowledge in the field. The Director shall submit to Congress a report on the results of the review under this paragraph no later than 6 years after the initiation of the program.

''(f) DEFINITIONS.—In this section:

''(1) COMPUTER SYSTEM.—The term 'computer system' has the meaning given that term in section 20(d)(1).

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).''.

''(b) AMENDMENT OF COMPUTER SYSTEM DEFINITION.—Section 20(d)(1)(B)(i) of National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)(1)(B)(i)) is amended to read as follows:

''(i) computers and computer networks;''.

''(c) CHECKLISTS FOR GOVERNMENT SYSTEMS.—

''(1) IN GENERAL.—The Director of the National Institute of Standards and Technology shall develop, and revise as necessary, a checklist setting forth settings and option selections that minimize the security risks associated with each computer hardware or software system that is, or is likely to become, widely used within the Federal government.

''(2) Priorities for development; excluded systems.—The Director of the National Institute of Standards and Technology may establish priorities for the development of checklists under this paragraph on the basis of the security risks associated with the use of the system, the number of agencies that use a particular system, the usefulness of the checklist of Federal agencies that are users or potential users of the system, or such other factors as the Director determines to be appropriate. The Director of the National Institute of Standards and Technology may exclude from the application of paragraph (1) any computer hardware or software system for which the Director of the National Institute of Standards and Technology determines that the development of a checklist is inappropriate because of the infrequency of use of the system, the obsolescence of the system, or the inutility or impracticability of developing a checklist for the system.

(3) DISSEMINATION OF CHECKLISTS.—The Director of the National Institute of Standards and Technology shall make any checklist developed under this paragraph for any computer hardware or software system available to each Federal agency that is a user or potential user of the system.

(4) AGENCY USE REQUIREMENTS.—The development of a checklist under paragraph (1) for a computer hardware or software system does not—

(A) require any Federal agency to select the specific settings or options recommended by the checklist for the system;

(B) establish conditions or prerequisites for Federal agency procurement or deployment of any such system;

(C) represent an endorsement of any such system by the Director of the National Institute of Standards and Technology; nor

(D) preclude any Federal agency from procuring or deploying other computer hardware or software systems for which no such checklist has been developed.

(d) FEDERAL AGENCY INFORMATION SECURITY PROGRAMS.—

(1) IN GENERAL.—In developing the agency-wide information security program required by section 3534(b) of title 44, United States Code, an agency that deploys a computer hardware or software system for which the Director of the National Institute of Standards and Technology has developed a checklist under subsection (c) of this section—

(A) shall include in that program an explanation of how the agency has considered such checklist in deploying that system; and

(B) may treat the explanation as if it were a portion of the agency's annual performance plan properly classified under criteria established by an Executive Order (within the meaning of section 1115(d) of title 31, United States Code).

(2) LIMITATION.—Paragraph (1) does not apply to any computer hardware or software system for which the National Institute of Standards and Technology does not have responsibility under section 20(a)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)(3)).

**SEC. 9. COMPUTER SECURITY REVIEW, PUBLIC MEETINGS, AND INFORMATION.**

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended by adding at the end the following new subsection:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $1,060,000 for fiscal year 2003 and $1,090,000 for fiscal year 2004 to enable the Computer System Security and Privacy Advisory Board, established by section 21, to identify emerging issues, including research needs, related to computer security, privacy, and cryptography and, as appropriate, to convene public meetings on those subjects, receive presentation, and publish reports, digests, and summaries for public distribution on those subjects.''.

**SEC. 10. INTRAMURAL SECURITY RESEARCH.**

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), as amended by this Act, is further amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following:

''(e) INTRAMURAL SECURITY RESEARCH.—As part of the research activities conducted in accordance with subsection (b)(4), the Institute shall—

''(1) conduct a research program to address emerging technologies associated with assembling a networked computer system from components while ensuring it maintains desired security properties;

''(2) carry out research associated with improving the securing of real-time computing and communications systems for use in process control; and

''(3) carry out multidisciplinary, long-term, high-risk research on ways to improve the security of computer systems.''.

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology—

(1) for activities under section 22 of the National Institute of Standards and Technology Act, as added by section 8 of this Act—

(A) $25,000,000 for fiscal year 2003;
(B) $40,000,000 for fiscal year 2004;
(C) $55,000,000 for fiscal year 2005;
(D) $70,000,000 for fiscal year 2006;
(E) $85,000,000 for fiscal year 2007; and

(2) for activities under section 20(f) of the National Institute of Standards and Technology Act, as added by section 10 of this Act

(A) $6,000,000 for fiscal year 2003;
(B) $6,200,000 for fiscal year 2004;
(C) $6,400,000 for fiscal year 2005;
(D) $6,600,000 for fiscal year 2006; and
(E) $6,800,000 for fiscal year 2007.

**SEC. 12. NATIONAL ACADEMY OF SCIENCES STUDY ON COMPUTER AND NETWORK SECURITY IN CRITICAL INFRASTRUCTURES.**

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a study of the vulnerabilities of the Nation's network infrastructure and make recommendations for appropriate improvements. The National Research Council shall—

(1) review existing studies and associated data on the architectural, hardware, and software vulnerabilities and interdependencies in United States critical infrastructure networks;

(2) identify and assess gaps in technical capability for robust critical infrastructure network security and make recommendations for research priorities and resource requirements; and

(3) review any and all other essential elements of computer and network security, including security of industrial process controls, to be determined in the conduct of the study.

(b) REPORT.—The Director of the National Institute of Standards and Technology shall transmit a report containing the results of the study and recommendations required by subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science not later than 21 months after the date of enactment of this Act.

(c) SECURITY.—The Director of the National Institute of Standards and Technology shall ensure that no information that is classified is included in any publicly released version of the report required by this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology for the purposes of carrying out this section, $700,000.

**SEC. 13. COORDINATION OF FEDERAL CYBER SECURITY RESEARCH AND DEVELOPMENT**

The Director of the National Science Foundation and the Director of the National Institute of Standards and Technology shall coordinate the research programs authorized by this Act or pursuant to amendments made by this Act. The Director of the Office of Science and Technology Policy shall work with the Director of the National Science Foundation and the Director of the National Institute of Standards and Technology to ensure that programs authorized by this Act or pursuant to amendments made by this Act are taken into account in any government-wide cyber security research effort.

**SEC. 14. OFFICE OF SPACE COMMERCIALIZATION.**

Section 8(a) of the Technology Administration Act of 1998 (15 U.S.C. 1511e(a)) is amended by inserting ''the Technology Administration of'' after ''within''.

**SEC. 15. TECHNICAL CORRECTION OF NATIONAL CONSTRUCTION SAFETY TEAM ACT.**

Section 29(c)(1)(d) of the National Construction Safety Team Act is amended by striking ''section 8;'' and inserting ''section 7;''.

**SEC. 16. GRANT ELIGIBILITY REQUIREMENTS AND COMPLIANCE WITH IMMIGRATION LAWS.**

(a) IMMIGRATION STATUS.—No grant or fellowship may be awarded under this Act, directly or indirectly, to any individual who is in violation of the terms of his or her status as a nonimmigrant under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)).

(b) ALIENS FROM CERTAIN COUNTRIES.—No grant or fellowship may be awarded under this Act, directly or indirectly, to any alien from a country that is a state sponsor of international terrorism, as defined under section 306(b) of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1735(b)), unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate agencies, that such alien does not pose a threat to the safety or national security of the United States.

(c) NON-COMPLYING INSTITUTIONS.—No grant or fellowship may be awarded under this Act, directly or indirectly, to any institution of higher education or non-profit institution (or consortia thereof) that has—

(1) materially failed to comply with the recordkeeping and reporting requirements to receive non-immigrant students or exchange visitor program participants under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Responsibility Act of 1996 (8 U.S.C. 1372), as required by section 502 of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1762); or

(2) been suspended or terminated pursuant to section 502(c) of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1762(c)).

**SEC. 17. REPORT ON GRANT AND FELLOWSHIP PROGRAMS.**

Within 24 months after the date of enactment of this Act, the Director, in consultation with the Assistant to the President for National Security Affairs, shall submit to Congress a report reviewing this Act to ensure that the programs and fellowships are being awarded under this Act to individuals and institutions of higher education who are in compliance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) in order to protect our national security.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, October 16, 2002, at 2:00 p.m. in Executive Session to consider the nomination of Major General Robert T. Clark, USA for appointment to the grade of Lieutenant General and to be Commanding General, Fifth United States Army.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 16, 2002 at 10:00 a.m. to hold a hearing on Angola.

AGENDA

Witnesses: Panel 1: The Honorable Walter Kansteiner, Assistant Secretary for African Affairs, Department of State, Washington, DC.

Panel 2: Mr. Nicolas de Torrente, Executive Director, Medecins Sans Frontieres—USA, New York, New York.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 16, 2002 at 2:30 p.m. to hold a nomination hearing.

AGENDA

Nominees: Mr. Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 16, 2002 at 12:00 to hold a business meeting.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, October 16, 2002, at 10:00 a.m., to conduct an Oversight Hearing on ''Instability in Latin America: U.S. Policy and the Role of the International Community.''

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

## UNANIMOUS CONSENT REQUEST—H.R. 1606

Mr. REID. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 1606, and that the Senate proceed to its immediate consideration, the bill be read three times and passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I have to object on behalf of the Republicans.

The PRESIDING OFFICER. Objection is heard.

## MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2003

The PRESIDING OFFICER. Under the previous order, the Senate having received H.J. Res. 123 from the House of Representatives, the Senate will proceed to its immediate consideration, it is read three times and passed, and the motion to reconsider is laid upon the table.

The joint resolution (H.J. Res. 123) was passed.

## PRODUCT PACKAGING PROTECTION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 415, H.R. 2621.

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

The legislative clerk read as follows:

A bill (H.R. 2621) to amend title 18, United States Code, with respect to consumer product protection.

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

Mr. KOHL. Mr. President, today the Senate will pass the Product Packaging Protection Act of 2002. This bill will help prevent and punish a disturbing trend of product tampering—the placement of hate-filled literature into the boxes of cereal or food that millions of Americans bring home from the grocery store every day. I am pleased to have worked on this legislation with Senators HATCH, LEAHY, DEWINE, and DURBIN, as well as Chairman SENSENBRENNER, Congressman SCOTT, Congresswoman BALDWIN and Congresswoman HART.

Too many Americans have recently opened groceries and found offensive, racist, anti-Semitic, pornographic and hateful leaflets. In the last few years, food manufacturers have received numerous complaints from consumers who report finding such literature. Hundreds more incidents have likely gone unreported. This behavior is outright shameful.

Unfortunately, when consumers or companies turn to the authorities, they cannot be helped. According to the FBI and the Food and Drug Administration's Office of Criminal Investigation, these actions are not covered by federal product tampering statutes. A loophole in Federal anti-tampering law allows it to go unpunished. And only a couple of state laws are in place. So, the Product Packaging Protection Act of 2002 will close this loophole ion Federal product tampering law and protect consumers.

I am pleased that the Senate will pass this measure today. We hope that the House of Representatives will take it up the legislation in a timely manner. Then, consumers will be able to rest a little easier when it comes to the safety of the products they purchase at their local grocery store. The Product Packaging Protection Act is a small

but meaningful thing we can do to make our current laws more effective and to give consumers and companies the help they need.

Mr. REID. Mr. President, I ask unanimous consent that the Kohl substitute amendment at the desk be agreed to, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this matter be printed in the RECORD.

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

The amendment (No. 4888) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Product Packaging Protection Act of 2002''.

**SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.**

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

''(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

''(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

''(3) In this subsection, the term 'writing' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.''.

The bill (H.R. 2621), as amended, was passed.

## PRODUCT PACKAGING PROTECTION ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 152, S. 1233.

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

The legislative clerk read as follows:

A bill (S. 1233) to provide penalties for certain unauthorized writing with respect to consumer products.

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

**[SECTION 1. SHORT TITLE.**

**[**This Act may be cited as the ''Product Packaging Protection Act of 2001''.

**[SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.**

**[**Section 1365 of title 18, United States Code, is amended—

**[**(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

**[**(2) by inserting after subsection (e) the following new subsection (f):

**[**''(f)(1) Whoever, without the consent of the manufacturer, retailer, or authorized distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than three years, or both.

**[**''(2) As used in paragraph (1) of this subsection, the term 'writing' means any form of representation or communication, including handbills, notices, or advertising, that contain letters, words, or pictorial representations.''.**]**

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Product Packaging Protection Act of 2001''.*

***SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.***

*Section 1365 of title 18, United States Code, is amended—*

*(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and*

*(2) by inserting after subsection (e) the following:*

*''(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 3 years, or both.*

*''(2) In this subsection, the term 'writing' means any form of representation or communication, including handbills, notices, or advertising, that contain letters, words, or pictorial representations.''.*

Mr. KOHL. Mr. President, today the Senate will pass the Product Packaging Protection Act of 2002. This bill will help prevent and punish a disturbing trend of product tampering—the placement of hate-filled literature into the boxes of cereal or food that millions of Americans bring home from the grocery store every day. I am pleased to have worked on this legislation with Senators HATCH, LEAHY, DEWINE, and DURBIN, as well as Chairman SENSENBRENNER, Congressman SCOTT, Congresswoman BALDWIN, and Congresswoman HART.

Too many Americans have recently opened groceries and found offensive, racist, anti-Semitic, pornographic and hateful leaflets. In the last few years, food manufacturers have received numerous complaints from consumers who report finding such literature. Hundreds more incidents have likely gone unreported. This behavior is outright shameful.

Unfortunately, when consumers or companies turn to the authorities, they cannot be helped. According to the FBI and the Food and Drug Administration's Office of Criminal Investigation, these actions are not covered by federal product tampering statutes. A loophole in Federal anti-tampering law allows it to go unpunished. And only a couple of state laws are in place. So, the Product Packaging Protection Act of 2002 will close this loophole in Federal product tampering law and protect consumers.

I am pleased that the Senate will pass this measure today. We hope that the House of Representatives will take up the legislation in a timely manner. Then, consumers will be able to rest a little easier when it comes to safety of the products they purchase at their local grocery store. The Product Packaging Protection Act is a small but meaningful thing we can do to make our current laws more effective and to give consumers and companies the help they need.

Mr. REID. Mr. President, I ask unanimous consent that the Kohl substitute amendment at the desk be agreed to, the committee substitute amendment be agreed to, as amended, the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4889) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Product Packaging Protection Act of 2002''.

**SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.**

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

''(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

''(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

''(3) In this subsection, the term 'writing' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.''.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 1233), as amended, was read the third time and passed.

## PEACE CORPS CHARTER FOR THE 21ST CENTURY ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 700, S. 2667.

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

The legislative clerk read as follows:

A bill (S. 2667) to amend the Peace Corps Act to promote global acceptance of the

principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill, which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic]

**[SECTION 1. SHORT TITLE.**

[This Act may be cited as the ''Peace Corps Charter for the 21st Century Act''.

**[SEC. 2. FINDINGS.**

[Congress makes the following findings:

[(1) The Peace Corps was established in 1961 to promote world peace and friendship through the service of American volunteers abroad.

[(2) The three goals codified in the Peace Corps Act which have guided the Peace Corps and its volunteers over the years, can work in concert to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government.

[(3) The Peace Corps has operated in 135 countries with 165,000 Peace Corps volunteers since its establishment.

[(4) The Peace Corps has sought to fulfill three goals, as follows: to help people in developing nations meet basic needs, to promote understanding of America's values and ideals abroad, and to promote an understanding of other peoples by Americans.

[(5) After more than 40 years of operation, the Peace Corps remains the world's premier international service organization dedicated to promoting grassroots development.

[(6) The Peace Corps remains committed to sending well trained and well supported Peace Corps volunteers overseas to promote world peace, friendship, and grassroots development.

[(7) The Peace Corps is an independent agency, and therefore no Peace Corps personnel or volunteers should have any relationship with any United States intelligence agency or be used to accomplish any other goal than the goals established by the Peace Corps Act.

[(8) The Crisis Corps has been an effective tool in harnessing the skills and talents for returned Peace Corps volunteers and should be expanded to utilize to the maximum extent the pool of talent from the returned Peace Corps volunteer community.

[(9) The Peace Corps is currently operating with an annual budget of $275,000,000 in 70 countries with 7,000 Peace Corps volunteers.

[(10) There is deep misunderstanding and misinformation about American values and ideals in many parts of the world, particularly those with substantial Muslim populations, and a greater Peace Corps presence in such places could foster greater understanding and tolerance of those countries.

[(11) Congress has declared that the Peace Corps should be expanded to sponsor a minimum of 10,000 Peace Corps volunteers.

[(12) President George W. Bush has called for the doubling of the number of Peace Corps volunteers in service in a fiscal year to 15,000 volunteers in service by the end of fiscal year 2007.

[(13) Any expansion of the Peace Corps shall not jeopardize the quality of the Peace Corps volunteer experience, and therefore can only be accomplished by an appropriate increase in field and headquarters support staff.

[(14) It would be extremely useful for the Peace Corps to establish an office of strategic planning to evaluate existing programs and undertake long-term planning in order to facilitate the orderly expansion of the Peace Corps from its current size to the stated objective of 15,000 volunteers in the field by the end of fiscal year 2007.

[(15) The Peace Corps would benefit from the advice and council of a streamlined bipartisan National Peace Corps Advisory Council composed of distinguished returned Peace Corps volunteers.

**[SEC. 3. DEFINITIONS.**

[In this Act:

[(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

[(2) DIRECTOR.—The term ''Director'' means the Director of the Peace Corps.

[(3) PEACE CORPS VOLUNTEER.—The term ''Peace Corps volunteer'' means a volunteer or a volunteer leader under the Peace Corps Act.

[(4) RETURNED PEACE CORPS VOLUNTEER.—The term ''returned Peace Corps volunteer'' means a person who has been certified by the Director as having served satisfactorily as a Peace Corps volunteer.

**[SEC. 4. RESTATEMENT OF INDEPENDENCE OF THE PEACE CORPS.**

[(a) IN GENERAL.—Section 2A of the Peace Corps Act (22 U.S.C. 2501–1) is amended by adding at the end the following new sentence: ''As an independent agency, all recruiting of volunteers shall be undertaken solely by the Peace Corps.''.

[(b) DETAILS AND ASSIGNMENTS.—Section 5(g) of the Peace Corps Act (22 U.S.C. 2504(g)) is amended by inserting after ''*Provided*, That'' the following: ''such detail or assignment does not contradict the standing of Peace Corps volunteers as being independent from foreign policy-making and intelligence collection: *Provided further*, That''.

**[SEC. 5. REPORTS TO CONGRESS.**

[(a) CONSULTATIONS AND REPORTS CONCERNING NEW INITIATIVES.—Section 11 of the Peace Corps Act (22 U.S.C. 2510) is amended—

[(1) by inserting ''(a) ANNUAL REPORTS.—'' immediately before ''The President shall transmit''; and

[(2) by adding at the end thereof the following:

[''(b) CONSULTATIONS AND REPORTS ON NEW INITIATIVES.—Thirty days prior to implementing any new initiative, the Director shall consult with the Peace Corps National Advisory Council established in section 12 and shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report describing the objectives that such initiative is intended to fulfill, an estimate of any costs that may be incurred as a result of the initiative, and an estimate of any impact on existing programs, including the impact on the safety of volunteers under this Act''.

[(b) COUNTRY SECURITY REPORTS.—Section 11 of the Peace Corps Act (22 U.S.C. 2510), as amended by subsection (a), is further amended by adding at the end the following:

[''(c) COUNTRY SECURITY REPORTS.—The Director of the Peace Corps shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report annually on the status of security procedures in any country in which the Peace Corps operates programs or is considering doing so. Each report shall include recommendations when appropriate as to whether security conditions would be enhanced by colocating volunteers with international or local nongovernmental organizations, or with the placement of multiple volunteers in one location.''.

[(c) REPORT ON STUDENT LOAN FORGIVENESS PROGRAMS.—Not later than 30 days after the date of enactment of this Act, the Director of the Peace Corps shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report—

[(1) describing the student loan forgiveness programs currently available to Peace Corps volunteers upon completion of their service; and

[(2) comparing such programs with other Government-sponsored student loan forgiveness programs.

**[SEC. 6. SPECIAL VOLUNTEER RECRUITMENT AND PLACEMENT FOR COUNTRIES WHOSE GOVERNMENTS ARE SEEKING TO FOSTER GREATER UNDERSTANDING BY AND ABOUT THEIR CITIZENS.**

[(a) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director shall submit a report to the appropriate congressional committees describing the initiatives that the Peace Corps intends to pursue in order to solicit requests from eligible countries where the presence of Peace Corps volunteers would facilitate a greater understanding that there exists a universe of commonly shared human values and aspirations and would dispel unfounded fears and suspicion among peoples of diverse cultures and systems of government, including peoples from countries with substantial Muslim populations. Such report shall include—

[(1) a description of the recruitment strategies to be employed by the Peace Corps to recruit and train volunteers with the appropriate language skills and interest in serving in such countries; and

[(2) a list of the countries that the Director has determined should be priorities for special recruitment and placement of Peace Corps volunteers.

[(b) USE OF RETURNED PEACE CORPS VOLUNTEERS.—Notwithstanding any other provision of law, the Director is authorized and strongly urged to utilize the services of returned Peace Corps volunteers having language and cultural expertise, including those returned Peace Corps volunteers who may have served previously in countries with substantial Muslim populations, in order to open or reopen Peace Corps programs in such countries.

[(c) ALLOCATION OF FUNDS.—In addition to amounts authorized to be appropriated to the Peace Corps by section 11 for the fiscal years 2003, 2004, 2005, and 2006, there is authorized to be appropriated for the Peace Corps $5,000,000 each such fiscal year solely for the recruitment, training, and placement of Peace Corps volunteers in countries whose governments are seeking to foster greater understanding by and about their citizens.

**[SEC. 7. GLOBAL INFECTIOUS DISEASES INITIATIVE.**

[(a) IN GENERAL.—The Director, in cooperation with the Centers for Disease Control and Prevention, the National Institutes of Health, the World Health Organization and the Pan American Health Organization, local public health officials, shall develop a program of training for all Peace Corps volunteers in the areas of education, prevention, and treatment of infectious diseases in order to ensure that all Peace Corps volunteers make a contribution to the global campaign against such diseases.

[(b) DEFINITIONS.—In this section:

[(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

[(2) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen that causes AIDS.

[(3) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

[(4) INFECTIOUS DISEASES.—The term ''infectious diseases'' means HIV/AIDS, tuberculosis, and malaria.

**[SEC. 8. PEACE CORPS ADVISORY COUNCIL.**

[Section 12 of the Peace Corps Act (22 U.S.C. 2511; relating to the Peace Corps National Advisory Council) is amended—

[(1) by amending subsection (b)(2)(D) to read as follows:

[''(D) make recommendations for utilizing the expertise of returned Peace Corps volunteers in fulfilling the goals of the Peace Corps.'';

[(2) in subsection (c)—

[(A) by striking paragraph (1);

[(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

[(C) in paragraph (1) (as so redesignated)—

[(i) in subparagraph (A)—

[(I) by striking ''fifteen'' and inserting ''seven'';

[(II) by striking the second sentence and inserting the following: ''All of the members shall be former Peace Corps volunteers, and not more than four shall be members of the same political party.'';

[(ii) by amending subparagraph (D) to read as follows:

[''(D) The members of the Council shall be appointed to 2-year terms.'';

[(iii) by striking subparagraphs (B), (E), and (H); and

[(iv) by redesignating subparagraphs (C), (D), (F), (G), and (I) as subparagraphs (B), (C), (D), (E), and (F), respectively;

[(3) by amending subsection (g) to read as follows:

[''(g) CHAIR.—The President shall designate one of the voting members of the Council as Chair, who shall serve in that capacity for a period not to exceed two years.'';

[(4) by amending subsection (h) to read as follows:

[''(h) MEETINGS.—The Council shall hold a regular meeting during each calendar quarter at a date and time to be determined by the Chair of the Council.''; and

[(5) by amending subsection (i) to read as follows:

[''(i) REPORT.—Not later than July 30, 2003, and annually thereafter, the Council shall submit a report to the President and the Director of the Peace Corps describing how the Council has carried out its functions under subsection (b)(2).''.

**[SEC. 9. READJUSTMENT ALLOWANCES.**

[The Peace Corps Act is amended—

[(1) in section 5(c) (22 U.S.C. 2504(c)), by striking ''$125'' and inserting ''$275''; and

[(2) in section 6(1) (22 U.S.C. 2505(1)), by striking ''$125'' and inserting ''$275''.

**[SEC. 10. PROGRAMS AND PROJECTS OF RETURNED PEACE CORPS VOLUNTEERS TO PROMOTE THE GOALS OF THE PEACE CORPS.**

[(a) PURPOSE.—The purpose of this section is to provide support for returned Peace Corps volunteers to develop programs and projects to promote the objectives of the Peace Corps, as set forth in section 2 of the Peace Corps Act.

[(b) GRANTS TO CERTAIN NONPROFIT CORPORATIONS.—

[(1) GRANT AUTHORITY.—To carry out the purpose of this section, and subject to the availability of appropriations, the Director of the Corporation for National and Community Service shall award grants on a competitive basis to private nonprofit corporations that are established in the District of Columbia for the purpose of serving as incubators for returned Peace Corps volunteers seeking to use their knowledge and expertise to undertake community-based projects to carry out the goals of the Peace Corps Act.

[(2) ELIGIBILITY FOR GRANTS.—To be eligible to compete for grants under this section, a nonprofit corporation must have a board of directors composed of returned Peace Corps volunteers with a background in community service, education, or health. The director of the corporation (who may also be a board member of the nonprofit corporation) shall also be a returned Peace Corps volunteer with demonstrated management expertise in operating a nonprofit corporation. The stated purpose of the nonprofit corporation shall be to act solely as an intermediary between the Corporation for National and Community Service and individual returned Peace Corps volunteers seeking funding for projects consistent with the goals of the Peace Corps. The nonprofit corporation may act as the accountant for individual volunteers for purposes of tax filing and audit responsibilities.

[(c) GRANT REQUIREMENTS.—Such grants shall be made pursuant to a grant agreement between the Director and the nonprofit corporation that requires that—

[(1) grant funds will only be used to support programs and projects described in subsection (a) pursuant to proposals submitted by returned Peace Corps volunteers (either individually or cooperatively with other returned volunteers);

[(2) the nonprofit corporation give consideration to funding individual projects or programs by returned Peace Corps volunteers up to $100,000;

[(3) not more than 20 percent of funds made available to the nonprofit corporation will be used for the salaries, overhead, or other administrative expenses of the nonprofit corporation; and

[(4) the nonprofit corporation will not receive grant funds under this section for more than two years unless the corporation has raised private funds, either in cash or in kind for up to 40 percent of its annual budget.

[(d) FUNDING.—Of the funds available to the Corporation for National and Community Service for fiscal year 2003 or any fiscal year thereafter, not to exceed $10,000,000 shall be available for each such fiscal year to carry out the grant program established under this section.

[(e) STATUS OF THE FUND.—Nothing in this section shall be construed to make any nonprofit corporation supported under this section an agency or establishment of the United States Government or to make the members of the board of directors or any officer or employee of such corporation an officer or employee of the United States.

[(f) FACTORS IN AWARDING GRANTS.—In determining the number of private nonprofit corporations to award grants to in any fiscal years, the Director should balance the number of organizations against the overhead costs that divert resources from project funding.

[(g) CONGRESSIONAL OVERSIGHT.—Grant recipients under this section shall be subject to the appropriate oversight procedures of Congress.

**[SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

[(a) IN GENERAL.—Section 3(b)(1) of the Peace Corps Act (22 U.S.C. 2502(b)(1)) is amended—

[(1) by striking ''2002, and'' and inserting ''2002,''; and

[(2) by inserting before the period the following: '', $465,000,000 for fiscal year 2004, $500,000,000 for fiscal year 2005, $560,000,000 for fiscal year 2006, and $560,000,000 for fiscal year 2007''.

[(b) INCREASE IN PEACE CORPS VOLUNTEER STRENGTH.—Section 3(c) of the Peace Corps Act (22 U.S.C. 2502(c)) is amended by adding the following new subsection at the end thereof:

[''(d) In addition to the amounts authorized to be appropriated in this section, there are authorized to be appropriated such additional sums as may be necessary to achieve a volunteer corps of 15,000 as soon as practicable taking into account the security of volunteers and the effectiveness of country programs.''.]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Peace Corps Charter for the 21st Century Act''.*

***SEC. 2. FINDINGS.***

*Congress makes the following findings:*

*(1) The Peace Corps was established in 1961 to promote world peace and friendship through the service of American volunteers abroad.*

*(2) The three goals codified in the Peace Corps Act which have guided the Peace Corps and its volunteers over the years, can work in concert to promote global acceptance of the principles of international peace and nonviolent coexistence among peoples of diverse cultures and systems of government.*

*(3) The Peace Corps has operated in 135 countries with 165,000 Peace Corps volunteers since its establishment.*

*(4) The Peace Corps has sought to fulfill three goals, as follows: to help people in developing nations meet basic needs, to promote understanding of America's values and ideals abroad, and to promote an understanding of other peoples by Americans.*

*(5) After more than 40 years of operation, the Peace Corps remains the world's premier international service organization dedicated to promoting grassroots development.*

*(6) The Peace Corps remains committed to sending well trained and well supported Peace Corps volunteers overseas to promote peace, friendship, and international understanding.*

*(7) The Peace Corps is an independent agency, and therefore no Peace Corps personnel or volunteers should be used to accomplish any other goal than the goals established by the Peace Corps Act.*

*(8) The Crisis Corps has been an effective tool in harnessing the skills and talents for returned Peace Corps volunteers and should be expanded to utilize to the maximum extent the talent pool of returned Peace Corps volunteers.*

*(9) The Peace Corps is currently operating with an annual budget of $275,000,000 in 70 countries with 7,000 Peace Corps volunteers.*

*(10) There is deep misunderstanding and misinformation about American values and ideals in many parts of the world, particularly those with substantial Muslim populations, and a greater Peace Corps presence in such places could foster greater understanding and tolerance.*

*(11) Congress has declared that the Peace Corps should be expanded to sponsor a minimum of 10,000 Peace Corps volunteers.*

*(12) President George W. Bush has called for the doubling of the number of Peace Corps volunteers in service.*

*(13) Any expansion of the Peace Corps shall not jeopardize the quality of the Peace Corps volunteer experience, and therefore can only be accomplished by an appropriate increase in field and headquarters support staff.*

*(14) In order to ensure that proposed expansion of the Peace Corps preserves the integrity of the program and the security of volunteers, the integrated Planning and Budget System supported by the Office of Planning and Policy Analysis should continue its focus on strategic planning.*

*(15) A streamlined, bipartisan National Peace Corps Advisory Council composed of distinguished returned Peace Corps volunteers and other individuals, with diverse backgrounds and expertise, can be a source of ideas and suggestions that may be useful to the Director of the*

Peace Corps as he discharges his duties and responsibilities as head of the agency.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) DIRECTOR.—The term ''Director'' means the Director of the Peace Corps.

(3) PEACE CORPS VOLUNTEER.—The term ''Peace Corps volunteer'' means a volunteer or a volunteer leader under the Peace Corps Act.

(4) RETURNED PEACE CORPS VOLUNTEER.—The term ''returned Peace Corps volunteer'' means a person who has been certified by the Director as having served satisfactorily as a Peace Corps volunteer.

**SEC. 4. RESTATEMENT OF INDEPENDENCE OF THE PEACE CORPS.**

(a) IN GENERAL.—Section 2A of the Peace Corps Act (22 U.S.C. 2501–1) is amended by adding at the end the following new sentence: ''As an independent agency, all recruiting of volunteers shall be undertaken primarily by the Peace Corps.''.

(b) DETAILS AND ASSIGNMENTS.—Section 5(g) of the Peace Corps Act (22 U.S.C. 2504(g)) is amended by inserting after ''Provided, That'' the following: ''such detail or assignment does not contradict the standing of Peace Corps volunteers as being independent: Provided further, That''.

**SEC. 5. REPORTS AND CONSULTATIONS.**

(a) ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.—Section 11 of the Peace Corps Act (22 U.S.C. 2510) is amended by striking the section heading and the text of section 11 and inserting the following:

**''SEC. 11. ANNUAL REPORTS; CONSULTATIONS ON NEW INITIATIVES.**

''(a) ANNUAL REPORTS.—The Director shall transmit to Congress, at least once in each fiscal year, a report on operations under this Act. Each report shall contain information—

''(1) describing efforts undertaken to improve coordination of activities of the Peace Corps with activities of international voluntary service organizations, such as the United Nations volunteer program, and of host country voluntary service organizations, including—

''(A) a description of the purpose and scope of any development project which the Peace Corps undertook during the preceding fiscal year as a joint venture with any such international or host country voluntary service organizations; and

''(B) recommendations for improving coordination of development projects between the Peace Corps and any such international or host country voluntary service organizations;

''(2) describing—

''(A) any major new initiatives that the Peace Corps has under review for the upcoming fiscal year, and any major initiatives that were undertaken in the previous fiscal year that were not included in prior reports to the Congress;

''(B) the rationale for undertaking such new initiatives;

''(C) an estimate of the cost of such initiatives; and

''(D) the impact on the safety of volunteers;

''(3) describing in detail the Peace Corp's plans for doubling the number of volunteers from 2002 levels, including a five-year budget plan for reaching that goal; and

''(4) describing standard security procedures for any country in which the Peace Corps operates programs or is considering doing so, as well as any special security procedures contemplated because of changed circumstances in specific countries, and assessing whether security conditions would be enhanced—

''(A) by colocating volunteers with international or local nongovernmental organizations; or

''(B) with the placement of multiple volunteers in one location.

''(b) CONSULTATIONS ON NEW INITIATIVES.—The Director of the Peace Corps should consult with the appropriate congressional committees with respect to any major new initiatives not previously discussed in the latest annual report submitted to Congress under subsection (a) or in budget presentations. Wherever possible, such consultations should take place prior to the initiation of such initiatives, but in any event as soon as practicable thereafter.''.

(b) ONE TIME REPORT ON STUDENT LOAN FORGIVENESS PROGRAMS.—Not later than 30 days after the date of enactment of this Act, the Director shall submit to the appropriate congressional committees a report—

(1) describing the student loan forgiveness programs currently available to Peace Corps volunteers upon completion of their service; and

(2) comparing such programs with other Government-sponsored student loan forgiveness programs; and

(3) recommending any additional student loan forgiveness programs which could attract more applicants from more low and middle income applicants facing high student loan obligations.

**SEC. 6. SPECIAL VOLUNTEER RECRUITMENT AND PLACEMENT FOR COUNTRIES WHOSE GOVERNMENTS ARE SEEKING TO FOSTER GREATER UNDERSTANDING BETWEEN THEIR CITIZENS AND THE UNITED STATES.**

(a) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director shall submit a report to the appropriate congressional committees describing the initiatives that the Peace Corps intends to pursue with eligible countries where the presence of Peace Corps volunteers would facilitate a greater understanding that there exists a universe of commonly shared human values and aspirations. Such report shall include—

(1) a description of the recruitment strategies to be employed by the Peace Corps to recruit and train volunteers with the appropriate language skills and interest in serving in such countries; and

(2) a list of the countries that the Director has determined should be priorities for special recruitment and placement of Peace Corps volunteers.

(b) USE OF RETURNED PEACE CORPS VOLUNTEERS.—Notwithstanding any other provision of law, the Director is authorized and strongly urged to utilize the services of returned Peace Corps volunteers having language and cultural expertise, including those returned Peace Corps volunteers who may have served previously in countries with substantial Muslim populations, in order to open or reopen Peace Corps programs in such countries.

**SEC. 7. GLOBAL INFECTIOUS DISEASES INITIATIVE.**

(a) IN GENERAL.—The Director, in cooperation with international public health experts such as the Centers for Disease Control and Prevention, the National Institutes of Health, the World Health Organization, the Pan American Health Organization, and local public health officials shall develop a program of training for all Peace Corps volunteers in the areas of education, prevention, and treatment of infectious diseases in order to ensure that all Peace Corps volunteers make a contribution to the global campaign against such diseases.

(b) DEFINITIONS.—In this section:

(1) AIDS.—The term ''AIDS'' means the acquired immune deficiency syndrome.

(2) HIV.—The term ''HIV'' means the human immunodeficiency virus, the pathogen that causes AIDS.

(3) HIV/AIDS.—The term ''HIV/AIDS'' means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(4) INFECTIOUS DISEASES.—The term ''infectious diseases'' means HIV/AIDS, tuberculosis, and malaria.

**SEC. 8. PEACE CORPS ADVISORY COUNCIL.**

Section 12 of the Peace Corps Act (22 U.S.C. 2511; relating to the Peace Corps National Advisory Council) is amended—

(1) by amending subsection (b)(2)(D) to read as follows:

''(D) make recommendations for utilizing the expertise of returned Peace Corps volunteers in fulfilling the goals of the Peace Corps.'';

(2) in subsection (c)—

(A) in paragraph (2)(A)—

(i) in the first sentence, by striking ''fifteen'' and inserting ''seven''; and

(ii) by striking the second sentence and inserting the following: ''Four of the members shall be former Peace Corps volunteers, at least one of whom shall have been a former staff member abroad or in the Washington headquarters, and not more than four shall be members of the same political party.'';

(B) by amending subparagraph (D) to read as follows:

''(D) The members of the Council shall be appointed to 2-year terms.'';

(C) by striking subparagraphs (B) and (H); and

(D) by redesignating subparagraphs (C), (D), (E), (F), (G), and (I) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively;

(3) by amending subsection (g) to read as follows:

''(g) CHAIR.—The President shall designate one of the voting members of the Council as Chair, who shall serve in that capacity for a period not to exceed two years.'';

(4) by amending subsection (h) to read as follows:

''(h) MEETINGS.—The Council shall hold a regular meeting during each calendar quarter at a date and time to be determined by the Chair of the Council.''; and

(5) by amending subsection (i) to read as follows:

''(i) REPORT.—Not later than July 30, 2003, and annually thereafter, the Council shall submit a report to the President and the Director of the Peace Corps describing how the Council has carried out its functions under subsection (b)(2).''.

**SEC. 9. READJUSTMENT ALLOWANCES.**

The Peace Corps Act is amended—

(1) in section 5(c) (22 U.S.C. 2504(c)), by striking ''$125'' and inserting ''$275''; and

(2) in section 6(1) (22 U.S.C. 2505(1)), by striking ''$125'' and inserting ''$275''.

**SEC. 10. PROGRAMS AND PROJECTS OF RETURNED PEACE CORPS VOLUNTEERS TO PROMOTE THE GOALS OF THE PEACE CORPS.**

(a) PURPOSE.—The purpose of this section is to provide support for returned Peace Corps volunteers to develop and carry out programs and projects to promote the third purpose of the Peace Corps Act, as set forth in section 2(a) of that Act (22 U.S.C. 2501(a)), by promoting a better understanding of other peoples on the part of the American people.

(b) GRANTS TO CERTAIN NONPROFIT CORPORATIONS.—

(1) GRANT AUTHORITY.—To carry out the purpose of this section, and subject to the availability of appropriations, the Chief Executive Officer of the Corporation for National and Community Service (referred to in this section as the ''Corporation'') shall award grants on a competitive basis to private nonprofit corporations for the purpose of enabling returned Peace Corps volunteers to use their knowledge and expertise to develop and carry out the programs and projects described in subsection (a).

(2) PROGRAMS AND PROJECTS.—Such programs and projects may include—

(A) educational programs designed to enrich the knowledge and interest of elementary school and secondary school students in the geography and cultures of other countries where the volunteers have served;

(B) projects that involve partnerships with local libraries to enhance community knowledge about other peoples and countries; and

*(C) audio-visual projects that utilize materials collected by the volunteers during their service that would be of educational value to communities.*

*(3) ELIGIBILITY FOR GRANTS.—To be eligible to compete for grants under this section, a nonprofit corporation shall have a board of directors composed of returned Peace Corps volunteers with a background in community service, education, or health. The nonprofit corporation shall meet all appropriate Corporation management requirements, as determined by the Corporation.*

*(c) GRANT REQUIREMENTS.—Such grants shall be made pursuant to a grant agreement between the Corporation and the nonprofit corporation that requires that—*

*(1) the grant funds will only be used to support programs and projects described in subsection (a) pursuant to proposals submitted by returned Peace Corps volunteers (either individually or cooperatively with other returned volunteers);*

*(2) the nonprofit corporation will give consideration to funding individual programs or projects by returned Peace Corps volunteers, in amounts of not more than $100,000, under this section;*

*(3) not more than 20 percent of the grant funds made available to the nonprofit corporation will be used for the salaries, overhead, or other administrative expenses of the nonprofit corporation;*

*(4) the nonprofit corporation will not receive grant funds for programs or projects under this section for a third or subsequent year unless the nonprofit corporation makes available, to carry out the programs or projects during that year, non-Federal contributions—*

*(A) in an amount not less than $2 for every $3 of Federal funds provided through the grant; and*

*(B) provided directly or through donations from private entities, in cash or in kind, fairly evaluated, including plant, equipment, or services; and*

*(5) the nonprofit corporation shall manage, monitor, and submit reports to the Corporation on each program or project for which the nonprofit corporation receives a grant under this section.*

*(d) STATUS OF THE FUND.—Nothing in this section shall be construed to make any nonprofit corporation supported under this section an agency or establishment of the Federal Government or to make the members of the board of directors or any officer or employee of such nonprofit corporation an officer or employee of the United States.*

*(e) FACTORS IN AWARDING GRANTS.—In determining the number of nonprofit corporations to receive grants under this section for any fiscal year, the Corporation—*

*(1) shall take into consideration the need to minimize overhead costs that direct resources from the funding of programs and projects; and*

*(2) shall seek to ensure a broad geographical distribution of grants for programs and projects under this section.*

*(f) CONGRESSIONAL OVERSIGHT.—Grant recipients under this section shall be subject to the appropriate oversight procedures of Congress.*

*(g) FUNDING.—*

*(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000. Such sum shall be in addition to funds made available to the Corporation under Federal law other than this section.*

*(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.*

***SEC. 11. AUTHORIZATION OF APPROPRIATIONS.***

*Section 3(b)(1) of the Peace Corps Act (22 U.S.C. 2502(b)(1)) is amended—*

*(1) by striking ''2002, and'' and inserting ''2002,''; and*

*(2) by inserting before the period the following: '', $465,000,000 for fiscal year 2004, $500,000,000 for fiscal year 2005, $560,000,000 for fiscal year 2006, and $560,000,000 for fiscal year 2007''.*

Mr. REID. Mr. President, I note that Senator DODD is the sponsor of this legislation. He was in the Peace Corps, so it is totally appropriate that this matter would be sponsored by him as the lead sponsor.

I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed, and that the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The committee amendment, in the nature of a substitute, was agreed to.

The bill (S. 2667), as amended, was read the third time and passed.

## ESTABLISHING NEW NONIMMIGRANT CLASSES FOR BORDER COMMUTER STUDENTS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4967, which is at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 4967) to establish new nonimmigrant classes for border commuter students.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 4967) was read the third time and passed.

## AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. Res. 343, submitted earlier today by the two leaders.

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

The legislative clerk read as follows:

A resolution (S. Res. 343) to authorize representation by the Senate Legal Counsel in Newdow v. Eagen, et al.

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

Mr. DASCHLE. Mr. President, this resolution concerns a civil action commenced in the United States District Court for the District of Columbia against Secretary Jeri Thomson, Financial Clerk Timothy Wineman, their counterparts in the House of Representatives, the Congress, and the United States.

The plaintiff in this case, Mr. Michael Newdow, is the individual challenging the constitutionality of the Pledge of Allegiance in California. Mr. Newdow alleges in this action that the disbursement of public funds to the offices of the congressional chaplains violates the First and Fifth Amendments to the Constitution, and Article VI.

Both the United States Supreme Court and the United States Court of Appeals for the District of Columbia Circuit have already established the constitutionality of the congressional chaplaincies, which date from 1789. In the landmark Supreme Court decision *Marsh* v. *Chambers*, 463 U.S. 783 (1983), the Supreme Court unequivocally rejected a challenge to the constitutionality of Nebraska's legislative chaplain. It stated that given the ''unambiguous and unbroken history'' of legislative chaplains, the ''practice of opening legislative sessions with prayer has become part of the fabric of our society'' and is not ''an 'establishment' of religion or a step toward establishment; it is simply a tolerable acknowledgement of beliefs widely held among the people of this country.'' Id. at 792. Several months later, the United States Court of Appeals for the District of Columbia Circuit, sitting en banc, dismissed a constitutional challenge to the Congressional chaplains. *Murray* v. *Buchanan*, 720 F.2d 689 (D.C. Cir. 1983) (en banc). It stated that the Supreme Court ''answered the question presented in *Marsh* with unmistakable clarity: The 'practice of opening each legislative day with a prayer by chaplain paid by the State [does not] violate[] the Establishment Clause of the First Amendment.''' Id. at 690 (quoting *Marsh*, 463 U.S. at 784).

This resolution authorizes the Senate legal counsel to represent Secretary Thompson and Mr. Wineman to seek dismissal of this action.

Mr. REID. Mr. President, I ask unanimous consent the resolution and the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements in relation thereto be printed in the RECORD.

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

The resolution (S. Res. 343) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 343

Whereas, Secretary Jeri Thomson and Financial Clerk Timothy Wineman have been named as defendants in the case of Newdow v. Eagen, et al., Case No. 1:02CV01704, now pending in the United States District Court for the District of Columbia; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers and employees of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Secretary Thomson and Mr. Wineman in the case of Newdow v. Eagen, et al.

## AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to S. Res. 344.

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

The legislative clerk read as follows:

A resolution (S. Res. 344) to authorize representation by the Senate Legal Counsel in Manshardt v. Federal Judicial Qualifications Committee, et al.

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

Mr. DASCHLE. Mr. President, an unsuccessful applicant for U.S. Attorney in Los Angeles has commenced a civil action in Federal court in California against Senator FEINSTEIN, Senator BOXER, a prominent Republican businessman and political leader in California, and a judicial screening panel set up by these defendants, to challenge the use of this screening panel to identify potential nominees for Federal District Court judgeships in California. Specifically, the plaintiff alleges that the use of informal screening panels to develop lists of potential judicial nominees violates the Federal Advisory Committee Act, the Government in the Sunshine Act, and the separation of powers.

The laws underlying this suite do not apply to the Senate, and the Speech or Debate Clause bars suits against legislators for the performance of their duties under the Constitution. Thus, there is no legal basis for suing Senators for their role in forming, appointing, or relying on judicial screening panels.

Further, the use of informal judicial selection panels to identify potential judicial nominees as a part of the advice and consent function has a long and respected history. Also, the Supreme Court's holding in Public Citizen versus U.S. Department of Justice that the Federal Advisory Committee Act does not apply to the longstanding practice of soliciting views on prospective judicial nominees from an American Bar Association committee provides ample support for the challenged practice.

This resolution would authorize the Senate legal counsel to represent the Senators sued in this action to protect their role in the advice and consent process by which the President and the Senate share responsibility for the appointment of Federal judges under the Constitution.

Mr. REID. Mr. President, I ask unanimous consent the resolution and preamble be agreed to, the motion to reconsider be laid on the table, and that any statements in relation thereto be printed in the RECORD.

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

The resolution (S. Res. 344) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 344

Whereas, Senators Dianne Feinstein and Barbara Boxer have been named as defendants in the case of *Manshardt* v. *Federal Judicial Qualifications Committee, et al.*, Case No. 02–4484 AHM, now pending in the United States District Court for the Central District of California; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Senators Dianne Feinstein and Barbara Boxer in the case of *Manshardt* v. *Federal Judicial Qualifications Committee, et al.*

## CYBER SECURITY RESEARCH AND DEVELOPMENT ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to Calendar No. 549, S. 2182.

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

The legislative clerk read as follows:

A bill (S. 2182) to authorize funding for the computer and network security research and development and research fellowship programs, and for other purposes.

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

CHECKLIST PROVISION—CYBER SECURITY RESEARCH AND DEVELOPMENT ACT, HR 3394

Mr. HOLLINGS. I would like to engage in a brief colloquy with the ranking member of the Science, Technology, and Space Subcommittee of the Commerce Committee, Senator ALLEN, regarding the provisions of H.R. 3394 that provide for the National Institute of Standards and Technology, NIST, to develop checklists for widely used software products.

Mr. ALLEN. The committee, particularly Senators WYDEN and EDWARDS, working with NIST and industry, have reached agreement on this provision. We recognize that there is no ''one-size-fits-all'' configuration for any hardware or software systems. We have given NIST flexibility in choosing which checklists to develop and update. We have not required any Federal agency to use the specific settings and options recommended by these checklists.

Mr. HOLLINGS. The ranking member is correct. Our intent with this provision is not to develop separate checklists for every possible Federal configuration. Rather, the checklists would provide agencies with recommendations that will improve the quality and security of the settings and options they select. The use of any checklist should, of course, be consistent with guidance from the Office of Management and Budget.

Mr. ALLEN. I agree with the chairman.

Mr. WYDEN. Mr. President, I would like to say a few words about the Senate's passage of the Cybersecurity Research and Development Act.

Americans today live in an increasingly networked world. The spread of the Internet creates lots of great new opportunities. But there is also a downside: security risks. The Internet connects people not just to friends, potential customers, and useful sources of information, but also to would-be hackers, viruses, and cybercriminals.

In July 2001, after I became chairman of the Science and Technology Subcommittee of the Senate Commerce Committee, I chose cybersecurity as the topic for my first hearing. The message from that hearing was that cybersecurity risks are mounting. And that was before the horrific attacks of September 11 hammered home the point that there are determined, organized enemies of this country who wish to wreak as much havoc as they can. The terrorists are looking for vulnerabilities, and they are not technological simpletons.

This legislation is essential to the Nation's effort to address cybersecurity threats. It is a necessary complement to both the homeland security legislation pending in Congress and to the draft cybersecurity strategy released on September 18 by the administration. Because reorganizing the Federal Government to deal more effectively with security threats is only part of the battle. The same goes for many of the steps called for in the Administration's cybersecurity strategy.

In the long run, all Government and private sector cybersecurity efforts depend on people—trained experts with the knowledge and skills to develop innovate solutions and respond creatively and proactively to evolving threats. Without a strong core of cybersecurity experts, no amount of good intentions and no amount of Government reorganizing will be sufficient to keep this country one step ahead of hackers and cyberterrorists.

Therefore, this legislation makes a strong commitment to support basic cybersecurity research, so that the country's pool of top-flight cybersecurity experts can keep pace with the evolving risks. Specifically, the bill authorizes $978 million over five years to create new cybersecurity research and development programs at the National Science Foundation, NSF, and the National Institute of Standards and Technology, NIST. The NSF program will provide funding for innovative research, multidisciplinary academic centers devoted to cybersecurity, and new courses and fellowships to educate the cybersecurity experts of the future. The NIST program likewise will support cutting-edge cybersecurity research, with a special emphasis on promoting cooperative efforts between government, industry, and academia.

All of these programs will support advanced cybersecurity research at a

basic, non-applied level, some of which may not pay off for a number of years. Nonetheless, it is my strong expectation that as this fundamental research yields results, those results will be made available promptly to the private sector, where they will serve as the foundation for a wide range of practical, tangible cybersecurity improvements, products, and solutions. This kind of commercialization of the results of Federal investment in computer and network security research is consistent with long-standing U.S. technology transfer policy, and will serve the national interest in enhancing the security and reliability of cyberspace for commercial, academic, and individual users, as well as Federal and state governments.

I should also note that, in addition to the extramural research grants at NSF and NIST, the bill will support NIST's ongoing cybersecurity research. Americans for Computer Privacy, the Business Software Alliance, the Information Technology Association of America, the Information Technology Industry Council, the Software & Information Industry Association, and the U.S. Chamber of Commerce noted in a recent letter to Senators LIEBERMAN and THOMPSON that NIST's Computer Security Division's ''job is to improve the security of civilian computer systems through technical standards and cooperation with industry.'' This legislation will provide funding to support NIST in continuing that work.

There is broad consensus on the need for this legislation. It has already passed the House by an overwhelming bipartisan vote, thanks to the leadership of Congressman SHERRY BOEHLERT. I introduced the Senate version, S. 2182, and the ranking member of the Science and Technology Subcommittee, Senator ALLEN, joined me in shepherding it through the Commerce Committee. We worked closely with Senator EDWARDS on provisions to help Federal Government agencies safeguard the security of their computer systems. And we worked closely with businesses and experts in the cybersecurity field, to ensure widespread support within the high tech industry.

Specifically, I would like to mention a few changes that have been made to the bill since we reported the bill from the Commerce Committee. The most significant changes to the bill came in working with Senator EDWARDS and cybersecurity businesses and experts to give federal agencies additional tools to strengthen the security of their computer systems, while at the same time encouraging innovation and allowing agencies the flexibility to adopt a variety of cybersecurity products.

In addition, working with our colleagues on the House Science Committee, we adjusted the list of research areas of basic NSF research grants. No list could ever encompass every computer security technology, and for that reason the list is not exclusive. The intention was simply to give some general examples of broad research areas, without naming specific technologies. But obviously, when individual grants are awarded, they may well focus on particular technologies that are not listed by name in the final version of the bill, such as digital watermarking.

Another change is the delection of a cost-sharing provision added in committee. Instead, the bill language makes it clear that research grants under the NIST cybersecurity research program will be awarded to institutions of higher education rather than directly funding industry research.

I thank my Senate colleague for taking up and approving this timely legislation. The stakes are high, and you can bet that hackers and cyberterrorists won't stand still. So it is important to launch these new cybersecurity research programs as soon as possible. I believe this legislation needs to be enacted into law this fall, and I urge the House and the President to move swiftly to ensure that happens.

Mr. ALLEN. Mr. President, I rise to thank my colleagues for their unanimous support of S. 2182, the Cyber Security Research & Development Act. I would also like to thank Senator WYDEN for his leadership and continued work on pushing this important measure through the legislative process.

S. 2182 addresses the important issue of cyber security. As our reliance on technology and the Internet have grown over the past decade, our vulnerability to attacks on the Nation's critical infrastructure and networked systems has also grown exponentially. The high degree of interdependence between information systems exposes America's network infrastructure to both benign and destructive disruptions. Such cyber attacks can take several forms, including: defacement of web sites; denial of service; virus infection throughout the computer network; and unauthorized intrusions and sabotage of systems and networks resulting in critical infrastructure outages and corruption of vital data.

Past attacks, such as the Code Red virus, show the types of danger and potential disruption cyber attacks can have on our Nation's infrastructure. The cyber threats before this country are significant and are unfortunately only getting more complicated and sophisticated as time goes on.

A survey last year by the Computer Security Institute and FBI found that 85 percent of 538 respondents experienced computer intrusions. Carnegie Mellon University's CERT Coordination Center, which serves as a reporting center for Internet security problems, received 2,437 vulnerability reports in calendar year 2001, almost 6 times the number in 1999. Similarly, the number of specific incidents reported to CERT exploded from 9,589 in 1999 to 52,658 in 2001. What is alarming is that CERT estimates these statistics may only represent 20% of the incidents that actually have occurred.

A recent public opinion survey indicates that over 70 percent of Americans are concerned about computer security and 74 percent are concerned about terrorist using the Internet to launch a cyber-attack against our country's infrastructure. One survey shows that half of all information technology professionals believe that a major attack will be launched against the Federal Government in the next 12 months.

Indeed, cyber security is essential to both homeland security and national security. The Internet's security and reliability support the economy, critical infrastructures and national defense. At a time when uncertainty threatens confidence in our nation's preparedness, the Federal Government needs to make information and cyber security a priority.

Currently, federally funded research on cyber security is less than $60 million per year. Experts believe that fewer than 100 United States researchers have the experience and expertise to conduct cutting edge research in cyber security.

The Cyber Security Research and Development Act will play a major role in fostering greater research in methods to prevent future cyber attacks and design more secure networks. Our legislation will harness and link the intellectual power of the National Science Foundation, the National Institute of Science and Technology, our Nation's universities, and private industry to develop new and improved computer cryptography and authentication, firewalls, computer forensics, intrusion detection, wireless security and systems management.

In addition, our bill is designed to draw more college undergraduate and graduate students into the field of cyber security research. It establishes programs to use internships, research opportunities, and better equipment to engage students in this field. America is a leader in the computer hardware and software development. In order to preserve America's technological edge, we must have a continuous pipeline of new students involved in computer science study and research.

S. 2182 highlights the role the Federal Government will play in helping prepare and prevent cyber attacks, but only if we can ensure the cutting edge research and technology funded in this legislation is made commercially available.

Clearly, there is an urgent need for private sector, academic, and individual users as well as the Federal and State governments to deploy security innovations. I am confident that the federal investment for long-term projects outlined in this legislation will yield significant results to enhance the security and reliability of cyberspace.

I am glad to see the Senate come together and pass this important legislation and again thank my colleague from Oregon for his leadership. I have truly enjoyed working with him for the

successful passage of this positive and constructive legislation that will improve the security of Americans.

Mr. REID. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be withdrawn; and on behalf of Senators WYDEN and ALLEN, I ask unanimous consent that the amendment at the desk be considered and agreed to, the bill, as amended, be read three times, and the Commerce Committee then be discharged from further consideration of H.R. 3394, the House companion; that all after the enacting clause be stricken, and the text of S. 2182, as amended, be inserted in lieu thereof; that H.R. 3394 be read three times, passed, the motion to reconsider be laid on the table; and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate; and that S. 2182 be returned to the calendar.

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

The committee amendment in the nature of a substitute was withdrawn.

The amendment (No. 4890) was agreed to.

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

The bill (S. 2182), as amended, was read the third time.

The bill (H.R. 3394), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

## INLAND FLOOD FORECASTING AND WARNING SYSTEM ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to calendar No. 698, H.R. 2486.

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

The legislative clerk read as follows:

A bill (H.R. 2486) to authorize the National Oceanic and Atmospheric Administration, through the United States Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to this matter be printed in the RECORD.

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

The bill (H.R. 2486) was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

## BLACK LUNG BENEFIT CONSOLIDATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5542 now at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 5542) to consolidate all black lung benefit responsibility under a single official, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the 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 bill (H.R. 5542) was read the third time and passed.

(This bill will be printed in a future edition of the RECORD.)

## ORDERS FOR THURSDAY, OCTOBER 17, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m., Thursday, October 17; that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that there be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each, with the time until 12 noon under the control of the Republican leader or his designee, and the time from 12 noon to 1 p.m. under the control of Senator DASCHLE or his designee.

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

## ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. REID. Mr. President, there is no further business to come before the Senate. Therefore, I ask unanimous consent that we stand in adjournment under the previous order.

There being no objection, the Senate, at 9:04 p.m., adjourned until Thursday, October 17, 2002, at 11 a.m.

## NOMINATIONS

Executive nominations received by the Senate October 16, 2002:

BROADCASTING BOARD OF GOVERNORS

BLANQUITA WALSH CULLUM, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2005, VICE CHERYL F. HALPERN, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

FELICIANO FOYO, OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING AUGUST 12, 2004, VICE JORGE L. MAS.

DEPARTMENT OF STATE

MARY CARLIN YATES, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL RICHARD C. COLLINS, 0000
BRIGADIER GENERAL SCOTT R. NICHOLS, 0000
BRIGADIER GENERAL DAVID A. ROBINSON, 0000
BRIGADIER GENERAL MARK V. ROSENKER, 0000
BRIGADIER GENERAL CHARLES E. STENNER JR., 0000
BRIGADIER GENERAL THOMAS D. TAVERNEY, 0000
BRIGADIER GENERAL KATHY E. THOMAS, 0000

*To be brigadier general*

COLONEL RICARDO APONTE, 0000
COLONEL FRANK J. CASSERINO, 0000
COLONEL CHARLES D. ETHREDGE, 0000
COLONEL THOMAS M. GISLER JR., 0000
COLONEL JAMES W. GRAVES, 0000
COLONEL JOHN M. HOWLETT, 0000
COLONEL MARTIN M. MAZICK, 0000
COLONEL HANFERD J. MOEN JR., 0000
COLONEL JAMES M. MUNGENAST, 0000
COLONEL JACK W. RAMSAUR II, 0000
COLONEL DAVID N. SENTY, 0000
COLONEL BRADLEY C. YOUNG, 0000

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL EMILE P. BATAILLE, 0000
BRIGADIER GENERAL DANIEL D. DENSFORD, 0000
BRIGADIER GENERAL DANIEL E. LONG JR., 0000
BRIGADIER GENERAL MICHAEL J. SQUIER, 0000
BRIGADIER GENERAL ROY M. UMBARGER, 0000
BRIGADIER GENERAL ANTONIO J. VICENS-GONZALEZ, 0000
BRIGADIER GENERAL WALTER E. ZINK II, 0000

*To be brigadier general*

COLONEL NORMAN E. ARFLACK, 0000
COLONEL JERRY G. BECK JR., 0000
COLONEL RAYMOND W. CARPENTER, 0000
COLONEL HERMAN M. DEENER, 0000
COLONEL ROBERT P. FRENCH, 0000
COLONEL JOHN T. FURLOW, 0000
COLONEL CHARLES L. GABLE, 0000
COLONEL FRANCIS P. GONZALES, 0000
COLONEL DEAN E. JOHNSON, 0000
COLONEL DAVID A. LEWIS, 0000
COLONEL THOMAS D. MILLS, 0000
COLONEL VERN T. MIYAGI, 0000
COLONEL ROQUE C. NIDO LANAUSSE, 0000
COLONEL J. W. NOLES, 0000
COLONEL THOMAS R. RAGLAND, 0000
COLONEL TERRY L. ROBINSON, 0000
COLONEL CHARLES G. RODRIGUEZ, 0000
COLONEL CHARLES D. SAFLEY, 0000
COLONEL RANDALL E. SAYRE, 0000
COLONEL DONALD C. STORM, 0000
COLONEL WILLIAM H. WADE, 0000
COLONEL GREGORY L. WAYT, 0000
COLONEL MERREL W. YOCUM, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

BRANFORD J. MCALLISTER, 0000
ALICE SMART, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be commander*

ROWLAND E MCCOY, 0000

*To be lieutenant commander*

ROGER L BOUMA, 0000
JAMES T DENLEY, 0000
JOHN V DICKENS III, 0000
KIMBERLY S FRY, 0000
JEROME A HINSON, 0000
TAMMY C JONES, 0000
JOHN T LEE, 0000
STEVEN M RESWEBER, 0000
ROBERT D REUER, 0000
LOUIS ROSA, 0000
DUANE A SAND, 0000
FRANK W SHEARIN III, 0000
JOHN M SHIMOTSU, 0000
RALPH R SMITH III, 0000
WALTER R STEELE, 0000
DAVID A TOELLNER, 0000
ROBERT A WACHTEL, 0000
ALAN K WILMOT, 0000