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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. BYRD).

PRAYER

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

Spirit of the Living God, infuse our minds with wisdom, our hearts with patriotism, our wills with yielded obedience, and our bodies with energizing strength. Set on fire our spirits with Your love so that we can love even those we find it difficult to love. Burn away any self-centeredness so we can care for the needs of others. Breathe Your life-giving breath into our souls so we can serve, unrestricted by self-serving attitudes. Thank You that You do not tailor our opportunities to our abilities, but rather give us courage to match life's challenges.

As this workweek comes to a close, we are amazed at what You can do through us when we put You and our Nation above partisanship, and we are alarmed by how quickly we can be divided by party spirit. Grant the Senators a special measure of greatness to unite in oneness under Your sovereignty. May they glorify You in all that is said and done this day. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, this morning there will be 30 minutes of closing debate on the Smith of Oregon amendment regarding bonus depreciation prior to a 10:30 a.m. rollcall vote in relation to the amendment.

Following this vote, the Senate will go into executive session to consider the nominations of Marcia Krieger to be a United States District Judge for the District of Colorado and James Mahan to be a United States District Judge for the District of Nevada. There will be 20 minutes for debate, followed by rollcall votes on these nominations.

Following these votes, the Senate will resume consideration of the Daschle economic recovery amendment. In working with the manager of the bill for the Republicans and Senator BAUCUS, we have worked out an arrangement for amendments this afternoon. So there will be activity on the economic stimulus package this afternoon.

RESERVATION OF LEADER TIME

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

HOPE FOR CHILDREN ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 622, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

Pending:

Daschle/Baucus amendment No. 2698, in the nature of a substitute.

Smith of Oregon amendment No. 2705 (to the language proposed to be stricken), to amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after September 10, 2001, and before September 11, 2004.

AMENDMENT NO. 2705

The PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided and controlled for debate on the Smith amendment No. 2705.

The Senator from Oregon is recognized on his amendment.

Mr. SMITH of Oregon. I thank the President pro tempore.

Mr. President, it is a privilege this morning to speak about a component of the stimulus package which I think does garner wide bipartisan support. There are many good ideas. And I, as a Republican, stand in this Chamber to say I look forward to voting to extend unemployment benefits and health care benefits. I think these ideas add to the demand side of the equation by giving dollars to consumers—to taxpayers—who very much need to make ends meet and to meet life's necessities.

There is a supply side to this debate that actually is central to an economic recovery, and that is the supply side of doing things which truly stimulate the economy, because if we want to get back to surpluses, the best way we can do that is by pursuing policies that will lend themselves to growth.

The bonus depreciation amendment, which I have before the Senate this morning, does that very thing. It has won verbal support from the likes of Chairman Greenspan and former Clinton Treasury Secretary Robert Rubin, who uniformly endorse a stimulus package, and specifically the immediate stimulative effect on the economy of the temporary enactment of bonus depreciation.

I commend the majority leader for much improving his proposal as to the budget, as to the bonus depreciation from its initial offering. But for reasons I will point out, I think it still falls short of what it needs to be if we are truly serious about stimulating the economy.

Senator DASCHLE's proposal will allow 30-percent bonus depreciation from only September 11 of last year to September 11 of this current year. This

means it will only stimulate business purchases for the next 8 months, assuming we can get the stimulus package passed by February 1. It is 12 months, but it is simply an inadequate period when you figure that 8 months to make business decisions is all that is allowed. So we are left with a proposal to stimulate business that just simply lacks the weight that it needs to do the job.

If you look at the facts on business investment, it has fallen precipitously since August of 2000. Consumer spending in this recession has been surprisingly resilient, but business investment has fallen off the table.

Today's recession is caused primarily by a decline in business investment. Chairman Greenspan made that clear in his remarks to the Budget Committee yesterday. It is the central reason for this recession.

So what kind of investment can we stimulate in the 8 months that remain under the underlying proposal? It probably gives businesspeople time to buy a chair and perhaps some new wastebaskets, a rug for the front office, but 8 months is not enough time to start major projects that would, in fact, employ thousands upon thousands of people. It does not allow time to build heavy equipment, modernize a lumber mill, restart a coal mine, revamp a corporate computer system, rebuild a rail bed, or even to construct an airplane. It doesn't allow enough time to obtain building permits, perform environmental reviews, complete architectural or engineering studies.

My amendment allows bonus depreciation for farm equipment and improvements and special purpose agricultural and horticultural buildings. Farmers, unfortunately, may not see the turnaround they need in the next 8 months. I wish it were so. It may take longer than that. But when the farm economy does recover, they will need to update their equipment, and they ought to have the advantage of the bonus depreciation that we are offering long enough so they can have that advantage, too.

Consider the airplane. If you want to build an airplane, the average is it takes about 18 months. So, clearly, that important industry, that very American industry, is left out of the calculation before the Senate, if my amendment is defeated. Eight months is simply not enough time to build an airplane.

Moreover, an 8-month bonus depreciation period does not provide insurance against future down ticks in our recovery cycle. These commonly occur when an economy struggles to throw off the shackles of a recession. We need to create a booming economy, not only for today but for the next several years. So I emphasize that the majority's 8-month depreciation proposal lacks the economic weight that our economy now needs. I plead with my colleagues on both sides of the aisle, let's recognize the realities of the business world and provide the kind of stimulus which is meaningful, weighty, and effective.

Mr. President, I have been requested to add the names of Senators COLLINS and ALLARD as cosponsors. I ask unanimous consent that they be added.

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

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

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the following letters from the Association for Competitive Technology and the American Electronics Association in support of the Smith amendment be printed in the RECORD.

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

ASSOCIATION FOR
COMPETITIVE TECHNOLOGY,
Washington, DC, January 25, 2002.

TO ALL SENATORS: On behalf of thousands of information technology (IT) companies and professionals, I am writing to express my support for the Smith (OR) amendment that would provide a 3-year, 30% bonus depreciation provision. Like other companies in our industry, our members feel strongly about depreciation and are paying close attention to this vote.

Small business drives the IT industry. No sector has created more jobs or advances in technology. These businesses have spent nearly $160 billion during the past two years on acquiring new products used to develop cutting edge applications and services. The end result has been a richer computing experience for businesses and consumers.

Enhanced depreciation schedules will improve small business productivity, strengthen the U.S. economy and boost the IT sector. Enhanced depreciation means small businesses will have the IT tools they need to stay competitive—obsolete IT tools will be one less obstacle in a small company's growth and success. Favorable expensing rules will free-up small business capital to grow business and increase jobs.

Modernizing expense for high technology equipment can help boost the economy at a time when we need it most. My member companies feel that the time is now to address these changes and the economic stimulus package it the right vehicle.

The one-year, 30% provision in the Democratic stimulus bill is unacceptable. The reality is that their ''year'' ends in September 2002, which only provides seven months at the most for companies to plan for and make technology purchases. We hope we can count on you to do what's best for the technology industry and vote ''Yes'' on the Smith amendment.

Sincerely,

JONATHAN ZUCK,
President.

AEA,
Washington, DC, January 25, 2002.

DEAR SENATOR: On behalf of the high-tech industry, I write to express AeA's strong support for the Smith amendment calling for a 30 percent bonus depreciation provision for capital assets purchased over the next 36 months. We believe that this is a meaningful accelerated cost-recovery provision for American business and is essential to stimulate the economy. Our industry is unified in its support of such a measure.

Please vote in support of the Smith amendment.

A 30% bonus depreciation will stimulate greater investment and provide the kind of stimulus that will strengthen our companies and create more jobs across the country. The current economic slowdown requires this kind of dramatic, effective action by the Congress.

AeA (American Electronics Association) is the nation's largest high-tech trade association and is comprised of more than 3,500 small, medium and large high-tech companies. Passage of an economic stimulus package is very important to the high-tech industry right now, and we hope the U.S. Senate will act quickly to approve a stimulus package that includes at least a 30 percent bonus depreciation provision.

Sincerely,

WILLIAM T. ARCHEY,
President and CEO.

Mr. SMITH of Oregon. Mr. President, I also will note that President Bush also spoke in support of a bonus depreciation only a few days ago. I quote from him:

But any good stimulus package plan must ask the question ''how do we create more jobs?'' and one way to do that is to accelerate tax relief for workers, and the other way to do that is to make sure that the Tax Code doesn't punish companies like Walker.

That is the one he was visiting.

We ought to allow them to accelerate the depreciation schedule so it is more likely they will buy more equipment.

That is simply what we are doing, Mr. President. We are trying to allow this bonus with enough time that they can take enough advantage of it for the greater advantage of our entire country.

Mr. President, I think we all recognize that the No. 1 issue in the hearts and the homes of the American people is economic security, as well as national security. I, for one, was deeply disappointed that we went home for Christmas not as Santa Claus but as Scrooge. We should have done this before we left. I am glad, however, that the majority leader has brought it up and is allowing this to go forward now. I hope we are successful because I think we ought to show the American people that we are doing all we can to make this happen and are taking out the insurance policy that is necessary to support our economy and our people.

I ask unanimous consent to add Senator BROWNBACK as a cosponsor of the amendment as well.

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

Mr. SMITH of Oregon. Mr. President, I ask my colleagues to vote for this amendment. I think it will win a lot of additional Republican support for the overall effort of the majority leader, and I think for the American people's sake that is important.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, how much time is reserved on our side on the Smith amendment?

The PRESIDENT pro tempore. The opposition has 11 minutes 44 seconds. The sponsor has 3 minutes 26 seconds.

Mr. GRASSLEY. We reserve the time on our side.

The PRESIDENT pro tempore. Very well. Who seeks recognition?

The Senator from North Dakota, Mr. CONRAD, is recognized.

Mr. CONRAD. Mr. President, in order to understand and evaluate this amendment, the first thing we have to do is understand our current economic condition. The day before yesterday, the Director of the Congressional Budget Office, Mr. Crippen, informed us that the projection of $5.6 trillion of surpluses over the next 10 years that was made only 1 year ago has now been eroded dramatically, and that what is available to us over the next 10-year period is not $5.6 trillion but $1.6 trillion. That is a loss of $4 trillion of projected surpluses in only 1 year.

If we look to the causes for that dramatic change in our fiscal condition, what we see, according to the Congressional Budget Office, is that tax cuts accounted for 42 percent of the reduction in projected surplus; 23 percent is the result of economic changes from the economic slowdown; 18 percent is from other legislation, mostly as a result of the attack on this country of September 11 of last year; 17 percent is the result of certain technical changes. Examples of that are increased costs of Medicare and Medicaid.

I think it is critically important, as we evaluate these amendments, to understand our current fiscal condition. The implications of this dramatic drop in the projected surpluses are that we have gone from a circumstance in which we were told last year that we would be virtually debt free as a Nation in the year 2008 to now Director Crippen telling us that instead of being debt free in 2008, we will have $2.8 trillion of publicly held debt. As Chairman Greenspan reported to the Budget Committee yesterday, that is the tip of the iceberg because we have other liabilities—so-called contingent liabilities—of another $10 trillion.

Mr. President, I think that should sober us in our deliberations today. The implications of all this are serious and far-ranging. It means the total Federal interest costs that we can anticipate are going up by over a trillion dollars. We were told last year we would expect interest costs to the Federal Government of $622 billion over this forecast period. That has now been increased to $1.6 trillion, an increase of over a trillion dollars.

Mr. President, perhaps most alarming is that the truth is there are no surpluses left—no surpluses. The only place there is surplus money is in the Social Security trust fund account. If we remove the Social Security trust fund and the Medicare trust fund, what we find—last year, we were told we would have $2.7 trillion in non-trust-fund surpluses. Now what we see is a $1.1 trillion deficit. What this means is any proposal before us will take the payroll taxes of our firemen, our policemen, our farmers, our carpenters, our teachers, those who work in our factories, even our own employees, and we will be taking every penny to pay for any of these provisions—however meritorious—right out of the payroll taxes of the taxpayers of America—taxes they were told were being levied to pay for Social Security and Medicare and are now being taken not to pay for Social Security and Medicare—oh, no—but now to pay for any tax relief provision that is being considered in this Chamber.

Mr. President, I believe that sets the very high bar with respect to any of these proposals.

Now comes this well-intended amendment. I have high regard for the Senator offering this amendment. He is a respected member of the Budget Committee. I support bonus depreciation as part of a stimulus package, but bonus depreciation over 3 years defeats the purpose of a stimulus package.

Stimulus packages, as Secretary Rubin described it to us, as Chairman Greenspan described it to us, are designed to change economic behavior now—not 3 years from now but now. And if instead of doing 1-year depreciation, we do 3 years' depreciation, what we have actually done is to encourage people to wait to make the investment. That is precisely what we should not do. What we need to do is encourage people to invest now.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. Isn't it, in fact, correct that this proposal, the 3-year bonus depreciation, is contradictory within its own terms? What you want to do with a stimulus—and I am for a 1-year bonus depreciation because I think that may serve as an incentive for additional investment in order to realize the benefit of the bonus depreciation in the first year—if you make it a 3-year bonus depreciation, the latter part of the bonus depreciation is countering the front part of the bonus depreciation, which is exactly what we do not want. We want to do the 1 year.

We will see what the 1 year gives us, where the economy is at the end of the 1 year and whether an additional effort is needed. But to do 3 years so someone can say, I will not do it this year, I will not do it next year, I will do it in the third year of the bonus depreciation, is exactly contrary to what we are trying to accomplish. Isn't that, in fact, the case?

Mr. CONRAD. It is precisely the case. Again I say, I am a supporter as well of bonus depreciation. I agree with everything the Senator from Oregon said with respect to the merits of bonus depreciation, but I have to say to my colleague, I think it would be a profound mistake to do 2 or 3 years because that simply encourages people to wait rather than creating an incentive to act now, to invest now, to give lift to the economy now. The message that is being sent is wait. That is not the message we ought to send.

That is not just the conclusion of this Senator or the conclusion of the Senator from Maryland but the Congressional Budget Office, which at my request did an analysis of the various stimulus proposals and concluded on this whole question that, ''A longer period would give a bigger average yearly boost, but more of it would come at the end of the period than at the beginning, delaying the stimulative effect.'' Delaying the stimulative effect.

Is that what we want to do, delay the stimulative effect? I do not think so. That goes directly counter to what a stimulus package is supposed to do.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. In fact, as I understand it, the Congressional Budget Office said in a report evaluating the various stimulus options:

> Extending the period during which such expensing could be used would reduce the bang for the buck because it would decrease businesses' incentive to invest in the first year and increase the total revenue cost.

We would lose on the stimulus front, and we would add to the deficit problem, which the Senator has so ably outlined, that we confront as we look out into the future.

Mr. CONRAD. Actually, the result of passing the Smith amendment would have the perverse result of decreasing the impact of the stimulus and increasing the debt, increasing the deficits, which is the worst stew you could cook.

Mr. President, I point out that as we started this whole question of stimulus, the budgeteers on the House side and the Senate side on a bipartisan basis agreed to a set of principles to apply. One of them was a stimulus sunset. That principle says:

> All economic stimulus proposals should sunset within 1 year, to the extent practicable.

This amendment, as well intended as it is, violates that basic principle.

Yesterday we heard from Chairman Greenspan. The headline in the Washington Post today is: ''Greenspan Doubts Need for Tax Cuts.'' While we may agree or disagree on that question, I frankly think additional stimulus would be a good insurance policy, but I think it should be, with respect to this provision, 1 year. I think that gives us the greatest stimulus and does the least damage to our long-term deficit situation.

Chairman Greenspan yesterday said he is very conflicted about a stimulus package. He said:

> Since the nature of the coming recovery remains uncertain and may be relatively weak, having some additional stimulus could be helpful.

I agree with him on that.

He said:

> On the other hand, such a package would deepen the budget deficit this year which would not be a good idea.

Mr. Greenspan went on:

> There is a possibility, depending on the provisions of a stimulus plan, that it could have a modest negative effect on the long-term economic outlook.

Mr. President, it is very clear that the best advice we have gotten is that we should have stimulus, that we should have it limited to 1 year so we do not dig the hole deeper in the outyears in light of the dramatic change in our fiscal condition.

I will conclude by showing what the amendment of the Senator will do. The revenue lost this year is $39 billion, but that pales in comparison to the loss from 2002 to 2006 of $82 billion.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

The PRESIDENT pro tempore. The time of the opposition has now expired.

Mr. SARBANES. Mr. President, I ask unanimous consent for 30 seconds.

The PRESIDENT pro tempore. Is there objection?

Mr. SARBANES. And 30 seconds for the other side.

Mr. GRASSLEY. I will not object if we have 30 seconds.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. SARBANES. I thank the Chair. I thank my good friend from Iowa.

Mr. President, I want to add one dimension of this—the loss of cost in Federal revenue. There is also an impact of this on State revenue. One of the problems we are confronting by this economic downturn is what it has done to State budgets. Bonus depreciation over a 3-year period will cost significantly more to the State governments, whose revenue structures are tied to the Federal revenue structure, than the 1-year plan. It is estimated, in fact, that it will probably cost the States in the billions just in the second year of a bonus depreciation. This is a further complication that arises out of this proposal.

Mr. CONRAD. Mr. President, I ask for an additional 30 seconds on both sides.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

Mr. CONRAD. Mr. President, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDENT pro tempore. The point of order is immaterial while time remains.

Mr. GRASSLEY. Mr. President, I yield the remainder of our time this way: 1 minute to the Senator from Oklahoma, the remaining time to the Senator from Kansas, and the Senator from Kansas will go first.

Mr. SMITH of Oregon. Mr. President, if I may in response——

The PRESIDENT pro tempore. Time is running.

Mr. GRASSLEY. I have to yield time: 1 minute, half a minute, and the remaining time to the Senator from Kansas.

The PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. I thank the Chair.

Mr. President, I rise to speak on behalf of the Smith amendment but more to speak on behalf of the Boeing workers around my State and around the country. I have great respect for the Senator from North Dakota and the Senator from Maryland for the efforts they are putting forward.

In the proposal they are putting forward, which basically has an 8-month window, we are not going to build any additional planes based upon that.

We need the longer depreciation period because a plane is a major investment project. It takes decisionmaking time to put that forward, and we need this greater depreciation.

I have been in close touch with the Boeing workers in Wichita. We have other aircraft manufacturers that are located in Wichita, whether it is Cessna or Raytheon or Lear Jet, and they are saying we have to have this if we are actually going to stimulate people to buy airplanes.

This is a major decision they have to make, and they need the longer timeframe for it to be able to occur. We are talking about thousands of jobs in this industry that were directly hit because of September 11. That is why I speak on their behalf, and I ask my colleagues to consider what impact this has had to aircraft manufacturing workers who were directly hit by the September 11 events. They need this longer depreciation schedule for major companies to make the decision to buy the planes.

In an 8-month time period—that is the basic framework of this 1-year proposal—we will only have 8 months to act on it. Those decisions cannot and will not be made in that period of time that would be involved for a company to decide to put millions of dollars out for aircraft.

They have been contacting me and are strongly supportive of the longer depreciation time period saying that is what we need, and I ask we consider what happens to the aircraft workers. That is what we ought to be thinking about on this particular amendment. If we want to stimulate this work, if we want to stimulate manufacturing, we need the Smith amendment for the longer timeframe.

I reserve the remainder of our time, and I yield to the Senator from Oklahoma for his 1 minute.

The PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to compliment my colleague from Oregon, Senator SMITH, for his amendment because he is trying to put some stimulus in the stimulus package. Right now, under the so-called Daschle package, there is no beef. There is nothing that is going to create jobs. The only thing that could even remotely be called a stimulus would be the depreciation section, and when one reads the depreciation section there is nothing there.

I have heard colleagues say Senator DASCHLE's amendment has a depreciation section for 12 months. Well, 4 months of those 12 months have already expired. How many jobs are we going to create for the past 4 months? That has already happened. There are only 8 months remaining. I doubt this is going to be enacted into law today, and so it is going to be less than 8 months. So the stimulative portion of this might last for 7 months.

Senator SMITH happens to have a business background. I used to be in the private sector. We cannot pass a bill and say to the business community, go out and make investments, and by the way you have to make the investment in the next 6 months and it has to be put into action, according to the Daschle amendment, by December. One just does not do it.

One might buy a few little things but they are not going to make a significant investment. It will not happen. Jobs are not going to be created.

The PRESIDENT pro tempore. The Senator from Oklahoma has used 1 minute.

Mr. NICKLES. Mr. President, how much time do we have remaining on our side?

The PRESIDENT pro tempore. Thirty-five seconds.

Mr. NICKLES. I will use the remainder of the time unless others want it.

I, again, thank my colleague from Oregon because he is trying to put stimulus in this so-called stimulus package. If we want to strictly have a spending bill, let's have a spending bill. That is really what most of the Daschle package is.

The Smith amendment says, let us have some stimulus. This has passed the House. It was part of the bipartisan bill that we had Democrats and Republicans say we can pass. It is one of the things for which the President has asked. Let us do something that would help create jobs. If we do not pass this amendment, I do not think the underlying amendment is worth passing. That is my observation.

I urge my colleagues to support the Gordon Smith amendment.

The PRESIDENT pro tempore. The time has expired.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, in my role as Budget Committee chairman, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I move to waive the respective section of the Budget Act with regard to my amendment and ask for the yeas and nays on this motion.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mrs. CLINTON) and the Senator from North Dakota (Mr. DORGAN) would each vote ''no.''

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Alabama (Mr. SHELBY), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would vote ''yea.''

The yeas and nays resulted—yeas 39, nays 45, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—39

Allard	Ensign	Lugar
Allen	Enzi	McConnell
Bennett	Fitzgerald	Nickles
Bond	Frist	Santorum
Brownback	Gramm	Smith (NH)
Bunning	Grassley	Smith (OR)
Burns	Gregg	Snowe
Campbell	Hagel	Specter
Cochran	Hatch	Stevens
Collins	Helms	Thomas
Craig	Hutchinson	Thompson
Crapo	Hutchison	Thurmond
DeWine	Lott	Warner

NAYS—45

Baucus	Dayton	Levin
Bayh	Durbin	Lieberman
Biden	Edwards	Lincoln
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Johnson	Schumer
Cleland	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden

NOT VOTING—16

Akaka	Kennedy	Roberts
Clinton	Kyl	Sessions
Dodd	McCain	Shelby
Domenici	Miller	Voinovich
Dorgan	Murkowski	
Inhofe	Nelson (FL)	

The PRESIDENT pro tempore. There will be order in the Senate.

On this vote, the yeas are 39, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Oregon would result in a breach of the revenue floor set out in the budget resolution. The point of order is sustained. The amendment falls.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask for the yeas and nays on amendment No. 2698.

The PRESIDENT pro tempore. Will the Senator withhold briefly?

EXECUTIVE SESSION

NOMINATIONS OF MARCIA S. KRIEGER, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO AND JAMES C. MAHAN, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

The PRESIDENT pro tempore. Under the previous order, upon the disposition of the Smith amendment No. 2705, the Senate will now go into executive session and proceed with the consideration of Executive Calendar Nos. 644 and 645.

The nominations will be stated.

The assistant legislative clerk read the nomination of Marcia S. Krieger, of Colorado, to be United States District Judge for the District of Colorado, and James C. Mahan, of Nevada, to be United States District Judge for the District of Nevada.

The PRESIDENT pro tempore. Under the previous order, there will now be 10 minutes for debate to be equally divided between the chairman and ranking members of the Judiciary Committee, and 10 minutes for debate under the control of the Senator from Iowa, Mr. HARKIN.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be recognized after these two votes for such time as I may need to speak about the nominations. I know a number of Senators have schedules they want to keep.

Mr. HATCH. Mr. President, reserving the right to object—I will not object—I would like to be given time immediately following the distinguished Senator from Vermont.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I say to my colleagues here in the Chamber today that I announced last year before we adjourned for the holiday recess that because of the failure of the Senate to provide for cloture on the farm bill so that we could have a reasonable amount of time for debate and come to closure on it, the Senator from Iowa, this Senator, was not going to agree to any unanimous consent on any judges or anything else that came before the Senate until we completed the farm bill.

I was approached the other day and was asked if we would let a couple of these judges go. It was my intention at that time to say no. I am not interested in anything passing here until we got a farm bill finished and sent to conference. But it has come to my attention that there seems to be some movement towards reaching some agreement to have either a defined list of amendments and/or a time limit so that we could bring this farm bill to some closure.

So in the spirit of trying to work on a bipartisan basis and trying to reach some agreement, I withdrew my objection so we could go ahead and permit these two judges to go through. I asked for this 10 minutes of time only to hope that in the ensuing few days—I know that next week we are not going to be here much more than 1 day, and I think we are out Wednesday, Thursday, and Friday for the party conferences. That means we will have a short day Monday, a day Tuesday, and that is it. Then we are in the week after that. I am hopeful that sometime before we adjourn next week for our party conferences the leadership on the Republican side and on the Democratic side can reach an agreement on a defined list of amendments on the farm bill and/or some time limit so we can reach closure on it. Hopefully we will do that the week after next.

This is becoming even more important because the Department of Agriculture just came out last week with their economic forecast for agriculture this year. I will read from the AP report on their forecast.

With crop prices mired near record lows, the government says farm income will drop nearly 20 percent this year unless Congress enacts a new farm program quickly, or approve more emergency payments.

There you have it.

There are three things we can do: Sit back, do nothing, and let farm income drop 20 percent, we can come up with more emergency payments, or we can enact a new farm bill, go to conference with the House, and have a more reasonable approach.

I hope we can do the latter; that is, pass the farm bill, go to conference, come back, and let the House and the Senate work its will.

We have had a lengthy debate on the farm bill already. We have been here 12 days; 1 more day on the farm bill means we will have broken all records for length of time for the farm bill to be considered in this Chamber. Just 1 more day and we will have that. It looks as if we are going to break the record.

We had three substitutes for this farm bill. It was well debated. We had the Lugar substitute, we had the Roberts-Cochran substitute, and we had the Hutchison substitute, which is basically the House bill. None of them got over 40 votes. One got 30, one got 38, one got 40. So it looks as if the bipartisan bill that we came out of committee with is the bill that has the most votes.

I know there are things in the bill not everyone likes. There are some things in the bill I personally as chairman of the committee do not like. But

I recognize there are other reasons for things and for different parts of the country. There is agriculture all over America. Maybe what is good in one place is not good in other places. That is why there are varying interests. I believe the bill we have on the floor does a good job of balancing those interests.

We have a good bipartisan bill. That doesn't mean we can't have more amendments considered. Of course we can. There are payment limitation amendments. There are other amendments that will come up. That is just fine. I have never taken the position we should not have amendments. Let us have a reasonable time limit, get the amendments up, have a reasonable debate, and then move on.

Again, I hope my friends on the other side of the aisle will permit us to move ahead week after next on this farm bill, either with a defined list of amendments or at least a time agreement or vote cloture on the bill so we can move ahead on it expeditiously.

Again, I do not intend to hold up these judges in the spirit of comity and working together. But I say to my friends on the other side of the aisle, if we cannot get some reasonable agreement to have this bill up and passed the week after next, then this Senator from Iowa will again say nothing else is going to pass here until we get that farm bill passed.

So I have removed my objection to these judges because of what I have heard. And I have talked with some people and have heard that there may be some movement to get this farm bill debated and passed. If that is the case, that is fine. I hope we can do that. But we cannot afford to tarry any longer. We have to get this bill passed, get to conference with the House, and, hopefully, get it to the President.

We have farmers getting ready to go into the fields in the South already. I think the wheat harvest in Texas is probably going to start next month. We have farmers up in the northern parts of the country—where I am from—who do not know whether they can go out and buy a new combine or a new tractor or something similar because they do not know what they are going to get this year. The bankers are uncertain.

The President was just out at John Deere a couple weeks ago. I was with him at a John Deere plant in Illinois. The CEO of John Deere said that we have to get a farm bill passed because no one is buying the implements because they do not know what the bill is going to be. There is that uncertainty out there.

So I know we are talking about a stimulus package, my friends, but stimulus in rural America is the farm bill. If we get that farm bill passed, it will stimulate economic activity in rural America. It will let bankers know how much they can lend. Farmers would then be able to say: OK, now I can buy that tractor or that combine or that new piece of equipment. But until we do that, all that uncertainty and that cloud is hanging over them.

So, again, I took this time only to say that I will not object to these judges in that spirit of comity, but I hope by next Wednesday we will have an agreement worked out so when we come back the week after next, after the party conferences and the party issues conferences, we can bring up the farm bill, have a reasonable time for debate, and then have final passage on the bill.

With that, Mr. President, I yield back the remainder of my time.

The PRESIDENT pro tempore. All time has expired.

Mr. BURNS. Mr. President, is there any time to respond to the statement made by the Senator from Iowa?

The PRESIDENT pro tempore. Under the unanimous consent order, there is none.

Mr. BURNS. Mr. President, I ask unanimous consent that I be recognized for 5 minutes. And I daresay I would not use that much time.

The PRESIDENT pro tempore. How much time?

Mr. BURNS. Five minutes.

Mr. REID. Mr. President, reserving the right to object, I say to my friend from Montana, the chairman and ranking member of the Judiciary Committee agreed to speak after the votes. We have people here who have schedules to meet. If my friend really wants to speak now, I will not object.

Mr. BURNS. No.

Mr. REID. Mr. President, I would ask unanimous consent the Senator from Montana be allowed to speak after the chairman and ranking member are allowed to speak.

Mr. BURNS. I will agree to that. I thank my friend.

The PRESIDENT pro tempore. The Senator from Montana withdraws his request?

Mr. BURNS. That is correct.

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Marcia S. Krieger, of Colorado, to be United States District Judge for the District of Colorado? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. DORGAN) would vote ''aye.''

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Alabama (Mr. SHELBY), the Senator from Ohio (Mr. VOINOVICH), the Senator from Arizona (Mr. MCCAIN), and the Senator from Tennessee (Mr. THOMPSON) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. KYL) would each vote ''aye.''

The PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 0, as follows:

[Rollcall Vote No. 4 Ex.]

YEAS—83

Allard	DeWine	Lieberman
Allen	Durbin	Lincoln
Baucus	Edwards	Lott
Bayh	Ensign	Lugar
Bennett	Enzi	McConnell
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (NE)
Breaux	Frist	Nickles
Brownback	Graham	Reed
Bunning	Gramm	Reid
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Campbell	Hagel	Sarbanes
Cantwell	Harkin	Schumer
Carnahan	Hatch	Smith (NH)
Carper	Helms	Smith (OR)
Chafee	Hollings	Snowe
Cleland	Hutchinson	Specter
Clinton	Hutchison	Stabenow
Cochran	Inouye	Stevens
Collins	Jeffords	Thomas
Conrad	Johnson	Thurmond
Corzine	Kerry	Torricelli
Craig	Kohl	Warner
Crapo	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

NOT VOTING—17

Akaka	Kennedy	Roberts
Boxer	Kyl	Sessions
Dodd	McCain	Shelby
Domenici	Miller	Thompson
Dorgan	Murkowski	Voinovich
Inhofe	Nelson (FL)	

The nomination was confirmed.

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of James C. Mahan, of Nevada, to be United States District Judge for the District of Nevada?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that this be a 10-minute vote.

The PRESIDENT pro tempore. Will the Senator repeat his request?

Mr. LEAHY. I ask unanimous consent this be a 10-minute rollcall vote.

The PRESIDENT pro tempore. Is there objection?

Hearing no objection, this will be a 10-minute rollcall vote. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from Missouri (Mrs. CARNAHAN), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr.

MILLER), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. DORGAN) would vote ''aye.''

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Alabama (Mr. SHELBY), the Senator from Ohio (Mr. VOINOVICH), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Arizona (Mr. MCCAIN), and the Senator from Tennessee (Mr. THOMPSON) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. KYL) would each vote ''aye.''

The PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 0, as follows:

[Rollcall Vote No. 5 Ex]

YEAS—81

Allard	DeWine	Lieberman
Allen	Durbin	Lincoln
Baucus	Edwards	Lott
Bayh	Ensign	Lugar
Bennett	Enzi	McConnell
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (NE)
Breaux	Frist	Nickles
Brownback	Graham	Reed
Bunning	Gramm	Reid
Burns	Grassley	Rockefeller
Byrd	Gregg	Santorum
Campbell	Hagel	Sarbanes
Cantwell	Harkin	Schumer
Carper	Hatch	Smith (NH)
Chafee	Helms	Smith (OR)
Cleland	Hollings	Snowe
Clinton	Hutchison	Specter
Cochran	Inouye	Stabenow
Collins	Jeffords	Stevens
Conrad	Johnson	Thomas
Corzine	Kerry	Thurmond
Craig	Kohl	Torricelli
Crapo	Landrieu	Warner
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden

NOT VOTING—19

Akaka	Inhofe	Roberts
Boxer	Kennedy	Sessions
Carnahan	Kyl	Shelby
Dodd	McCain	Thompson
Domenici	Miller	Voinovich
Dorgan	Murkowski	
Hutchinson	Nelson (FL)	

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

HOPE FOR CHILDREN ACT—Continued

The PRESIDENT pro tempore. The clerk will report the title.

The assistant legislative clerk read as follows:

A bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand under the unanimous consent request I am to be recognized, but the distinguished Senator from Illinois and the distinguished Senator from Oregon are here, and I ask unanimous consent it be in order first to recognize the distinguished Senator from Illinois for 2 minutes, then the distinguished Senator from Oregon for 1 minute, and the distinguished Senator from Oklahoma, the Republican assistant leader, for 30 seconds, and then we revert back to my original time.

The PRESIDENT pro tempore. Is there objection to the several requests?

There being no objection, the requests are agreed to.

The Senator from Illinois.

The PRESIDENT pro tempore. The Senator from Illinois.

AMENDMENT NO. 2714 TO AMENDMENT NO. 2698

(Purpose: To provide enhanced unemployment compensation benefits)

Mr. DURBIN. Pursuant to an earlier unanimous consent request, I am sending to the desk an amendment being offered by me on behalf of the majority leader.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. WELLSTONE, Mr. DAYTON, Ms. LANDRIEU, and Mrs. LINCOLN, proposes an amendment numbered 2714.

Mr. DURBIN. I ask unanimous consent reading of the amendment be dispensed with.

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

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

Mr. DURBIN. Mr. President, this is part of the economic stimulus package. It is an amendment agreed to by both sides, Democrats and Republicans, to extend the unemployment insurance benefits to those States which will provide protection, expanded coverage for part-time workers who otherwise would not be eligible for unemployment compensation, and expand coverage to low-wage and recent hires who are also out of work and cannot be covered by unemployment. It also increases benefit levels under unemployment compensation by 15 percent or $25 per week, whichever is greater. These proposals are temporary. All of the funding comes from Federal funding sources from the unemployment insurance fund. The amendment costs about $15 billion in one year, but it will provide direct, immediate relief to unemployed people across America. When we return next Tuesday, I will speak to this amendment at length.

I hope my colleagues will join me in supporting it on a bipartisan basis.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I thank the chairman of the Judiciary Committee for allowing me a minute to simply notify the Senate that I will redo my amendment and try to get 60 votes. It will come back and be filed later today. It will have a 2-year time period beginning January 1 of this year and going for 2 years, with a 30-percent depreciation bonus, and it will also specifically include the motion picture industry so that they can have the advantage of this stimulus as well.

I think it is critical we do what the the Senator from Illinois is talking about, and it is also critical we do something that is actually stimulatory of the economy. Two years is the absolute minimum, if we are serious about this part of the stimulus bill.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Oklahoma, Mr. Nickles.

Mr. NICKLES. I ask unanimous consent that it be in order I ask for the yeas and nay on amendment No. 2698.

The PRESIDENT pro tempore. Is there objection to the request that it be in order?

Mr. LEAHY. Reserving the right to object—I understand there is no objection.

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

Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

Mr. NICKLES. I thank my colleague.

The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Is the Senator from Vermont correct that following my statement the distinguished senior Senator from Utah is to be recognized?

The PRESIDENT pro tempore. That is correct.

JUDICIAL NOMINATIONS

Mr. LEAHY. I thank the distinguished Presiding Officer.

Mr. President, I appreciate the fact that the majority leader and the assistant majority leader moved to consider additional judicial nominations today. Both Senator DASCHLE and Senator REID have been working very diligently to clear these nominations which were put on the Executive Calendar as we went out of session prior to the new year. They have worked very hard to return the Senate's consideration of judicial nominations to a more orderly and open process. I compliment the Senator from South Dakota and the Senator from Nevada for their efforts and thank them for their leadership. Along with our Senate leaders, many Senators have been working to move away from the anonymous holds and inaction on judicial nominations that characterized so much of the period from 1996 through the year 2000. Since the change in majority last summer, we have already made a difference in terms of both the process and its results. The number of vacancies and the number of confirmations have finally begun to move in the right directions.

As we begin this new session, I will take a moment to report where we are

in the handling of judicial nominations and to outline the road ahead. The distinguished Presiding Officer knows more of the history of this body than any of the nearly 260 or 270 Senators with whom I have served—I suspect more than a lot of others with whom he has served. I hope he will not feel it presumptuous if I take a few minutes to touch on the history and legacy of the last 6 years as it relates to judicial nominations.

Those last 6 years have left a residue of problems that I think are going to take a continuing effort to purge. We are not going to do it in 1 day or 1 weekend, but it is going to have to be a continuing effort of both parties, Republicans and Democrats, and the White House.

After going through that history, I am going to offer the steps that we in the majority will take in good faith to undo the damage of the last 6 years. Then I am going to call on the White House to help us take similar steps to help move the process forward. I do this both in my capacity as the Senator from Vermont—a position I honor, and I am always thankful to the people of my great and beautiful State for letting me be here—but also carrying the responsibility my caucus has given me by allowing me to be chairman of the Senate Judiciary Committee.

One of the lessons I learned early on in this body from the distinguished Presiding Officer is that if you are the chairman of a committee, you have a responsibility to that committee, to your caucus, but also to the Senate, the whole Senate. I respect that.

So let me talk about the Judiciary Committee. In a span of less than 6 months, and in a year that was tumultuous for the Nation and the Senate, the Judiciary Committee, between July and the end of the session in December, held hearings on 34 judicial nominees. We reported 32 and the Senate confirmed 28. As of today, we add 2 more and the Senate has now approved 30 of those judicial nominations.

They are conservative Republicans, but nearly all were unanimously approved by Democrats, Republicans and Independent alike on the Judiciary Committee and by the Senate, in a democratically-controlled Senate.

We reported more judicial nominees after the August recess than in any of the preceding 6 years, and more than in any similar period over the preceding 6½ years. The Senate Judiciary Committee during the time I have been chairman did not have and has not yet had a year in which to work. Last session we had less than 6 months. Still, in the last 5 months of last year, the Senate confirmed almost twice as many judges as were confirmed in the first year of the earlier Bush administration. We also confirmed more judges, including twice as many judges to the courts of appeals, as in the first year of the Clinton administration. The Senate confirmed the first new member of the Fifth Circuit in 7 years, the first new judge for the Fourth Circuit in 3 years, and the first new judge for the Tenth Circuit in 6 years.

Of course, more than two-thirds of the Federal court vacancies continue to be on the district courts, and the administration has been slow to make nominations to the vacancies in these trial courts. In the last 5 months of last year, the Senate confirmed a higher percentage of the President's district court nominees than a Republican majority had allowed the Senate to confirm in the first session of either of the last two Congresses with a Democratic President.

Last year, the White House did not make nominations to almost 80 percent of the current trial court vacancies. When we came back to session, we began with 55 out of the 69 vacancies without nominees.

Since the change in majority last summer, we have acted in the Senate to build better practices into the confirmation process for Federal judges and to make it more orderly. We made some progress at the end of last year when, after many months, the White House and our Republican colleagues finally agreed to limited steps to update and to simplify the committee questionnaire, which seemed to have grown like Topsy over the years.

And we have opened up the process as never before. For the first time, the Judiciary Committee is making public the blue slips sent to home State Senators. Until last summer these matters were treated as confidential materials. They were restricted from public view.

We have moved nominees with less time from hearings to the committee's business meeting agenda, and then onto the floor, where nominees have received timely rollcall votes and confirmations. Over the preceding 6½ years, at least eight judicial nominees who completed a confirmation hearing were never considered by the committee and were simply abandoned without any action. Before my chairmanship, there were at least eight judicial nominees who got a hearing but never even got a vote—not a vote on the floor, Mr. President, they never got a vote in committee.

Also, the past practices of extended unexplained anonymous holds on nominees after a hearing were not evident in the second half of last year, as they had been in the recent past.

By the time the Judiciary Committee was reorganized and began its work last summer, the vacancies on the Federal courts were peaking at 111. That is what I faced as the Committee began its work—111 vacancies. Since then, 25 additional vacancies have arisen. Through hard work in the limited time available to us, we were able to outpace this high level of attrition. By contrast, when my friends on the other side of the aisle took charge of the Senate in January 1995, until the majority shifted last summer, judicial vacancies rose from 65 to more than 100, an increase of almost 60 percent.

The Judiciary Committee simultaneously, during those last 5 months of last year, held 16 confirmation hearings for executive branch nominees. We sent to the Senate nominees who were confirmed for 77 senior executive branch posts, including the Director of the FBI, the head of the Drug Enforcement Administration, the Commissioner of the Immigration and Naturalization Service, the Director of the U.S. Marshals Service, the Associate Attorney General, the Director of ONDCP, the Director of the Patent and Trademark Office, 7 assistant attorneys general, and 59 U.S. attorneys.

Senators may recall that soon after the Senate confirmed Judge Roger Gregory as the first new Federal judge nominated by this President last July, the White House counsel said in an interview that he did not expect the Senate to confirm more than five judges before the end of 2001. Just think about that: The White House said last July that they did not expect the Senate to confirm more than five judges before the end of 2001.

Of course, that estimate of 5 was actually an upward revision. Initially some on the other side of the aisle, after the midyear change of majority, had proclaimed that the Democratic majority would not confirm a single judge. The White House, I think, trying to appear more bipartisan, upped the estimate from zero to 5. Of course, we achieved much more than that and confirmed more than 5 times the number of judges that the White House counsel had predicted.

One might have thought from the constant barrage of partisan criticism that 2001 resembled 1996, a year in which a Senate Republican majority confirmed only 17 judges, none of them appellate-level nominees.

The worst fear of some, it has been clear, is that Democrats would treat Republican nominees as poorly as Democratic judicial nominees were treated by a Republican Senate. That is not what has happened. In just 5 months we went on to confirm 28 additional judges, as I have said, more than five times the number the White House predicted we would confirm. Think of that, Mr. President—five times what the White House was telling the American people we would confirm.

The Senate can be proud of its record in the first session of the 107th Congress of beginning to restore steadiness in its handling of judicial nominees. I want to build on that record in the second session of the 107th.

Yesterday the Judiciary Committee held another hearing for judicial nominees. That was the 12th since July. This morning the Senate is confirming the first two judges of this session and the 29th and 30th since the change in majority last summer.

The legacy of strife over the filling of judicial vacancies that we all must work to overcome began in 1996, when months went by without the Republican Senate acting on judicial nominations from a Democratic President.

Later that same year, outside groups began forming to raise money on their pledge to block action on judicial nominees and to ''kill'' Clinton nominees.

As the new session opened in 1997, efforts were launched on the Republican side of the aisle to slow the pace of Judiciary Committee and Senate proceedings on judicial nominations and to erect new obstacles for nominees.

The results were soon apparent delaying the process, and they persisted throughout the remainder of President Clinton's administration.

Those times stand in sharp contrast to the last 5 months of last year, in which I noticed a hearing within 10 minutes of becoming chairman of the full committee, chaired unprecedented hearings during the August recess, and held hearings and votes throughout the period after September 11 and during the closure of our offices and hearing rooms after Senator DASCHLE and I received anthrax filled letters.

I want to emphasize that. During that time, 50 men and women who were nominated and who went through all the vetting, FBI backgrounds, and everything else, never received a hearing and a committee vote, many after waiting for years.

They included Judge James A. Beaty, Jr., Judge James Wynn, and J. Rich Leonard, nominees to longstanding vacancies on the Fourth Circuit; Judge Helene White, Kathleen McCree-Lewis and Professor Kent Markus, nominees to the Sixth Circuit; Allen Snyder and Professor Elana Kagan, nominees to vacancies on the D.C. Circuit; and James Duffy and Barry Goode, nominees to the Ninth Circuit; Bonnie Campbell, the former Attorney General of Iowa and former head of the Violence Against Women Office at the Department of Justice, nominated to the Eighth Circuit; Jorge Rangel, H. Alston Johnson, and Enrique Moreno, each nominated to the Fifth Circuit; Robert Raymar and Robert Cindrich, among the nominees to the Third Circuit; and District Court nominees like Anabelle Rodriguez, John Bingler, Michael Schattman, Lynette Norton, Legrome Davis, Fred Woocher, Patricia Coan, Dolly Gee, David Fineman, Ricardo Morado, David Cercone, and Clarence Sundram.

None of these qualified nominees was given a vote.

Over the course of those years, Senate consideration of nominations was often delayed for not months but years.

It took more than four years of work to get the Senate to vote on the nominations of Judge Richard Paez and Judge William Fletcher; almost three years to confirm Judge Hilda Tagle; more than two years to confirm Judge Susan Mollway, Judge Ann Aiken, Judge Timothy Dyk, Judge Marsha Berzon, and Judge Ronald Gould; almost two years to confirm Judge Margaret McKeown and Judge Margaret Morrow and more than a year to confirm several others during the preceding 6½ years of Republican control.

During those years, the Republican majority in the Senate went an entire session without confirming even a single judge for the Courts of Appeals.

As few as three appellate nominees were granted hearings and committee votes in an entire session. During that time, the Republican majority averaged eight hearings a year for judicial nominees and had as few as six during one entire session. One session of Congress, the Republican majority allowed only 17 judges to be confirmed all year, and that included not a single judge to any Court of Appeals. All the while, the judicial vacancy rate continued to worsen.

The problems did not end when President Clinton left office. New problems have arisen through unilateral actions taken by the Bush administration in its handling of judicial nominations.

Fifty years ago, President Dwight Eisenhower started a policy of having the American Bar Association do a review of judicial nominees. That practice by President Eisenhower was followed by President Kennedy. It was then followed by President Johnson. It was then followed by President Nixon. It was then followed by President Ford. It was then followed by President Carter. It was then followed by President Reagan. It was then followed by the first President Bush. It was then followed by President Clinton. But when this new White House came in, they decided summarily to end that 50-year practice.

Senators are still going to ask at least to have that ABA background done. It does not mean that peer review is controlling, by any means. What is happening now is that instead of having that ABA peer review done simultaneously with the FBI background check and having the ABA report come to the Senate around the same time as the FBI report, the Administration sends up the nominee, and the Senate has to wait 6 or 8 weeks more to get the ABA vetting. The vetting processes could have done both at the same time and potentially save 2 months in the process.

This unilateral approach in vetting nominees and disregarding the Senate's longstanding practice is similar to another disregarding of the longstanding practice that encouraged consultation with home-State Senators, both Republicans and Democrats. That has needlessly complicated the Senate's handling of several of the nominations.

I realize we are looking back over the first year of a new administration. But I am laying out this history to them because it is a history of the handling of nominees that has worked fairly well for Republicans and Democrats alike since President Eisenhower's time. Maybe we ought to go back to the things that have worked.

In addition, the White House has not responded to our repeated requests to help the Senate work through residual issues caused by the Republican Senate's earlier actions and inactions related to several circuit courts.

We hear about all the vacancies on the circuit courts without mention of the fact that there have been previous qualified nominees for the vacancies on whom the Republican-controlled Senate refused to proceed. That has created problems that have grown and festered over time. They are not going to be remedied immediately, especially in the absence of White House cooperation.

One of the best friends I have in the Senate is Senator ORRIN HATCH of Utah. Senator HATCH and I can sit down and work out many of these things. But we cannot do it by ourselves if the White House is uninterested in working with us. They ought to understand that we are able to work out most of our problems. They ought to take advantage of that and work with us.

Let us turn to look at where we go from here. I think we made a good beginning in the first 6 months of Democratic leadership in the Senate. But the way forward is not easy. If we want to have continued progress, it is going to require leadership and cooperation and good will not only within the Senate but by the White House.

These are the steps that the Judiciary Committee will take in good faith. I want to lay this out for my colleagues.

First, we are going to restore steadiness in the hearing process. The committee will hold regular hearings at a pace that will exceed the pace of the last 6 years. Following longstanding committee practice, each hearing typically will involve several nominees—a circuit court nominee and a number of district court nominees.

Since the Senate's reorganization last July, we have convened judicial nominations hearings each and every month. I mention that because, by contrast, in the 72 months that the Republican majority most recently controlled scheduling such hearings, in 30 of those months no hearings were held at all, and in another 34 months only one hearing was held.

Yesterday we held our 12th hearing since July. If we are able to keep pace, we will hold more hearings this session than were held in any of the 6½ years of Republican control and more than twice as many as were held in some of those years.

Secondly, we will include hearings for a number of controversial nominees who do not have a blue slip problem. We will convene a hearing the week after next on the nomination of Charles W. Pickering for the Fifth Circuit Court of Appeals. I fully expect we will also have hearings on other nominations for which consensus will be difficult, including such nominees as Judge Priscilla Owen, Professor Michael McConnell, and Miguel Estrada.

Third, we will continue to seek a cooperative and constructive working relationship not only with our colleagues on the other side of the aisle but also with the White House. I ask the White

House to help make the confirmation process more orderly and less antagonistic, and thus make it more productive.

Finding our way forward out of the legacy of the last 6 years is going to require some White House cooperation. The President represents one of our three branches of Government. We in the Senate represent one. We are talking about working together in matters that affect our third branch. I take very seriously the advise and consent clause of the Constitution. It does not say: Advise and rubberstamp. It says advise and consent. The distinguished Presiding Officer, the President pro tempore, knows better than anybody else in this body the kind of debate that went on at the founding of this country on the constitutional requirement of advice and consent. Our Founders made very sure we, the people, had a voice in these appointments. This is a democracy, not a regency.

I will strive—whether we have a Democratic President or a Republican President—to uphold the right, and not just the right, the duty of the Senate, to fulfill its advise and consent role. It is one of the most important roles this body has ever had because it is exclusively in this great Chamber, in this great body. Senators really do not follow their oath of office if they do not uphold that right and that privilege and that duty of advice and consent.

I have heard the distinguished Presiding Officer speak of the number of Presidents with whom he has served. He very correctly has pointed out, we do not serve under a President, we serve with a President.

I have enormous respect for all Presidents I have served with, Republicans and Democrats. They are a major part of our Democratic framework. Whoever is President carries an awesome burden and should be helped in carrying out that burden. But we carry an awesome burden on advice and concept, as well. Let us try to bring the duties and rights and obligations at one end of Pennsylvania Avenue closer to the duties and rights and obligations at the other end of Pennsylvania Avenue and see how we might work together.

So today I ask the President, for his part, to consider several steps, each of which makes a tangible improvement in the consideration of judicial nominations.

First, the most progress can be made quickly if the White House would begin working with home State Senators to identify fair-minded, nonideological, consensus nominees to fill these court vacancies.

One of the reasons that the committee and the Senate were able to work as rapidly as we did in confirming now 30 judges in the last few months was because those nominations were strongly supported as consensus nominees by people from across the political and legal spectrums.

I have heard of too many situations, in too many States, involving too many reasonable and constructive home State Senators, in which the White House has shown no willingness to work cooperatively to find candidates to fill vacancies. The White House's unilateralism is not the way the process is intended to work. It is not the way the process has worked under past administrations. I urge the White House to show greater inclusiveness and flexibility and to help make this a truly bipartisan enterprise.

Logjams persist in several settings, the legacy of the last 6 years. To make real progress, the White House and the Senate should work together to repair the damage and move forward.

As I said before, the Constitution directs the President to seek the Senate's advice and consent in his appointments to the Federal courts. The lack of effort on the advice side of that obligation gives rise to a general impression, heightened by the White House's refusal to work cooperatively with some home State Democratic Senators, and by its unwillingness to listen to suggestions to continue the bipartisan commissions that have been a tradition, for years, in many States, that the White House and some in the Senate are intent on an ideological takeover of our courts.

With the circuits so evenly split in so many places, nominees to the Courts of Appeals may have a significant impact on the development of the law for decades to come. Some of us are concerned that there not be a rollback in the protections of individual rights, civil rights, workers' rights, consumers' rights, business rights, privacy rights, and environmental protection.

Secondly, I ask the President to reconsider his early decision on peer review vetting. It has needlessly added months to the time required to begin the hearing process for each nominee. For more than 50 years, the American Bar Association was able to conduct its peer reviews simultaneously with the FBI background check procedures. As I said earlier, that meant that when nominations were sent to the Senate, the FBI report and the ABA report were sent at approximately the same time, and we could start moving forward to review nominations and schedule hearings from that day.

We had occasions last year when we proceeded with hearings with fewer District Court nominees than I would have liked because recent nominees' files were not yet complete. I worry that same problem will be repeated this year.

For example, in relation to the FBI and the ABA background materials on the 24 District Court nominations that we received in the last day or so, we are not going to have all that material until March or April. That is regrettable. It was avoidable. We could have had it all here today so we could start reviewing those nominations and considering them for hearing agendas right away.

Now, no Senator is bound by the recommendations of the ABA. And I would never suggest that a Senator be bound by that. Each Senator is bound by their own conscience and their own sense of what is right. But the White House can make it clear that it is not bound either but that it is restoring a traditional practice—not because it intends to be bound by the results of that peer review but solely to remove an element of delay that it had inadvertently introduced into the confirmation process.

The White House can expressly ask the ABA, if they want, not to send the results of its peer reviews to the executive but only to transmit them to the committee. Few actions available to either the Senate or the White House could make as constructive a contribution as would the President's resolution of this problem. I ask him to seriously and thoughtfully consider taking it. It would take 1 minute of decision; it would save months of time.

In conclusion, whether we succeed in improving the confirmation process is going to depend in large measure on whether our goals are shared by Republican Senators and the White House. We will not have repaired the damage that has been done if we make progress this year and the improvements we are able to make are not institutionalized and continued the next time a Democratic President or, for that matter, a different Republican President is the one making judicial nominations.

In the statements I have heard and read from the Republican side, I have not heard them concede any shortcomings in the practices they employed over the previous 6½ years, even though since the change in majority last summer, we have exceeded their pace and productivity over the prior 6½ years. If their efforts were acceptable or praiseworthy as some would argue, I would expect them to commend our better efforts since last July.

If they did things they now regret, their admissions would go far in helping establish a common basis of understanding and comparison. Taking that step would be a significant gesture. It is something that has not yet occurred. I wish it would.

Whether it occurs or not, I want to move forward. The nominees voted on this morning and those included at our most recent hearings yesterday are clear evidence, again, that consensus nominees with widespread bipartisan support are more easily and quickly considered by the committee and confirmed by the Senate. I believe there was not a single vote against either of the judges confirmed today.

There are still far too many judicial vacancies. We have to work together to fill them. We have finally begun moving the confirmation and vacancy numbers in the right directions. The way forward is difficult. Democrats alone cannot achieve what should be our common goal of regaining the ground lost over the last 6 years. But all of us together can achieve that. I invite each with a role in this process to join that effort.

If I could close on a personal note, as I said before, the ranking member of the Senate Judiciary Committee, the senior Senator from Utah, is a close personal friend. I have been in the position of ranking member of that committee while he was chairman. I know many times he had to urge actions to move forward, actions with which many in his caucus did not agree. But he did, and I commend him for it. For my part, I pledge, during this year or whatever time I am chairman, to meet on a regular basis with my friend from Utah to try to iron out as many problems as we can. I believe there is a mutual respect between the two of us. But I would also urge the White House to realize that they do not act in a vacuum, to understand it is a democracy, to take a moment to reread the advice and consent clause. Let us work together. Things will go a lot faster and a lot better that way.

I yield the floor.

The PRESIDING OFFICER (Mr. LEAHY). The distinguished senior Senator from Utah.

Mr. HATCH. Mr. President, I don't want to take this time to engage in statistical judo on judicial nominees. I personally have appreciated our chairman and the work he did last year. We are friends, and I intend to work very closely with him. Hopefully we can put through a lot of judges this year, as we did for President Clinton in his second year.

Mr. President, the record is clear. Here are the true facts, the numbers for the first years and for the current session. I gave an extensive speech at the end of last year, and it shows where we stand today and what we did to establish a near record with 377 Clinton judges. That is five fewer than for President Reagan, the all-time champion of confirmed judges. I can say, categorically, there would have been at least three more than what President Reagan had, had it not been for holds on the Democrat side of the Chamber. So the all-time champion would have been William Jefferson Clinton as President. The Democrats, not the Republicans, stopped the approximately eight or nine additional Clinton nominees who otherwise would have been confirmed.

Sometimes it was for petty reasons that holds were put on. But the fact is that holds came from the other side. One thing we did not do is apply any litmus test. Today, some special interest groups are urging the Democrats to apply one. Had we Republicans applied an abortion litmus test to President Clinton's nominees, perhaps fewer than a dozen judges would have gone through. If the Senate were to get into the litmus test game, we would certainly hurt this body and this country a great deal. Everyone knows that when we elect a President, we are choosing the person who has the power to pick the judges in this country. As long as the President's nominees are qualified, the Senate ought to approve the President's judges.

There were a variety of reasons that prevented several of President Clinton's nominees from getting confirmed, including some who lacked the support of their home State Senators. But the overall record makes clear that we were fair. As my colleague, Senator LEAHY, said, our job was not to simply rubberstamp President Clinton's judges. The current President does not expect a rubber stamp either. So, mere numbers and statistics—as my distinguished chairman, the Senator from Vermont, listed—do not give the full picture because they do not explain the reasons in particular cases. And our current President has been more deliberative, more cooperative in his selection, evaluation, and nomination of judges than any other President while I have been serving in the Senate.

I have to be honest, I am concerned about the tone I have heard today. But I still remain cautiously optimistic that the Senate will do the right thing with regard to judges, and I keep hope alive that this bitter tone on judicial nominees will subsist. I think we are above that.

At the outset of the second session of the 107th Congress, we have an opportunity in the Senate to make a real difference in the administration of justice in this country. This opportunity is the chance to halt the vacancy crisis that presently plagues the Federal courts. A new congressional session provides many opportunities to make changes and allocate our time to those matters most pressing. Our Nation is facing many great challenges, ranging from threats of terrorism at home and abroad to the struggling economy. We have a lot of work to do.

One of the most pressing matters we must address this session is the vacancy crisis in the Federal court system. I was interested in some of the statistics my colleague from Vermont gave. In 1992, the Democrats controlled the Senate and therefore the Senate Judiciary Committee. On election day 1992, when William Jefferson Clinton was elected President of the United States, there were 97 vacancies and 54 of President Bush's nominees left hanging without a vote. (Some of those 54 neglected nominees have now been renominated by the current President Bush.) Of the 54, there were about 6 who were nominated so late in the session that there wasn't really an opportunity on the part of Senator BIDEN or the committee to confirm them. So, really, 48 were left hanging without a vote. By contrast, when George W. Bush was elected President, there were 67 vacancies—30 fewer than eight years earlier when the Democrats controlled the Senate Judiciary Committee. And for those 67 vacancies, there were 41 nominees left hanging. In other words, the Republicans left 13 fewer nominees than the Democrats did. But, of the 41, 9 were nominated so late in that session that there was no chance any Judiciary Committee chairman could have gotten them through. So, in essence, there were 32 nominees that did not get voted on at the end of the Clinton Administration.

The fact is that 32, contrasted with the 48 that the Democrats left hanging when they controlled the Senate, is a pretty good record. It was the best we could do given the individual circumstances presented. A couple were held up because of home State Senators. I could not solve that problem. Neither could Senator LEAHY. There were some who were held up because of further investigation that had to be made and questions that had arisen. Some were held up because of other matters in the FBI reports or problems that existed that we could not solve before election day.

On January 1 of this year, Supreme Court Chief Justice William Rehnquist released his 2001 year-end report on the Federal judiciary. I ask unanimous consent it be printed in the RECORD.

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

2001 YEAR-END REPORT ON THE FEDERAL JUDICIARY

I. OVERVIEW

The 2001 Year-End Report on the Federal Judiciary is my 16th. 2001 will surely be remembered by the entire country, including the federal Judiciary, for the terrorist attacks of September 11 and the anthrax contamination that followed.

I received word of the first strike on the World Trade Center as the 26 federal judges who are members of the Judicial Conference of the United States were preparing to convene at the Supreme Court the morning of September 11. It soon became clear that we would have to cancel the Conference session and evacuate the building, the first cancellation of a Conference meeting since its creation in 1922.

Just six and a half weeks later, our Court was forced to evacuate the building again after traces of anthrax were found in our offsite mail facility. For the first time since our building opened in 1935, the Court heard arguments in another location—the ceremonial courtroom in the District of Columbia E. Barrett Prettyman Federal Courthouse. The Court was also forced out of its quarters in the Capitol when the British burned part of the Capitol building in August 1814.

Despite the effects of events since September 11, the federal courts, along with the rest of our government, have gotten back to business, even if not business as usual. Our Court has kept its argument schedule, federal (and state) courts have met, albeit with heightened security, and within three weeks, the Judicial Conference completed by mail all of the business that had been on the schedule for September 11 and that could not be postponed.

II. ENSURING A WELL-QUALIFIED AND FULLY STAFFED JUDICIAL BRANCH

The federal courts were created by the Judiciary Act of 1789, which established a Supreme Court and divided the country into three circuits and 13 districts. This structure has obviously changed greatly since 1789, but one thing has not changed: the federal courts have functioned through wars, natural disasters, and terrorist attacks. During times such as these, the role of the courts becomes even more important in order to enforce the rule of law. To continue functioning effectively and efficiently, however, the courts must be appropriately staffed. This means

that necessary judgeships must be created and judicial vacancies must be timely filled with well-qualified candidates.

Promptly filling vacant judgeships

It is becoming increasingly difficult to find qualified candidates for federal judicial vacancies. This is particularly true in the case of lawyers in private practice. There are two reasons for these difficulties: the relatively low pay that federal judges receive, compared to the amount that a successful, experienced practicing lawyer can make, and the often lengthy and unpleasant nature of the confirmation process.

Of the inadequacy of judicial pay I have spoken again and again, without much result. Judges along with Congress have received a cost-of-living adjustment this year, and for this they are grateful. But a COLA only keeps judges from falling further behind the median income of the profession. I can only refer back to what I have previously said on this subject.

I spoke to delays in the confirmation process in my annual report in 1997. Then as now I recognize that part of the problem is endemic to the size of the federal Judiciary. With more judges, there are more retirements and more vacancies to fill. But as I said in 1997, ''[w]hatever the size of the federal judiciary, the President should nominate candidates with reasonable promptness, and the Senate should act within a reasonable time to confirm or reject them. Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed during 1994.''

At that time, President Clinton, a Democrat, made the nominations, and the Senate, controlled by the Republicans, was responsible for the confirmation process. Now the political situation is exactly the reverse, but the same situation obtains: the Senate confirmed only 28 judges during 2001. When the Senate adjourned on December 20th, 23 court of appeals nominees and 14 district court nominees were left awaiting action by the Judiciary Committee or the full Senate. When I spoke to this issue in 1997, there were 82 judicial vacancies; when the Senate adjourned on December 20th there were 94 vacancies. The Senate ought to act with reasonable promptness and to vote each nominee up or down. The Senate is not, of course, obliged to confirm any particular nominee. But it ought to act on each nominee and to do so within a reasonable time. I recognize that the Senate has been faced with many challenges this year, but I urge prompt attention to the challenge of bringing the federal judicial branch closer to full staffing.

The combination of inadequate pay and a drawn-out and uncertain confirmation process is a handicap to judicial recruitment across the board, but it most significantly restricts the universe of lawyers in private practice who are willing to be nominated for a federal judgeship. United States attorneys, public defenders, federal magistrate and bankruptcy judges, and state court judges are often nominated to be district judges. For them the pay is a modest improvement and the confirmation process at least does not damage their current income. Most academic lawyers are in a similar situation. But for lawyers coming directly from private practice, there is both a strong financial disincentive and the possibility of losing clients in the course of the wait for a confirmation vote.

Former magistrate, bankruptcy, and state court judges, as well as prosecutors and public defenders, have served ably as federal district and circuit judges, bringing their insights into the process gained from experience. But we have never had, and should not want, a Judiciary composed only of those persons who are already in the public service. It would too much resemble the judiciary in civil law countries, where a law graduate may choose upon graduation to enter the judiciary, and will thereafter gradually work his way up over time. The result is a judiciary quite different from our common law system, with our practice of drawing on successful members of the private bar to become judges. Reasonable people, not merely here but in Europe, think that many civil law judicial systems simply do not command the respect and enjoy the independence of ours. We must not drastically shrink the number of judicial nominees who have had substantial experience in private practice.

The federal Judiciary has traditionally drawn from a wide diversity of professional backgrounds, with many of our most well-respected judges coming from private practice. As to the Supreme Court, Justice Louis D. Brandeis, who was known as ''the people's attorney'' for his pro bono work, spent his entire career in private practice before he was named to the Supreme Court in 1916 by President Wilson. Justice John Harlan served in several government posts early in his career, but the lion's share of his experience prior to his nomination by President Eisenhower in 1954 was in private practice. When appointed to the Court of Appeals for the Second Circuit, a year before his appointment to the Supreme Court, Justice Harlan succeeded Judge Augustus Hand. Judge Hand and his cousin, Learned Hand, are well known as great court of appeals judges; both spent virtually all the time between their graduation from law school and their appointment as federal judges in private practice. Retired Justice Byron White, who played professional football for the Detroit Lions on the weekends while attending Yale Law School, was in private practice in Colorado for nearly 14 years before joining the Justice Department as deputy attorney general to Robert Kennedy. Less than a year later, President Kennedy named Justice White to the Court. Justice White was the circuit Justice for the Tenth Circuit, where Judge Alfred P. Murrah served as a district judge in Oklahoma and as a judge on the court of appeals. Judge Murrah, who spent his entire career in private practice before becoming a judge, is remembered for much more than having the Oklahoma City federal building named after him. Before being named a judge on the Court of Appeals for the Second Circuit, Justice Thurgood Marshall spent his career in the private sector. He first opened his own law practice in Baltimore and then for many years worked as the top lawyer for the NAACP, becoming known as ''Mr. Civil Rights.'' Justice Marshall left his seat on the court of appeals to become Solicitor General of the United States before President Johnson named him to the Supreme Court in 1967. John Brown, Richard Rives, Elbert Tuttle and John Minor Wisdom, well-known for their courage in enforcing this Court's civil rights decisions as judges on the Court of Appeals for the Fifth Circuit, all served almost exclusively in private practice before their appointments to the bench.

On behalf of the Judiciary, I ask Congress to raise the salaries of federal judges, and I ask the Senate to schedule up or down votes on judicial nominees within a reasonable time after receiving the nomination.

Creating necessary new judgeships

Last year I expressed hope that the 107th Congress would take action on the Judicial Conference's request to establish 10 additional court of appeals judgeships, 44 additional district court judgeships and 24 new bankruptcy judgeships. No additional court of appeals judgeships have been created since 1990. No new bankruptcy judgeships have been created since 1992, although the number of cases filed has increased by nearly 500,000 since then. The 107th Congress has not created a single new judgeship.

Despite a significant increase in workload, the Courts of Appeals for the First, Second, and Ninth Circuits have not increased in size for 17 years—since 1984. During that time period, appellate filings in the First Circuit have risen 65%, in the Second Circuit they have risen almost 58%, and in the Ninth Circuit appellate filings have almost doubled—rising 94.6%. The Judicial Conference has asked that the Congress create one new appellate judgeship for the First Circuit, two judgeships for the Second Circuit, five for the Ninth Circuit and two for the Sixth Circuit, which has had only one additional judgeship since 1984.

Congress has recognized the crisis faced by the overwhelming caseloads in the Southwestern border states. Although we are thankful that Congress has provided additional judges during the 106th Congress for four of the five affected districts, it has not alleviated the very serious problem faced by the Southern District of California, based in San Diego, a district with no judicial vacancies. The judges there have the highest number of filings per judge of any federal district court in the nation and the Judicial Conference has requested that eight additional district judgeships be created for this district.

I urge the Congress to act on all of the pending requests for new judgeships during its next session.

III. INTERNATIONAL JUDICIAL EXCHANGES

The federal Judiciary continues to play a vital role in the development of independent judicial systems in countries around the world. This year over 800 representatives from more than 40 foreign judicial systems formally visited the Supreme Court of the United States seeking information about our system of justice.

On September 25, 2001, I led a small delegation representing the federal Judiciary on a judicial exchange in Guanajuato, Mexico. The visit was at the invitation of Genaro David Góngora Pimentel, President of the Mexican Supreme Court, and followed a similar visit to Washington by a Mexican delegation in November 1999. Our traveling to Mexico within two weeks of the September 11 attacks underscored the importance of this exchange. I am grateful to President Góngora Pimentel and his colleagues for their invitation to meet with them in Mexico and for their commitment to strengthening cross-border judicial relations in North America.

The visit brought home not only the close connections of our two countries, but the importance of working with other judiciaries to improve the functioning of all judicial systems. The Federal Judicial Center, the Administrative Office of the United States Courts, and the International Judicial Relations Committee of the Judicial Conference have also provided many international visitors with information, education, and technical assistance to improve the administration and independence of foreign courts and enhance the rule of law. Through these judicial exchanges, we also gain valuable insights into our own judicial system by exchanging information with foreign visitors and by visiting foreign courts. Improving the administration of justice—here and in other courts around the world—have become even more important in the age of the global economy.

IV. THE YEAR IN REVIEW

The Supreme Court of the United States

The work of the Supreme Court continues to grow modestly, putting an increasing strain on the Supreme Court's building, the infrastructure of which has not been changed in any basic way since the building was opened in 1935. I wish to thank Chairman Byrd, Ranking Minority Member Stevens, Chairman Young, Ranking Minority Member Obey, Chairman Hollings, Ranking Minority Member Gregg, Chairman Wolf, and Ranking Minority Member Serrano for their efforts to secure funds to modernize our Supreme Court building. I am hopeful that the remaining funds necessary to implement our building modernization program, which has been in the planning stage for several years, will be included in our Fiscal Year 2003 appropriation. Significant safety and security upgrades to the Supreme Court building are included in the project and should not be delayed.

The total number of case filings in the Supreme Court increased from 7,377 in the 1999 Term to 7,852 in the 2000 Term—an increase of 6.4%. Filings in the Court's in forma pauperis docket increased from 5,282 to 5,897—an 11.6% rise. The Court's paid docket decreased by 138 cases, from 2,092 to 1,954—a 6.6% decline. During the 2000 Term, 86 cases were argued and 83 were disposed of in 77 signed opinions, compared to 83 cases argued and 79 disposed of in 74 signed opinions in the 1999 Term. No cases from the 2000 Term were scheduled for reargument in the 2001 Term. Although the closing of our building did not delay any scheduled arguments, the interruption in mail delivery in the Washington area may have an impact on the number of cases heard by the Court this Term.

The Federal Courts' caseload

In Fiscal Year 2001, filings in the 12 regional courts of appeals rose 5% to 57,464—a new all-time high.[1] Civil filings in the U.S. district courts fell 3% to 258,517,[2] and, after six consecutive years of growth, the number of criminal cases and defendants declined slightly.[3] The essentially static level of criminal filings was reflected in a 1% gain in the number of defendants activated in the pretrial services system.[4] The number of persons on probation and supervised release went up by 4% to an all-time high of 104,715.[5] Filings in the U.S. bankruptcy courts climbed 14% from 1,262,102 to 1,437,354, following two years of decline.[6]

V. THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

The Administrative Office of the United States Courts serves as the central support agency for the administration of the federal court system. In light of the terrorist attacks of September 11 and the ensuing anthrax contamination, the Administrative Office played a pivotal role in ensuring that the federal courts around the country had effective security precautions and mail-screening procedures in place. An emergency response team was convened to work with the staff of the affected courts in New York to get communications and computer systems working and to return the courts to normal operations as soon as possible. In November 2001, Administrative Office Director Leonidas Ralph Mecham created a Judiciary Emergency Preparedness Office to focus on the planning aspects of crisis response.

Even before September 11, court security was a high priority. A study of the court security program by independent security experts was completed in November. The consultants concluded that although there have been substantial improvements in court security over the last two decades, security needs continue to grow. They recommended options or enhancing the physical security of courthouses, addressing security needs during court proceedings, improving the protection of judges in and outside the courthouse, and conducting background checks on employees. The Judicial Conference's Committee on Security and Facilities and the Administrative Office are currently reviewing the report's recommendations.

One of the Administrative Office's key priorities is to secure adequate funding from Congress so that the federal courts can carry out their critical work and maintain the quality of justice. Director Mecham, Judge John Heyburn II, chair of the Judicial Conference's Budget Committee, and Judge Jane Roth, chair of the Security and Facilities Committee, deserve credit for their efforts in this area. The funding provided to the courts for fiscal year 2002 represents a 7.1% increase and will provide the courts adequate staff (including probation and pretrial services offices) to meet growing workloads. I want to express thanks to the Congress for funding an increase in the rates of pay for private ''panel'' attorneys accepting appointments under the Criminal Justice Act of $90 per hour. This has been a high priority for the Judiciary for several years. I am also pleased to report that Congress has continued to provide significant funds for the courthouse construction program, funding 15 needed courthouse construction projects costing $280 million.

Last year, an independent consultant concluded that the Judiciary is making effective use of technology and that it is doing so with fewer resources invested in technology when compared with other organizations. The Administrative Office continues to develop and implement automated systems that will enhance the management and processing of information and the performance of court business functions. Deployment of a new bankruptcy court case management/electronic case files system began this year, and it is now operating in 14 bankruptcy courts. The system's electronic case files capabilities include the ability to receive and file documents over the Internet. The creation of electronic files will reduce the volume of paper records and make these records more readily accessible. Testing of the district court case management/electronic case files system began in 2001, and development work on the appellate court system is underway.

Under the guidance of the Judicial Conference's Committee on Court Administration and Case Management, the Administrative Office completed a two-year study on how to balance privacy concerns with the rights of the public to access court electronic records. After extensive public comment, the Committee recommended that civil case documents be made available electronically to the same extent they are available at the courthouse (except that certain personal identifiers will be partially redacted). A similar policy will be followed for bankruptcy case documents assuming necessary statutory changes are enacted. The Committee recommended that there be no electronic access to documents in criminal cases at this time. These policies were endorsed by the Judicial Conference in September, and several Conference Committees, supported by Administrative Office staff, are currently working to implement them.

A review of the Judiciary's use of libraries, lawbooks, and legal research materials—both hard copy and electronic—was completed in 2001. While the use of on-line legal resource materials is expanding and continues to show promise for increased use, the study concluded that a clear and compelling need continues to exist for lawbooks and other legal research materials in hard-copy format. The Judicial Conference adopted recommendations to control costs further and to improve the management of court libraries.

VI. THE FEDERAL JUDICIAL CENTER

The Federal Judicial Center, the federal courts' statutory agency for education and research, last year provided education to some 50,000 participants in traditional and distance education programs and continued its research and analysis to improve the litigation process. A few highlights of the Center's work in 2001 follow.

Science and technology. Litigation is increasingly dominated by scientific and technical evidence. The Center's efforts to help judges included its acclaimed Reference Manual on Scientific Evidence, now in its second edition, and a six-part Federal Judicial Television Network series, Science in the Courtroom, on principles of microbiology, epidemiology, and toxicology, and how to manage cases involving these types of evidence. Other judicial education programs dealt with genetics, the human aging process, astrophysics, and the impact of computer technology on the law of intellectual property.

To assist federal judges in dealing with the sophisticated technology many attorneys use to present evidence, the Center provided federal judges its Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial, developed in cooperation with the National Institute for Trial Advocacy. It also provided judges a Guide to the Management of Cases in ADR, which it prepared in light of the growing use of alternatives to traditional litigation.

Management skills for federal courts in uncertain times. Center programs responded to another challenge facing the courts: the need for leadership skills and management practices befitting the complex organizations that federal courts have become. Courts must integrate technology with increasingly sophisticated business practices, and deal with growing caseloads and diverse workforces and litigants, while pursuing their overarching purpose to deliver justice for all.

Demystifying the legal process. The Center assisted the Judicial Conference's Advisory Committee on the Federal Rules of Civil Procedure with a different type of challenge. The Committee has proposed a requirement that attorneys use ''plain language'' in the notices they send to potential class members in class action suits and asked the Center to develop illustrative language as examples. The Center tested alternative workings with focus groups of ordinary citizens typical of class members. This testing explored recipients' willingness to open and read a notice as well as their ability to comprehend and apply the information it contained. From this research, the Center produced illustrative notices, which remain on the Center's Web site (www.fic.gov) for public comment and use.

International judicial cooperation. Given its international reputation, the Center gets frequent visitors from other countries seeking to create or enhance their judicial branch research and education centers. Although it does not use its own funds in responding to these requests, the Center has been of assistance this year in important ways. It hosted seminars or briefings of 422 foreign judges and officials representing 34 countries. The Center also responded to more specific requests for assistance. For example, a delegation from the Russian Academy of Justice spent a week at the Center attending a program on teaching methodology. Three Center representatives traveled to Moscow for a follow-up workshop focusing on distance learning and judicial this. Center personnel also played an important role in the

U.S. delegation's visit to Mexico, which I described earlier, and will continue that relationship by organizing a seminar next May in Washington for interchange with Mexican judicial educators.

VII. THE UNITED STATES SENTENCING COMMISSION

On May 1, 2001, the newly reconstituted United States Sentencing Commission completed its first full sentencing guidelines amendment cycle and submitted to Congress a package of guidelines amendments covering 26 areas. This package of amendment resolved 19 circuit conflicts and included responses to nine new congressional directives (five with emergency amendment authority). For the first time in years, there are no congressional directives awaiting implementation by the Commission.

The amendment include a multi-part, comprehensive economic crimes package with a new loss table that significantly increases penalties for crimes involving high-dollar loss amounts, but gives judges greater discretion in sentencing defendants convicted of crimes with relatively low loss amounts. The amendments also increase the penalties for ecstasy and amphetamine trafficking; counterfeiting; high-dollar fraud offenses; child sex offenses; and the use of nuclear, biological, and chemical weapons. The Commission also expanded eligibility for first-time, non-violent offenders to obtain relief under the guidelines' ''safety valve'' provision and it clarified that participants who play a limited role in a crime are eligible for an adjustment to their sentences under the guidelines ''mitigating role'' provision. The guidelines went into effect November 1, 2001.

On June 19, 2001, the Sentencing Commission held a public hearing in Rapid City, South Dakota, in response to the March 2000 Report of the South Dakota Advisory Committee to the U.S. Commission on Civil Rights, which recommended that an assessment of the impact of the federal sentencing guidelines on Native Americans in South Dakota be undertaken. As a result of suggestions made at the hearing and subsequent written submissions, the Commission is forming an ad hoc advisory group on issues related to the impact of the Federal Sentencing Guidelines on Native Americans in Indian Country.

The Tenth Annual National Seminar on the Federal Sentencing Guidelines, co-sponsored by the Commission and the Federal Bar Association, was held May 16–18, 2001, in Palm Springs, California. More than 400 federal judges, U.S. probation officers, and attorneys attended. During fiscal year 2001, Commission staff also participated in training for thousands of individuals at training sessions across the country (including ongoing programs sponsored by the Federal Judicial Center and other agencies). Commission staff continue to work with the Federal Judicial Center and the Administrative Office to plan and develop educational and informational programming for the Federal Judicial Television Network. During the year, the Commission's ''Helpline'' provided assistance to approximately 200 callers per month.

Finally, congratulations are due to Sentencing Commission Chair Diana E. Murphy who, together with Judge Frank M. Coffin of the U.S. Court of Appeals for the First Circuit, received the 19th Annual Edward J. Devitt Distinguished Service to Justice Award on September 10, 2001. This award recognizes Article III judges who have achieved exemplary careers and have made significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole.

VIII. CONCLUSION

Once again the Judiciary can look back upon the year ended as one of accomplishments in the face of adversity. In spite of the terrorist attacks that have affected the entire country, our courts continue to conduct business, day in and day out. We continue to find ways to perform our work more efficiently.

Despite an alarming number of judicial vacancies, our courts continue to serve as a standard of excellence around the world. At bottom, federal judges are able to administer justice day in and day out because of their commitment and the commitment and hard work of court staff around the country. My thanks go out to all of them.

I extend to all my wish for a happy New Year.

END NOTES

[1] Original proceedings surged 48%, largely as a result of a rise in habeas corpus petitions filed by prisoners. Criminal appeals grew 5%, administrative agency appeals increased 2%, and civil appeals rose 1%. Bankruptcy appeals fell 5%. Appeals filings have increased 22% since 1992.

[2] Filings with the United States as plaintiff seeking the recovery of student loans dropped 47%. New administrative procedures implemented by the Department of Education led to fewer such filings in the federal courts. Excluding student loan filings, total civil filings increased 1%. Total private case filings fell less than 1%. Filings related to federal question litigation were consistent with the total decline in private cases, falling less than 1% to 138,441. Diversity of citizenship and civil rights filings each rose less than 1%. Filings related to federal question litigation and diversity of citizenship were greatly affected by the stabilization of personal injury/product liability case filings related to breast implants, oil refinery explosions, and asbestos. Despite an 11% decrease in total filings with the United States as plaintiff or defendant, filings with the United States as defendant increased 10% to 40,644. This was mostly due to a 23% surge in federal prisoner petitions and an 8% rise in social security filings. Motions to vacate sentences filed by federal prisoners grew by 36%. Social security filings related to disability insurance and supplemental security income rose 9% and 6%, respectively. Civil filings have increased 9% since 1992.

[3] Filings of criminal cases dropped by 37 cases to 62,708, and the number of defendants decreased 1% to 83,252. As a result of the creation of 10 additional Article III judgeships, criminal cases per authorized district judgeship declined from 96 to 94. This was the first decrease in cases per judgeship since 1994, when the effects of a hiring freeze on assistant U.S. attorneys was being felt. In succeeding years, federal courts saw increases in criminal filings, primarily due to immigration and drug law-related cases in districts along the Southwestern border of the United States. This year, drug cases rose 5% to 18,425, firearms cases rose 9% to set yet another record at 5,845, traffic cases rose 6% to 4,958, robbery cases rose 8% to 1,355, and sex offense cases rose 8% to 1,017. Immigration filings fell by 873 cases, a 7% decline over last year due to fewer immigration cases reported by the Western District of Texas, the Southern District of California, and the District of New Mexico. However, in the Western District of Texas and in the Southern District of California, the decline in immigration filings was offset by a rise in drug filings. As a result, overall criminal filings increased 2% in the Western District of Texas and declined 3% in the Southern District of California. Criminal filings since 1992 have increased 30%.

[4] In 2001, the number of defendants activated in the pretrial services system increased 1% to 86,140, and the number of pretrial reports prepared rose 1%. During the past five years, pretrial services case activations and pretrial reports prepared each rose 24%, persons interviewed grew 16%, and defendants released on supervision increased 25%. Pretrial case activations have risen each year since 1994, and this year's total is 54% higher than that for 1994.

[5] There is an average lag of several years before defendants found guilty and sentenced to prison appear in the probation numbers. Supervised release following a period of incarceration continues to account for a growing percentage of those under supervision and now stands at 65% of this total. In contrast, the number of individuals on parole is small and declining, composing only 4% of those under supervision. Of the 104,715 persons under probation supervision, 42% had been charged with a drug-related offense. The number of persons on probation has increase 22% since 1992.

[6] Nonbusiness petitions rose 14% and business petitions increased 7%. Filings increased under all chapters except Chapter 12, jumping 17% under Chapter 7, rising 7% under Chapter 11, and increasing 8% under Chapter 13. Bankruptcy filings under Chapter 12, which constituted 0.03% of all petitions filed, fell 31%. This decrease resulted from the expiration of the provisions for Chapter 12 on July 1, 2000. Subsequently, Public Law 107–8 extended the deadline for filing Chapter 12 petitions to June 1, 2001, and Public Law 107–17 extended the deadline further to October 1, 2001. Bankruptcy filings have increased 47% since 1992.

Mr. HATCH. In his report, the Chief Justice stressed the urgent need to fill vacancies promptly, particularly in light of the threats facing our Nation at present. He noted that although the structure and scope of the judiciary have changed dramatically since its creation in 1789,

[O]ne thing has not changed: The Federal courts have functioned through wars, natural disasters, and terrorist attacks. During times such as these, the role of the courts becomes even more important in order to enforce the rule of law. To continue functioning effectively and efficiently, however, the courts must be appropriately staffed. This means that necessary judgeships must be created and judicial vacancies must be timely filled with well-qualified candidates.

In light of the September 11 attacks, I share the Chief Justice's concern about the potential impact of the vacancies on the Federal judiciary and our Nation's ability to fight the war on terrorism. Federal judges are instrumental in combating terrorism by presiding over hearings and trials and by imposing just sentences. What is more, they play a crucial role in protecting civil liberties by ensuring that our law enforcement officials abide by the letter and the spirit of the law. In addition to their integral function in the criminal justice system, Federal judges preside over and decide civil cases that impact everyday business relationships.

Federal judges are tasked with preserving the rights of employers and workers alike. They also provide the certainty of dispute resolution necessary for future business and employment decisions. But when there is a shortage of Federal judges, criminal matters must understandably take precedence due to speedy trial concerns and other concerns. The unintended consequence is that the American workers and their employers are left hanging in limbo when their cases are not being heard in a timely manner.

Today, we have 99 judicial vacancies. This is a far cry from the appropriately staffed judiciary of which Chief Justice Rehnquist spoke. When the Chief Justice addressed the vacancy crisis in the 1997 year-end report, there were 82 empty seats on the Federal bench, nearly 20 fewer than the present situation. Commenting on the 1997 statistic, the Washington Post, in January 1998, in an editorial remarked:

The problem of judicial vacancies is getting out of hand. Nearly 10 percent of the 846 seats on the Federal bench are now empty.

One key Democratic Senator called these figures ''pretty frightening,'' and said, ''If this continues, it becomes a constitutional crisis.''

There are now 99 vacancies, or 17 more than when the editorial and the

statements by the Democratic Senator were made. If 82 vacancies was a serious crisis in 1997, what do we have now with 99 vacancies?

We in the Senate have an opportunity to address this situation. We can make a real difference in the administration of justice in this country simply by fulfilling our constitutional responsibilities of advise and consent. In fact, Chief Justice Rehnquist specifically urged the Senate ''to act with reasonable promptness and to vote each nominee up or down.''

He continued:

The Senate is not, of course, obliged to confirm any particular nominee, but it ought to act on each nominee and to do so within a reasonable time.

I could not agree more with the Chief Justice. This is precisely what I tried to accomplish as Judiciary Committee chairman while abiding by our customs and rules of the Senate. But now some of President Bush's judicial nominees have been waiting more than 8 months for a hearing. All but a handful of them have had their blue slips returned. Their FBI background investigations are completed, and their ABA ratings are submitted.

At a time when our national security is at stake, we have a duty to follow the Chief Justice's admonition and act promptly on these nominees. As we embark on the second session of this Congress, we in the Senate have the perfect opportunity to do just this. I sincerely hope we accomplish this goal. I will continue to cooperate with our Democratic chairman, and I hope the rhetoric on both sides of the aisle is cooled so we can confirm as many as possible of the highly qualified nominees pending before us.

A realistic yardstick of our success will be how President Bush's second year in office will compare to President Clinton's second year in office. In 1994, the second year of President Clinton's first term, the Senate confirmed 100 judicial nominees. I was an integral part of that. I worked very hard to get them confirmed. I had to override people on my side of the aisle and convince some of them that the nominees should be confirmed. As a result of this work, there were only 63 vacancies in the Federal judiciary when the Senate adjourned on December 1, 1994.

I am confident the Republicans and Democrats can work together to achieve or even hopefully exceed the goal of confirming 100 judges in 2002, particularly the many circuit court nominees who are pending to fill emergency vacancies in the appellate courts around this country.

I have been gratified this morning to hear the comments of the distinguished Senator from Vermont that he wants to do that; that he wants to do the best he can, and that he believes we can. I think we are off to a good start.

There are two district court nominees awaiting a vote by the Senate after today. Our first confirmation hearing was held yesterday. We have to keep up the pace of hearings and confirmation votes so we do not fall further behind in filling the vacancies that plague our Federal judiciary.

I look forward to working with our Democratic colleagues to accomplish this goal. Having said that, let me make this clear. We have had a total confirmed since the distinguished chairman took over in the middle of last year of 30 judges. That means 6 circuit court nominees and 24 U.S. district court nominees. I commend my colleague. I think it is certainly a decent start.

On the other hand, we have currently pending 23 circuit court nominations—23. Most of them have well qualified ratings by the ABA. I do not think anybody can make a case that they are not qualified to serve. Just to mention four: John Roberts was one of those nominees submitted by the first President Bush who was left hanging without Senate action back in 1992. Roberts is considered one of the top five appellate lawyers in the country. He is not an ideologue. He is probably more conservative than most of the Clinton nominees were, but the fact is he is a tremendously effective advocate and an excellent nominee for the court. He should not be held up any longer. He went through that back in 1992. Why does he have to go through it again, especially for 8 months?

Miguel Estrada—I am pleased to hear the distinguished Senator from Vermont indicate that he will have a hearing. Miguel Estrada is one of the brightest people in law. He came from Honduras and attended Columbia University as an undergraduate. He graduated with honors and then went on to Harvard Law School and graduated with honors there. He is considered one of the brightest people in law today, and, of course, he is a very successful attorney. He is a Hispanic nominee that I think our colleagues should be pleased that the President has sent to the Senate.

Jeffrey Sutton is one of the best appellate lawyers in the country. He has argued a number of cases in the Supreme Court, including in the last few weeks. He is also a decent human being. He has very good ratings from the ABA. He is a person we ought to put on the Circuit Court of Appeals.

I am pleased the distinguished Senator from Vermont mentioned one of my State's nominees, Michael McConnell. Michael McConnell is considered one of the greatest constitutional experts in the country. I do not think you can categorize him in any particular political pigeonhole. This is a fair and circumspect man who is going to do a tremendous job on the bench.

I asked one of the leading deans of a law school in the country, a very liberal Democrat, what he thought of Michael McConnell. By the way, McConnell was tenured at the University of Chicago before moving to Utah to raise his family. He moved to the University of Utah where he has been a pillar of good teaching ever since. When I asked the liberal dean, ''What do you think of Michael McConnell?'' he said these words:

Senator, I've met two legal geniuses in my lifetime, and Michael McConnell is one of them.

And he is. He is a great nominee.

There are other excellent nominees I would like to mention, but I do not have enough time today.

We have 23 circuit court nominees pending. Many of them have been nominated to seats declared to be judicial emergencies by the Administrative Office of the Courts.

Again, there are 23 U.S. circuit court judges pending, and 36 U.S. district court judges, for a total of 60 who are awaiting action. I am gratified by my colleague from Vermont's expression that he wants to move these nominees through the Senate process. It means a lot to me, and I compliment him for his comments today.

With regard to some of the statistics, we certainly disagree, and we can both make our cases with regard to that. I did want to make some of these points because, to me, it is very important that we make the record clear.

Mr. President, I am also pleased today we have confirmed two excellent judicial nominations. These two nominees are Marcia Krieger and James Mahan. They were unanimously approved by the Senate Judiciary Committee.

I was gratified to see that done on December 13, and I expect the unanimous vote they received today tells everybody the Bush administration is doing a good job on these judgeship nominees.

Our vote today on these two nominees, along with the nominations hearing Chairman LEAHY held yesterday, in my opinion, is a step in the right direction. It is a good beginning to this session.

I think it is important to start our work early because we have a lot of work to do. As I said before, there are presently 99 vacancies in the Federal judiciary, which represents a vacancy rate of almost 12 percent, one of the highest in history.

As Alberto Gonzalez, counsel to President Bush, says in today's Wall Street Journal: The Federal courts desperately need reinforcements.

Mr. President, I ask unanimous consent that the full text of Judge Gonzalez' article be printed in the RECORD at this point.

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

[From the Wall Street Journal, Jan. 25, 2002]

THE CRISIS IN OUR COURTS

(By Alberto Gonzales)

Federal courts protect constitutional rights, resolve critical civil cases, and ensure that criminals are punished. But as Chief Justice William Rehnquist cautions, the ability of our courts to perform these functions is in jeopardy due to the ''alarming number'' of judicial vacancies, 101 as of today.

President Bush has responded to the vacancy crisis by nominating a record number of federal judges: 90 since taking office, almost double the nominations that any of the past six presidents submitted in the first year. Despite his decisive action, the Senate has not done enough to meet its constitutional responsibility. It has voted on less than half of the nominees. Indeed, it has voted on only six of the 29 nominees to the courts of appeals. And the Senate has failed even to grant hearings to many nominees, who have languished before the Judiciary Committee for months.

For example, on May 9, 2001, the president announced his first 11 nominees. All were deemed ''well qualified'' or ''qualified'' by the American Bar Association, whose rating system Judiciary Committee Chairman Patrick Leahy has called the ''gold standard'' for evaluating nominees. Yet his committee has held hearings for only three of the 11. Although the Senate did confirm 28 judges last year, its overall record was unsatisfactory, given the number of vacancies and pending nominees.

As Congress returns to work, the administration respectfully calls on the Senate to make the vacancy crisis a priority and to ensure prompt hearings and votes for all nominees. The Senate should make this practice permanent, adhering to it well after President Bush leaves office, so as to ensure that every judicial nominee by a president of either party receives a prompt hearing and vote.

The federal courts desperately need reinforcements. There are 101 vacancies out of 853 circuit and district court judgeships. The 12 regional circuit courts of appeals have an extraordinary 31 vacancies out of 167 judgeships (19%). The chief justice recently warned of the dangerous impact the vacancies have on the courts and the American people, and the Judicial Conference has classified 39 vacancies as ''judicial emergencies.''

In 1998, when there were many fewer judicial vacancies, Sen. Thomas Daschle, now majority leader, and Mr. Leahy expressed their concern about the ''vacancy crisis''—with the latter explaining that the Senate's failure to vote on nominees was ''delaying or preventing the administration of justice.''

Today's crisis is worse, and is acute in several places. The D.C. Circuit Court of Appeals, which, other than the Supreme Court, is often considered the most important federal court because of the constitutional cases that comes before it, has four vacancies on a 12-judge court. The Sixth Circuit Court of Appeals has eight vacancies on a court of 16. In March 2000, when that court had only four vacancies, its chief judge stated that it was ''hurting badly and will not be able to keep up with its work load.''

In the past, senators of both parties have accused each other of illegitimate delays in voting on nominees. The past mistreatment of nominees does not justify today's behavior. Finger-pointing does nothing to put judges on the bench and ease the courts' burdens; it only distracts the Senate from its constitutional obligation to act on the president's judicial nominees.

President Bush has encouraged the Senate to act in a bipartisan fashion, both now and in the future. He put it best at the White House last May while announcing his first 11 nominees: ''I urge senators of both parties to rise above the bitterness of the past, to provide a fair hearing and a prompt vote to every nominee. That should be the case for no matter who lives in this house, and no matter who controls the Senate. I ask for the return of civility and dignity to the confirmation process.''

It is time for the Senate to heed his call.

Mr. HATCH. This week, the White House submitted 24 new judicial nominations to the Senate. They are really doing a good job in this White House, and I know it has been difficult for them.

Since we already had 38 nominees still pending from last session, and we confirmed 2 today, we now have a total of 60 nominees awaiting action from the Judiciary Committee. Yesterday's hearing and today's votes make me optimistic we will vote on all of our nominees as expeditiously as possible this year, and I am counting on our chairman to help get that done.

It certainly is possible to confirm all 60 this year, in addition to the other nominations we will receive later. In 1994, the second year of President Clinton's first term, as I mentioned earlier, the Senate confirmed 100 judicial nominees. I am confident Republicans and Democrats can work together to achieve or even hopefully exceed this number in 2002, particularly with regard to the many circuit court nominees pending to fill emergency vacancies in appellate courts around this country. To do this, we have to keep up the pace of hearings and confirmation votes so we do not fall further behind in filling the vacancies that plague our Federal judiciary.

As Chief Justice Rehnquist noted, and as I have stated, in his 2001 year-end report:

> To continue functioning effectively and efficiently . . . the courts must be appropriately staffed.
>
> This means that necessary judgeships must be created and judicial vacancies must be timely filled with well-qualified candidates.

So I sincerely hope we will accomplish this goal. I look forward to cooperating with my chairman, the distinguished Senator from Vermont, and all of our other Democrat colleagues, and I hope the rhetoric on both sides of the aisle is cooled so we can confirm as many as possible of the highly qualified nominees pending before us.

Today's nominees are good examples of the kind of highly qualified nominees President Bush has submitted to the Senate. Chief Bankruptcy Judge Marcia Krieger, who has been nominated to the District Court in the District of Columbia, attended Lewis & Clark College, from which she graduated after 3 years summa cum laude, and earned her law degree from the University of Colorado School of Law. She has experience as a lawyer and as a specialist in bankruptcy. She has served as a bankruptcy court judge since 1994.

Judge James Mahan, who has been nominated to the District Court for the District of Nevada, achieved a great reputation as a lawyer in Las Vegas for 17 years, primarily focusing on business and commercial litigation. In the process, he earned an AV rating from the Martindale-Hubbell legal directory, high praise from his peers. I have held that rating from the earliest day it could be given to me, and I understand what goes into getting an AV rating. It is very important because it is a secret ballot by your peers, some of whom may not like you but nevertheless acknowledge you are of the highest legal ability and legal ethics. And he has that rating.

In February 1999, he was named a judge on the Clark County District Court. Since taking the bench, Judge Mahan has heard civil and criminal matters and trials involving a 3,000 case docket.

Both Judge Krieger and Judge Mahan have already established themselves as capable jurists. After today, they will be able to share their expertise in the Federal system, and I am confident they will bring honor and dignity to the Federal district court bench. I am very pleased our colleagues have unanimously confirmed both of them.

Again, I thank my good friend and distinguished chairman of the Judiciary Committee for the work he has done up to now, and hopefully we can do better in the future. I appreciate being able to work with him.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate the words of my friend from Utah. Obviously, we cannot determine the course the White House might take. They can make that decision on their own, and I expect will. We can only determine what the Senate does. As I said before, it is advise and consent, not advise and rubberstamp.

I only urge the White House to seek, as Presidents have throughout my lifetime, advice from the home State Senators of both parties on judgeships. Senator HATCH and I can move far more quickly on judges when that kind of consensus has been reached, just as we have demonstrated by moving through numerous conservative Republican nominees but for whom there was consensus.

Frankly, it would be a much easier job if only the Senator from Utah and I had to make these decisions. Again, I hope the White House will listen to what the two of us have been saying. We have demonstrated we will work together. They also have to help. They have to help in the consultation. They have to help in getting the information on to the FBI, and the ABA reports. They have to also make sure when they speak about these issues they speak accurately.

I thank my good friend from Utah for his comments. I will continue to work with him.

I also see the distinguished assistant Republican leader. He and the assistant Democratic leader, Senator REID, have worked very closely together with each other to try to schedule votes on judges. Both have worked with me and with Senator HATCH. I think that is helpful. It reflects the way the Senate is supposed to work. Our distinguished leaders, Senator DASCHLE and Senator LOTT, have worked closely on this and will continue to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleagues from Vermont and Utah for their comments. On the issue of judges, I think the Senate, and particularly with the leadership of both Senator LEAHY and Senator HATCH, did very well on district court judges. We moved a total of 28 judges last year, and 2 now, so that is 30 judges we have confirmed this Congress, 6 of whom were circuit court judges and the rest were district court judges. So I compliment them.

The percentage of district court judges has been a good percentage for the number who were nominated through the summer. So that was good. On circuit court judges, the record is not quite so good. We have confirmed six. President Bush has nominated 29.

I comment to the chairman of the committee and the ranking member of the committee, there are 23 circuit court judges, only 1 of whom has had a hearing. In the 23 who are pending, there are some outstanding nominees. For example, Miguel Estrada is a native Honduran who came to the United States. He graduated top of his class from Columbia and Harvard Law School. He has argued 16 cases before the Supreme Court. I hope we have a hearing for him. He was nominated in May, so I again ask the chairman of the committee, before he leaves—before he leaves, I wanted to again compliment him for the work he has done on district court judges. I think we have made good progress, but on circuit court judges there are 23 who are pending, 1 of whom has had a hearing, Judge Pickering, but of the 22 who have not had a hearing, several are outstanding, many of whom were nominated in May. I believe eight were nominated in May. I urge my friend and colleague to take a look at such outstanding individuals. I mentioned Miguel Estrada, John Roberts. Miguel Estrada argued 16 cases before the Supreme Court; John Roberts, also for the D.C. Circuit Court of Appeals, argued 36 cases before the Supreme Court. Undoubtedly, they are two of the most well-qualified individuals anywhere in the country. They have yet to have a hearing scheduled.

I say thank you. The Senator has moved all of the district court judges from Oklahoma. I am pleased about that. All four were sworn in and will be good consensus judges. I ask and urge my colleague to move forward as quickly as possible on the 23 circuit court nominees, schedule their hearings, and see if we cannot move some of those nominees through as soon as possible.

Mr. LEAHY. If the Senator will yield, that question is directed toward me. I say to the distinguished Senator from Oklahoma that while he was off the floor attending to other duties, I laid out some plans and intentions for the handling of judicial nominees, including those for the courts of appeals—I believe those are some of those mentioned—including Mr. Estrada and others were referenced. With adequate cooperation, we will be able to move forward. We held hearings yesterday on another court of appeals nominee, Michael Melloy, of Iowa; as well as hearings on Robert Blackburn, to be U.S. district judge for the District of Colorado; and James Gritzner, to be U.S. district court judge for the Southern District of Iowa; and Cindy K. Jorgenson, to be U.S. district judge for the District of Arizona; and Richard J. Leon, to be U.S. district judge for the District of Columbia; and Jay C. Zainey, to be U.S. district judge for the Eastern District of Louisiana. Those hearings were held within 28 hours of coming back into session.

Mr. NICKLES. I thank my colleague. The committee has done a wonderful job on district court judges, and I urge them to consider some of the circuit court nominees.

NOMINATION OF MARCIA S. KRIEGER

Mr. ALLARD. Mr. President, it is both an honor and a privilege to stand before my colleagues today and thank them for accepting the nomination of The Honorable Marcia S. Krieger to the U.S. District Court for the District of Colorado. Marsha S. Krieger is a person of outstanding legal credentials, and has served the people of Colorado and the United States with great diligence and dedication for many years.

Judge Krieger has strong ties to Colorado and is familiar with the issues faced by people in the State, an important aspect of any Federal judge who will work with fellow citizens through a myriad of complex litigation settings. She graduated from the University of Colorado School of Law, and has since spent many years as a sole practitioner, practicing in a law firm, and, most recently, serving as Judge.

Since 1994, Judge Krieger has served on the Bankruptcy Court—a key indicator of her efficiency and effectiveness; she was also unanimously chosen by the federal judges to become Chief Bankruptcy judge in January 2000.

However, practicing law is not her only passion. Judge Krieger, manages to find time to teach, sharing her knowledge of the law with future attorneys, teaching in a manner that provides hands-on learning, sharing with students her passion for the law.

Marsha Krieger presides over the court with a stern hand and keen intellect—she has the ability to decisively pull the issue from complex litigation with certainty and accuracy.

According to an article in the Denver Post, Judge Krieger is widely respected by other judges and by lawyers that have appeared before them. She has extensive experience, solid knowledge of the law, and has a reputation for fairness.

This vote is significant for many reasons—Colorado hasn't added a judge since 1984. Making matters more serious, only four active judges struggle to do the work of nine judges.

The legal community believes the Judge to be well qualified as well. The Honorable Lewis T. Babcock, Chief Judge of the United States District Court for the District of Colorado, in a letter to Senator LEAHY and Senator HATCH stated, ''I know Judge Krieger, and believe her to be well qualified.''

I thank Senator HATCH and Senator LEAHY.

I ask unanimous consent to print in the RECORD the editorial from the Denver Post and the letter from the Honorable Lewis T. Babcock, Chief Judge of the U.S. District Court for the District of Colorado.

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

BUSH TAPS 2 JUDGES

Tuesday, September 11, 2001.—The White House nominated two distinguished Colorado judges to the U.S. District Court yesterday, and both will receive the full support of U.S. Sens. Wayne Allard and Ben Nighthorse Campbell.

President Bush's nominations, as predicted in these pages Aug. 12, recommend U.S. Chief Bankruptcy Judge Marsha Krieger and 16th Judicial District Judge Robert Blackburn for the bench.

We are delighted by the White House decision. Both judges have extensive experience, solid knowledge of the law and a reputation for fairness. They are widely respected by other judges and by lawyers who have appeared before them.

Both should prove extremely helpful to the Federal court in Colorado, which hasn't added a judge since 1984 despite increasingly complex and mushrooming caseloads.

We commend Republicans Allard and Campbell, as well as the White House, for pushing to fill these vacancies quickly. We also congratulate the senators for zeroing in on such highly qualified candidates.

Krieger, daughter of retired Colorado Court of Appeals Judge Don Smith, has served on the Bankruptcy Court since 1994 and was unanimously chosen by the federal judges to become chief bankruptcy judge in January 2000.

Blackburn has been one of two district judges serving Bent, Crowley and Otero Counties since 1988, having previously served simultaneously as a deputy district attorney, Bent County attorney, and municipal judge and attorney for the town of Kim.

Both judges are graduates of the University of Colorado School of Law.

The next step calls for the Senate Judiciary Committee to send ''blue slips'' to Colorado's senators. Allard and Campbell then will return the blue slips, signaling their approval of Krieger and Blackburn.

Next, the Judiciary Committee will independently investigate the candidates and vote on whether to approve them. The nominations then would be sent to the Senate floor, and approval there would result in ''judicial commissions'' by the president.

The Senate process often drags on for months and months. We urge the committee and the full Senate to exercise all reasonable speed with the Krieger and Blackburn nominations. The long-overworked federal court of Colorado needs qualified new judges, and it needs them now.

U.S. DISTRICT COURT,
DISTRICT OF COLORADO,
Denver, CO, September 20, 2001.

Hon. PATRICK LEAHY,
Russell Senate Office Building,
Washington, DC.

Hon. ORRIN HATCH,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATORS LEAHY AND HATCH: In this time of national crisis I appreciate that you have much added to your ordinary labors in government. I take to heart our president's admonition to go to work and do our jobs. It is axiomatic that our federal judiciary must perform not only its usual role under our Constitution, but a heightened role in response to terrorism. Specifically, at this time this nation requires that judicial vacancies be fairly and expeditiously filled.

More specifically, I urge you to act expeditiously on the confirmation of nominees Marsha Kreiger and Robert Blackburn to vacancies existing in the United States District Court for the District of Colorado. I know Judge Kreiger and Judge Blackburn and believe them to be well qualified. As you know, the Honorable Richard P. Matsch did much to restore this nation's confidence in its courts during the trials of McVeigh and Nichols. He is now recovering from recent liver transplant surgery. It will be a long period of recovery. So, the District of Colorado struggles to do the work of seven active judges with four. By the way, the Judicial Conference of the United States has approved two additional seats for the District of Colorado. Thus, the District of Colorado struggles to do the work of a demonstrated need for nine active judges with four active judges.

I urge you not only to act to fill the existing two vacancies, but to address the demonstrated need for two additional seats in this district.

NOMINATION OF JAMES C. MAHAN

Mr. ENSIGN. Mr. President, it is an honor to come before the U.S. Senate today to lend my support to a man of the highest legal distinction, Judge Jim Madhan.

A long-time resident of Las Vegas, NV, Judge Mahan began his studies not in our great State, but at the University of Charleston in Charleston, WV. Following graduation he attended graduate school before joining the U.S. Navy where he served until honorably discharged in 1969. Jim then studied and graduated from Vanderbilt University Law School.

Following graduation, Judge Mahan began his work in Nevada, first as a law clerk and then as an associate attorney. In 1982 he formed the law firm of Mahan & Ellis, where he practiced law primarily in the areas of business and commercial litigation for 17 years. In February 1999, Judge Mahan's legal experience and expertise were recognized by Gov. Kenny Guinn, who named him as his first appointment to the Clark County District Court.

Since taking the bench, Judge Mahan has heard civil and criminal matters involving a 3,000 case docket assigned to him. Judge Mahan's service on the bench has been of the highest order. He has overseen many of Nevada's most complex and controversial cases since taking the bench and has done so with great care, fairness, and prudence. In a survey conducted last year by Nevada's largest newspaper, Judge Mahan's retention rates scored the highest of any judge serving on State or local court in Nevada, and that includes the Nevada Supreme Court.

Judge Mahan's extensive legal background and his commitment to public service make him an excellent choice as U.S. District Court Judge for the District of Nevada. I know his wife Eileen and his son James, Jr., are proud of him for being here today, and the State of Nevada is proud of Jim and all that he represents for our great State. I am proud to support Judge Jim Mahan before the Senate today.

HOPE FOR CHILDREN ACT—Continued

AMENDMENT NO. 2717

Mr. NICKLES. I ask unanimous consent to set aside the pending amendment and send an amendment to the desk on behalf of Senator BOND, Senators COLLINS, ENZI, ALLEN, and Senator NICKLES.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. BOND, for himself, Ms. COLLINS, Mr. ENZI, Mr. ALLEN, and Mr. NICKLES, proposes an amendment to the language proposed to be stricken by amendment No. 2698.

Mr. NICKLES. Mr. President, I ask unanimous consent reading of the amendment be dispensed.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for a temporary increase in expensing under section 179 of such code)

At the end, add the following:

SEC. ___. TEMPORARY INCREASE IN EXPENSING UNDER SECTION 179.

(a) IN GENERAL.—The table contained in section 179(b)(1) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended to read as follows:

"If the taxable year begins in:	The applicable amount is:
2001	$24,000
2002 or 2003	$40,000
2004 or thereafter	$25,000.''

(b) TEMPORARY INCREASE IN AMOUNT OF PROPERTY TRIGGERING PHASEOUT OF MAXIMUM BENEFIT.—Paragraph (2) of section 179(b) of the Internal Revenue Code of 1986 is amended by inserting before the period ''($325,000 in the case of taxable years beginning during 2002 or 2003)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Mr. NICKLES. Is there an amendment pending by Senator Allen?

The PRESIDING OFFICER. There is no amendment at the desk; there is a submitted amendment from Senator ALLEN.

Mr. NICKLES. Parliamentary inquiry: What is the number of that amendment?

The PRESIDING OFFICER. It is 2702.

Mr. NICKLES. Mr. President, I ask unanimous consent to set aside the pending amendment and ask consent to call up amendment No. 2702 on behalf of Senator ALLEN.

The PRESIDING OFFICER. In my capacity as a Senator from Michigan, I object to that. I understand there is an objection.

Mr. NICKLES. I ask unanimous consent this be the next Republican amendment filed in the normal course of business.

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

Mr. NICKLES. I thank my friends and colleagues.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I rise to speak on the Bond-Collins amendment and give a little explanation of what has been submitted. I am sure most of the Members of this body will want to back an amendment that supports small business in the way that this particular amendment does. Senator BOND, of course, has worked extensively on it and is the ranking member on the Small Business Committee. Senator COLLINS has been involved in small business most of her life. I appreciate all the thought and effort that went into this amendment. It will provide an immediate economic stimulus and will provide a stimulus for small businesses in this country. The details of this are very limited to small business. However, it is an area that will help out immediately a wide range of businesses, and I will explain how that will happen.

I appreciate this opportunity to talk about what our Nation and my State of Wyoming need in the way of an economic stimulus package. I will talk on a broader issue first and then get into the details of this particular amendment. While I have a degree in accounting, you don't need to be an accountant to know that something needs to be done to kick-start our economy. We ended Congress last year with a well-crafted economic stimulus bill that had bipartisan support, which the House passed, and the President said he would sign. In short, it was a bill worked out over several months of tough negotiations involving the administration and congressional Democrats and Republicans. It included unemployment compensation and health insurance for unemployed workers. It included tax relief for hard-working individuals and families, and it included much needed help for America's small businesses.

I was disappointed about the majority leader's refusal to schedule the bipartisan bill for a vote before the recess. Today, rather than having an opportunity to vote on that bill, we are suddenly faced with a vote on a totally new bill.

The bill we are currently debating did not go through the normal congressional process. Instead, it was filed quickly. It was filed with little input from our Senate colleagues on either side of the aisle, and it was brought to the floor for purposes of a vote.

While we finally have an opportunity to vote on an economic stimulus bill, it is much like a patient needing emergency treatment. Our only choice is to patch it up. That is what we have been doing through an amendment process. When we work bills that do not come out of the congressional committee review, it takes longer. The reason it takes longer is because there has to be more consideration of amendments here that would normally be considered in a much easier process in committee. This is one of them.

Today, we are arduously going through that process. I rise in favor of the Bond-Collins amendment which increases section 179 small business expensing. I support that because it is one of the many bandages that is needed to patch up the current proposal. If we are going to stimulate our economy, and I think we all want to do that, one of the main ways to do it is to help small businesses who are suffering from recession. If we can help them, we can create more jobs.

Small business has been one of the successes of this country over the last decade. We have had a great economy. Throughout that time, though, there have been what I call the megamergers. The megamergers are when a big company merges with another big company to become a huge company. We find with the megamergers that shortly after that is done, there has been a downsizing, often referred to as a ''right sizing.'' If you are an employee who is affected by that, it means you get laid off.

Fortunately, during this time of the megamergers, we have had small business. Notice the unemployment for almost a decade did not rise. It went down in spite of megamergers. What does that mean? It means small business was hiring up the people that were laid off from the megamergers. They picked up the slack in the economy. Through their innovation, drive, flexibility, their ability to react to the situations, they created the success we have had.

Now, they are the part of the economy that can jump-start the economy, and this amendment is designed to jump-start that small business area. The Bond-Collins amendment contains a tax relief provision that is similar to the bipartisan House bill, which calls for an increase in Section 179 business expensing for small businesses. In short, it gives small businesses relief by increasing the amount of property a business can treat as an ordinary and necessary deductible business expense.

Right now a business can deduct, or write off, up to $24,000 of the cost of business equipment or assets as an expense of doing business. This type of expensing allows businesses to take an immediate deduction, rather than treating their purchases as a capital expenditure.

Let's see if I can put that a little bit more clearly. If you purchase something and it is in this capital expenditure category, that means that you are only able to count that as an expense in each of several years. You have to divide it over the period of years that the capital expenditure would be useful. If you buy a computer, and deduct is as a capital expenditure, you must write that off over 7 years. Now, computers get outdated much quicker than that, so you might be able to make an argument that it ought to be written off in a shorter period of time. But under this provision you could write it off as an expense in the initial year. You do not have to do all the division and all the complicated calculations that our depreciation system leads to.

I have to tell you, the toughest thing in calculating taxes is if you have to figure depreciation. I know there are a lot of individuals as well as companies out there who understand that. We have changed the depreciation schedule so many times, we have changed the methods for doing depreciation so many times, that some people have to calculate depreciation on each item they have in several different ways. It is a big part of the Tax Code itself. It is very confusing. Probably one of the reasons a lot of people have to hire accountants to do their taxes is just to figure the depreciation section.

For a small business, what Section 179 allows them to do is to count their purchased business asset as a normal business expense rather than trying to figure out which depreciation table applies and then making them apply that formula and keep track of what part has been written off and what part has not been written off for a period of years. I think you are getting the idea of how complicated this depreciation thing is. I want to tell you when you actually get to calculating it, it is a lot more complicated than what I have been talking about here.

But if you can call it a business expense, that means you get to write it off in that initial year. You have the revenue that comes in and you get to subtract the expenses. That winds up with a net figure that you pay taxes on. So, if you get to write off more as an expense, rather than dragging it out over a period of years and trying to remember to calculate and recalculate all of this, then in this first year, you will have more revenue because you will have less taxes. That is why this becomes a very important jump-start to our economy.

Right now, if you have $24,000 worth of those purchases, you can write them off. But if you go over that, you have to keep track of it and do all the calculations. So this amendment, the Bond-Collins amendment, would give immediate relief and is preferable to treating such purchases as capital expenditures where the business purchases must be deducted over a long period of time to reflect an asset's useful life.

Even calculating useful life can be difficult. There are a whole set of principles set out in the Tax Code that help you to determine ''useful life,'' but the easy part is writing it off in the year you purchase it. Direct expensing allows small business to avoid the complexities of depreciation rules and the depreciation, so to speak, is immediate rather than over the life of the asset.

The Bond-Collins amendment would increase the amount of small business expensing from $24,000 to $40,000 for 2 years. What does this mean? It means small business would have an additional $16,000 in business asset costs that they can deduct, above and beyond the $24,000 that they can currently deduct, and they can deduct that expense immediately.

That doesn't all become a tax break. The only part that becomes a tax break is the remainder, the revenue less this expense. The remainder will be smaller and the remainder gets taxed. So there still is a tax implication to the whole thing.

We are not talking about the $24,000 or the $40,000 increase as being a tax write-off. It is a tax deduction, so it is a reduction in revenue. It is a very difficult concept, but it will only reduce the $16,000 of additional expenditure; that would actually be a tax saving of whatever they are taxed on the $16,000.

But it is an immediate encouragement for the companies to purchase things that they need, and they only get to write them off if they buy them. They don't get to write them off if it is history. They don't get to write them off if it is a thought in the future. They only get to write it off if they go out and buy the equipment now. It is not everything they buy because vehicles are excluded and computer software is excluded. Computers are allowed. I will go into some other examples of some things that could be written off.

I also want to point out, though, that when small businesses go out and make this expenditure, this is an expenditure in the private sector. One of the things that the economic report shows is that an expenditure in the private sector revolves money purchases around about seven times. One business buys something, the business that sold it to them receives the money, the business that sold it to them turns it around and spends it at another company, who takes it and spends it at another company who spends it. I think you get the idea. The money revolves seven times.

We can get expenditures, too, by having the government just run out and buy things. But here is a very important point: Private sector expenditures revolve seven times; government expenditures, twice. So that increase of $16,000 is considerably more effective in the private sector than it is if we are spending it on government projects. Keep that in mind. That is what this particular bill does.

Farmers can deduct up to $40,000 of the cost of a much-needed piece of farm equipment, such as a hay baler. Ranchers have an additional tax deduction for the expense of their electric pump used to water their cattle. The local

auto repair shop can deduct the cost of a much-needed welding machine or painting equipment. The local florist or dry cleaner can buy the computerized cash register it needs. The local barber shop maybe can deduct the cost of a new chair. It is a stimulus to get them to go make the purchases they need now, to make their business operate and be more competitive now.

Some folks will try to argue that this applies to big corporations, and we are trying to make the rich even richer. Not so. Remember this amendment only applies to small business.

In the past, section 179 applies only to those small businesses with annual asset purchases up to $200,000. The Bond-Collins amendment will simply increase that amount for 2 years to asset purchases of $325,000. As a result, section 179 will still apply to small businesses, but will allow those small businesses to buy even more equipment up front and have the small business expensing of that equipment apply immediately.

If they buy more than $325,000 worth of equipment in a year, they do not qualify for this. If they buy $325,000, they are still limited to expensing only $40,000 of that amount. It is a small business proposition.

There are a lot of companies that are at the $24,000 mark that will jump to the $40,000 mark because of this incentive. That extra $16,000 for thousands of companies across this country will cause other businesses to have a good year. They also will be stimulated to buy some extra equipment; and, it grows and grows.

I support the Bond-Collins amendment because it gives small businesses more incentive to make investments in business assets or property immediately, causing an immediate, positive effect on our economy. With a business deduction of up to $40,000 and resulting increased purchases of business products from other businesses, many more businesses will have the money necessary to hire additional workers. In Wyoming, a $40,000 tax deduction can go a long way in providing wages for an additional or part-time worker.

I should know. I owned a shoe store in Gillette, WY. Simply put, the less money I had to pay in taxes, the more money I had to invest in inventory, to maintain my building, and more importantly, to hire more people to take care of the customers. With additional small business expensing of $40,000, I could have bought that extra cash register I needed and with the tax money I saved, I could have hired an extra sales clerk to run it.

I just spent a couple of weeks in Wyoming and walked down main street in places like Casper, Gillette, and Cheyenne, and smaller towns such as Sundance, Saratoga, and some that you have probably never heard of. Every business in Wyoming could use some relief. Many of these are small Mom and Pop businesses that don't want a ''hand-out,'' but could use a ''hand-up.'' The Bond-Collins amendment does just that.

As a member of the Senate Small Business Committee and a small business owner for much of my life, I know we need the Bond-Collins amendment. Right now, the current economic stimulus bill we are discussing does not provide a small business expensing increase. Small businesses on Main Street America deserve more. Small businesses in this country have been the mainstay of our economy. In good and bad times, they have continued to stimulate our Nation's economy. We need to preserve this small business stimulus by providing this tax relief mechanism for small businesses.

I think it is something that is appreciated across the aisle and across this building. I know on the other end of the building they have already passed this kind of stimulus. A small, short amendment like this doesn't appear to be much, but I think it will make a huge difference because things start in small business and they grow. We don't give them enough credit. But that is how it works.

For these reasons, I support the Bond-Collins amendment covering small business expensing. I hope we can come together and resolve to pass an amendment that helps America's mainstay, the small businesses.

I think this amendment will make a huge difference. It will make it immediately. It will grow in size more than is anticipated by anything else in the stimulus package. I hope my colleagues will take a careful and close look at this amendment, see the value of it, and join me in supporting it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENT NO. 2718 TO AMENDMENT NO. 2698

(Purpose: To amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator MAX BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, Mr. TORRICELLI, and Mr. BAYH, proposes an amendment numbered 2718 to amendment No. 2698.

Mr. REID. 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 printed in today's RECORD under ''Amendments Submitted.'')

Mr. REID. Mr. President, I ask unanimous consent that the amendment be set aside.

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

AMENDMENT NO. 2719 TO AMENDMENT NO. 2698

Mr. REID. Mr. President, we have an agreement with the minority that we will alternate amendments. This would be the next Democratic amendment if the Republicans decide to offer an amendment.

I send an amendment to the desk on behalf of Senator TOM HARKIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HARKIN, proposes an amendment numbered 2719 to amendment No. 2698.

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

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

The amendment is as follows:

(Purpose: To provide for a temporary increase in the Federal medical assistance percentage for the medicaid program for fiscal year 2002)

Strike section 301 and insert the following:

SEC. 301. TEMPORARY INCREASES OF MEDICAID FMAP FOR FISCAL YEAR 2002.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP.—Notwithstanding any other provision of law, but subject to subsection (d), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for fiscal year 2002, before the application of this section.

(b) GENERAL 3 PERCENTAGE POINTS INCREASE.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for each calendar quarter in fiscal year 2002, the FMAP (taking into account the application of subsection (a)) shall be increased by 3 percentage points.

(c) FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), the FMAP for a high unemployment State for a calendar quarter in fiscal year 2002 (and any subsequent calendar quarter in such fiscal year regardless of whether the State continues to be a high unemployment State for a calendar quarter in such fiscal year) shall be increased (after the application of subsections (a) and (b)) by 1.50 percentage points.

(2) HIGH UNEMPLOYMENT STATE.—

(A) IN GENERAL.—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive month period beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an average seasonally adjusted unemployment rate that exceeds the average weighted unemployment rate during such period. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(B) AVERAGE WEIGHTED UNEMPLOYMENT RATE DEFINED.—For purposes of subparagraph (A), the ''average weighted unemployment rate'' for a period is—

(i) the sum of the seasonally adjusted number of unemployed civilians in each State

and the District of Columbia for the period; divided by

(ii) the sum of the civilian labor force in each State and the District of Columbia for the period.

(d) 1-YEAR INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to fiscal year 2002, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 6 percentage points of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); and

(2) payments under titles IV and XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) STATE ELIGIBILITY.—A State is eligible for an increase in its FMAP under subsection (b) or (c) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 1, 2001.

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) IMPLEMENTATION FOR REMAINDER OF FISCAL YEAR 2002.—The Secretary of Health and Human Services shall increase payments to States under title XIX for the second, third, and fourth calendar quarters of fiscal year 2002 to take into account the increases in the FMAP provided for in this section for fiscal year 2002 (including the first quarter of such fiscal year).

JUDICIAL NOMINATIONS

Mr. DASCHLE. Mr. President, I wish to speak briefly on the progress we have made this week on a couple of matters. We will soon propound a list of nominations. There will be 43 nominations total. Two of those have already been considered; that is, the confirmation of two Federal judges. But there are 36 other nominations, including 10 Ambassadorial nominations which will be presented to the Senate in a short period of time.

I thank colleagues on my side of the aisle in particular for their cooperative effort.

A lot of these nominations have worked their way through the committee. Chairmen and members of the committees have cooperated with the administration. We are now in the position to move quite a large number of these executive nominations at the very beginning of this session of Congress. There are others we hope to move, including additional judges. But obviously we continue to hope the administration will work with us in making sure that those nominations have been properly vetted and that we have the confidence that all of the actions required prior to confirmation have been completed.

We will continue to work with them as we have over the course of the last year. We have already reported and confirmed over 35 judges. I believe the number is now 38. We will have a lot more to confirm in the coming weeks and months.

I thank in that regard Senator LEAHY for his efforts and for his work. I know there was a colloquy and exchange in the Chamber over the course of the last hour with regard to judgeships and other issues. I thank him for his leadership and for the extraordinary effort he has been making.

As I said at the beginning of this session, and at the beginning of last session, it is my policy, and it is the policy of our caucus, that once these matters have been brought to the floor on the Executive Calendar, they will get a vote. It may not be a direct vote, but it will be a vote. And we will continue to work with our colleagues on both sides of the aisle to ensure that these votes are scheduled in a timely way.

We have also begun consideration of the economic stimulus bill. I wish we could have accomplished more in the short time that we had. We will be back on the bill on Tuesday. We will work all through the day on Tuesday. There will be votes on Tuesday, beginning perhaps as early as Tuesday morning. We will also be in session on Monday, even though there will be no votes on Monday.

Because of the Republican retreat, there will be no votes on Wednesday, Thursday, and Friday of next week. The Democratic single, 1-day conference will take place on Wednesday.

We will come back the following Monday, and Senators should expect votes on Monday of the following week. It is my hope that we can complete our work on the economic stimulus bill early in that week, the week after next.

We have a lot of work to do. The economic stimulus package should be completed within the first couple of days, so we can move to the farm bill, election reform, and, of course, the energy bill.

So in a very short period of time there is a great deal of work to be done. If necessary, I intend to file cloture on the economic stimulus bill in an effort to bring closure to our work on the bill. We have been debating it for weeks, one could say months in the last session of the Congress last year. There is no need to extend the debate in this case as well. We will have additional amendments. We will have additional votes. But at the end, we must conclude our work and move on one way or the other.

As I have said in this Chamber on many occasions, what I view this legislation to be is nothing more, really, than a ticket to conference so we can continue to work and find some resolution. It would be ideal, of course, if the House would just take it up and pass it. That would be my first choice. But at the very least, it is a ticket to conference. It would be a good thing if we got to conference and began working out our differences in a way that would allow us to complete our work on the economic stimulus bill and, I might add, provide the unemployment benefits for 13 more weeks for millions of workers who are looking to us for some sign of hope that they are going to have the wherewithal to at least maintain their quality of life and their ability to buy groceries and pay their rent and pay their heating bills.

So while this has not been as productive a week as I had hoped, we have ended it in a way that I think gives us some reason for additional confidence next week as we take up the bill, and certainly confidence with regard to the Executive Calendar and the nominations that will be confirmed this afternoon.

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

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

HOPE FOR CHILDREN ACT—Continued

AMENDMENT NO. 2702

Mr. ALLEN. Mr. President, I call up amendment No. 2702.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. ALLEN] proposes an amendment numbered 2702 to the language proposed to be stricken by amendment No. 2698.

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

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

The amendment is as follows:

Purpose: To exclude from gross income certain terrorist attack zone compensation of civilian uniformed personnel)

At the appropriate place, insert the following

TITLE__TERRORIST RESPONSE TAX EXEMPTION ACT

SECTION 1. SHORT TITLE.

This title may be cited as the ''Terrorist Response Tax Exemption Act''.

SEC. 2. EXCLUSION OF CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 112 the following new section:

''SEC. 112A. CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.

''(a) IN GENERAL.—Gross income does not include compensation received by a civilian

uniformed employee for any month during any part of which such employee provides security, safety, fire management, or medical services during the initial response in a terrorist attack zone.

''(b) DEFINITIONS.—For purposes of this section—

''(1) CIVILIAN UNIFORMED EMPLOYEE.—The term 'civilian uniformed employee' means any nonmilitary individual employed by a Federal, State, or local government (or any agency or instrumentality thereof) for the purpose of maintaining public order, establishing and maintaining public safety, or responding to medical emergencies.

''(2) INITIAL RESPONSE.—The term 'initial response' means, with respect to any terrorist attack zone, the period beginning with the receipt of the first call for services described in subsection (a) in such zone by an entity described in paragraph (1) and ending with the beginning of the recovery phase in such zone as determined by the appropriate official of the Federal Emergency Management Agency.

''(2) TERRORIST ATTACK ZONE.—

''(A) IN GENERAL.—The term 'terrorist attack zone' means any geographic area designated in an Executive order by the President, pursuant to a request by the chief executive officer of the State in which such area is located to the appropriate official of the Federal Emergency Management Agency, to be an area in which—

''(i) a violent act or acts occurred which—

''(I) were dangerous to human life and a violation of the criminal laws of the United States or of any State, and

''(II) would appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation, or affect the conduct of a government by assassination or kidnapping, and

''(ii) as a direct result of such act or acts, loss of life, injury, or significant damage to property or cost of response occurred.

''(B) SIGNIFICANT DAMAGE TO PROPERTY OR COST OF RESPONSE.—For purposes of subparagraph (A)(ii), damage to property or cost of response with respect to any area is significant if such damages or cost exceeds or will exceed $500,000.

''(C) LIMITATION ON DESIGNATION.—An area may not be designated as a terrorist attack zone under subparagraph (A) if a negative economic impact to such area was the sole result of the act or acts described in subparagraph (A)(i).

''(3) COMPENSATION.—The term 'compensation' does not include pensions and retirement pay.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(1) of the Internal Revenue Code of 1986 is amended by inserting ''or section 112A (relating to certain terrorist attack zone compensation of civilian uniformed personnel)'' after ''United States)''.

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 112 the following new item:

''Sec. 112A. Certain terrorist attack zone compensation of civilian uniformed personnel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

Mr. ALLEN. Mr. President, I rise to ask for my colleagues support of amendment No. 2702, my ''Terrorist Zone Tax Exemption Act.'' I would like to share with the Presiding Officer, my colleagues, and the American people the purpose of this amendment.

As we well know, the tragic events of September 11 demonstrated the worst attack that we have seen in this country, maybe in our entire history. At the same time—while seeing some of the most vile activity that mankind has ever seen—we saw a demonstration of the best of the American spirit. Unfortunately, our Nation has been forever changed since those attacks of September 11, 2001. However, we should remember that we have been changed in some good ways. We are now united and resolved—very resolved—to combat terrorism worldwide. This war on terrorism is unlike any other war we have ever fought. Indeed, the attack of September 11 has actually changed the definition of combatants, so that now not only are military personnel tasked to locate and eradicate potential terrorist threats, but also civilian police, fire and rescue personnel are charged with maintaining public safety after a terrorist attack. And they are all subject to attack and risk.

In recognition of this new reality, I have offered this amendment that will extend the current tax exemption for military service members serving in a combat zone—use that same logic, that same principle to provide those same sorts of tax exemption benefits—to civilian uniformed employees who respond to terrorist attacks on our own soil.

Specifically, my amendment includes those brave police officers, firefighters, and EMTs who risk their lives to defend us and our property.

It defines a terrorist attack zone as an area where someone has attempted to intimidate or coerce the civilian population or influence the policy of a government by conducting criminal terrorist acts.

It also extends this exemption to those who are now an integral part of our growing homeland security network.

Congress has already recognized the extraordinary sacrifices that our members of the Armed Forces have performed in their service in combat zones. Let us take this opportunity to honor our law enforcement officers, firefighters, and rescue personnel who have also placed themselves in danger in service to their country, to their States, and to their communities in protecting their fellow citizens from the enemy and these terrorist attacks.

Let's recognize, whether they were in the World Trade Center, at the Pentagon, or on airplanes that were commandeered, people were in dangerous situations, and many lost their lives. Others were rescuing people in toxic air, where there was falling debris, where there was burning embers or plastics or fuel, and other dangerous situations.

Our enemies, in their attacks, make all Americans—not just our military, but our civilians as well—the target of their attacks. They do so without regard for the thousands of lives that would be affected by these attacks.

So now the Federal Government must adapt the Tax Code to account for those who serve the public's safety here at home as it does for those who serve our military objectives.

These wonderful men and women we have heard about, read about—many who lost their lives; but also those who survived—these men and women are patriots; they are heroes. All of those who responded to this vile act of war on the United States on September 11, 2001, carry forth a unity of purpose for compassion, for liberty, and for justice. We must honor their hard work and resolve, for their example truly exemplifies our diverse, strong, and respectful Nation.

And so I ask my colleagues to join me in supporting my amendment. It is an expression of gratitude to those who wear the badges, wear the firefighter boots, carry the medical bags, and answer the call to protect life and property in the wake of the dastardly, cowardly attacks of terrorists.

This measure has been supported by many organizations. It has the support of the 299,000 members of the Fraternal Order of Police; the International Association of Fire Chiefs; the New York City Detectives Endowment Association, representing 7,500 active New York Police Department detectives; the National Association of Police Officers, representing 220,000 law enforcement officers across our country. The Capital Police Labor Board strongly supports it as well.

Some may ask what is the fiscal impact of this. If, say, you were a police officer or firefighter or an EMT worker responding to a terrorist attack such as that attacks on New York City and the Pentagon—and those are the only places that would fit the description of a terrorist attack zone under this bill—your income for that month of September, would be exempt from Federal taxation, just as a military pilot flying over Afghanistan receives now. That income that he earns or she earns is exempt from Federal taxes for time spent in response, and is validated on a month-to-month basis. It comes out to approximately $205 a month for our rescue workers. It is not a lot of money, but it is an expression of gratitude.

The total fiscal impact is about $7 million. Again, not much in the whole scheme of things here in Washington, but still an expression of support.

I would like to read from some of the groups that have endorsed this legislation or this amendment. For example, the Detectives Endowment Association of the Police Department for the City of New York:

As President of the New York City Detectives Endowment Association, representing 7,500 active detective members of the NYPD, and as President of the National Association of Police Organizations, representing 220,000 law enforcement officers from all across the United States, I wish to commend and support [this legislation.]

Mr. Tom Scotto, who is the President of both the Endowment Association and NAPO, goes on to write:

Having personally experienced the tragic events of the terrorist attacks on the World Trade Center on September 11, 2001, I believe that this legislation is justifiable and will go a long way towards boosting the morale of these public servants who respond to such events.

From the Grand Lodge of the Fraternal Order of Police, their President, Steve Young, writes that they very strongly support this Terrorist Response Tax Exemption Act or this amendment. They are in strong support.

September 11 was a day of terrible tragedy, but in the midst of flames and the rubble, we saw shining examples of heroism from our law enforcement officers and other rescue workers. Placing their own lives in jeopardy, these courageous men and women helped rescue thousands. They called their own nation to heroism in the face of the long and difficult struggle that looms in our future.

Your bill would exempt the income of uniform rescue personnel in ''terrorist attack zones,'' from income tax during the months in which they perform their duties in response to such attacks. Our nation is engaged in a conflict that will not be fought between just armies or soldiers. Our hidden enemies aim their attacks at civilian targets and public safety officers—police, firefighters, and emergency medical personnel—will be the first to respond to the scene, not the U.S. military. We think it fitting, therefore, that your bill mirrors current law giving military personnel tax relief while serving in a combat zone.

It goes on to commend the measure.

Finally, I would like to share with my colleagues a letter of endorsement from the International Association of Fire Chiefs. This is signed by their executive director, Gary Briese.

Dear Senator Allen: On behalf of the International Association of Fire Chiefs and America's 1.1 million fire fighters, I would like to thank you for introducing legislation to provide tax relief for fire fighters and other first responders who respond to acts of terrorism.

As we understand it, your [measure], the Terrorist Response Exemption Act, would provide an exemption from federal income taxes to those who respond to terrorist incidents while they are engaged in emergency operations. This exemption already exists for members of our armed forces who enter into combat zones.

Assistance of any kind to fire fighters is of great help, particularly in the wake of the stunning and tragic events of September 11. Thank you for your continued support of our nation's fire fighters.

Those are the comments of many decent leaders who represent literally tens of thousands, hundreds of thousands of outstanding individuals who devote their lives to protecting their communities and the lives of people in their communities. Since these vile attacks of September 11, we have seen the nature of warfare change dramatically. As long as our enemies are willing to conduct these suicide bombings, these terrorist attacks, acts we consider brazen and outrageous, and are particularly outrageous since they are attacking us here in our homeland, civilians, undefended men, women, and children, people commandeered on an aircraft, people in office buildings, as long as this continues, our laws should reflect this new reality.

Our firefighters, police and EMTs, other rescue personnel have all proven themselves to be not only heroes but superheroes in these attacks; they will hopefully never be called on again to perform such duty. But if they do, if that sad eventuality should occur, I think they deserve all the protections and benefits in these modern combat zones that we can offer.

I ask my colleagues, in a bipartisan effort to support this amendment to this measure, let's support our firefighters, our police, our emergency medical personnel.

This is a sad new reality for our country. We are united. Let's support our heroes. It is not a lot of money, but it means a lot.

I think it expresses our sentiment that we want to support them as they protect us and our lives and our livelihoods.

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

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

AMENDMENT NO. 2721 TO AMENDMENT NO. 2698

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator BAUCUS which would be the next Democratic amendment in order.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, proposes an amendment numbered 2721 to amendment No. 2698.

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

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

The amendment is as follows:

(Purpose: To provide emergency agriculture assistance)

At the end add the following:

TITLE ___EMERGENCY AGRICULTURE ASSISTANCE

Subtitle A—Income Loss Assistance

SEC. ___01. INCOME LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use $1,800,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying income losses in calendar year 2001.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and economic losses as were used in administering that section.

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

SEC. ___02. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001, of which $12,000,000 shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–51).

Subtitle B—Administration

SEC. ___11. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. ___12. ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to pay the salaries and expenses of the Department of Agriculture in carrying out this title $50,000,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

SEC. ___13. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Mr. REID. Mr. President, does the Senator from Virginia have any business before the Senate at this time?

Mr. ALLEN. I do not.

VOTE EXPLANATION

Mrs. CLINTON. Mr. President, I was unable to be present for today's procedural vote pertaining to the Smith amendment. Had I been present, I would have voted ''no'' on the motion to waive the Budget Act with respect to the Smith second-degree amendment to the Daschle substitute amendment. The Daschle amendment includes 1-year 30-percent bonus depreciation for assets either put in operation or binding contracts signed by

September 10, 2002. The Smith amendment would have provided 30-percent bonus depreciation for 3 years, causing a deepening of the projected Federal deficit and extending the incentive beyond the forecasted period of the current economic downturn. Moreover, the incentive for a company to act now to acquire and place into service assets that do not take years to produce would be reduced under a 3-year bonus depreciation proposal, as proposed by Senator SMITH. I would also note that my absence for this vote did not affect the outcome of the vote. The Smith amendment was rejected in a 39–45 vote, and would have required 60 votes to prevail.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak therein for a period not to exceed 10 minutes each.

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

GOMA

Mr. FEINGOLD. Mr. President, I rise today to bring my colleagues' attention to the desperate situation of the people of Goma in the Democratic Republic of the Congo. A natural disaster recently added to the man-made tragedies that have already had a profound effect on the population in and around Goma. Basic human decency demands that the United States and the international community take prompt action to provide relief to the Congolese people, and to help them in their efforts to rebuild their communities.

On January 17, Mount Nyiragongo, which is situated in the eastern part of the country near Lake Kivu, erupted and eventually produced several different paths of lava, including one that ran directly through Goma, destroying one-fifth to one-third of the city and displacing over 200,000 people. Some 62,500 people's homes were destroyed, and reports indicate that hundreds of thousands have lost their jobs, their places of work utterly destroyed. It appears that scores lost their lives. For days, the displaced suffered without assistance, desperately searching for food, water, and shelter.

Witnesses to the misery of the Rwandan refugees who fled the 1994 genocide, many were unwilling to become refugees themselves, and rapidly returned to the devastated city.

The international community has now been able to mobilize help. As of yesterday, the water system in Goma had resumed limited operations, but there are still parts of the city with no access to clean water, forcing families to drink from contaminated sources and increasing the risk of a cholera outbreak. Today, U.S. relief assistance has reached the people of Goma, and I commend the Administration for working to get blankets, water, emergency food aid, and temporary emergency shelter materials to the communities in need.

I want to stress that life has been precarious for the people of this region for far too long. They have been among the millions of Congolese suffering from the all too often overlooked humanitarian crisis that has gripped much of central Africa.

The Congolese people suffered unspeakably during the colonial era. Then they endured the repression and astonishing corruption of the Mobutu regime. Next came the civil war that still leaves the country divided. Throughout these political trials, the most basic infrastructure of the country has crumbled, year by year, the victim of neglect, of corruption, and of conflict. Not only are the Congolese people still denied basic political rights—no matter which force controls the section of the country in which they live—but many also do not have access to even rudimentary health care. Several credible surveys and reports indicate that malnutrition levels have reached appalling levels.

As chairman of the Subcommittee on African Affairs, I am committed to holding a hearing to focus attention on the DRC in the months ahead. My colleagues will surely recognize that a vast country gripped by deprivation and fear provides opportunities for some of the worst international actors. Surely they will see that the situation in the Democratic Republic of the Congo creates a zone of instability at the heart of the continent—a direct challenge to our global efforts to stand on the side of both order and justice. Surely we will all realize that both our interests and our morals demand that we help the people of Goma not just to survive their immediate ordeal, but to rebuild their communities. We must work to support the inter-Congolese dialogue that aims to bring peace and a democratic political solution to the country, and we must demand all signatories to the Lusaka Accords respect the fundamental human rights of the Congolese people. We must work with the international community to provide desperately needed development assistance to the people who have long been denied meaningful control over the course of their own country's destiny.

The disaster in Goma has finally drawn international attention to the plight of the Congolese. We cannot avert our eyes now that the lava has stopped its terrible advance.

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 November 8, 1998, in Palm Springs, CA. A gay participant in Palm Springs' Gay Pride weekend was attacked by three men. The assailants, Raymond Quevedo, 18, and two youths, ages 16 and 17, were charged with assault with a deadly weapon in connection with the incident.

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, we can change hearts and minds as well.

TRIBUTE TO SGT. JEANNETTE L. WINTERS

Mr. BAYH. Mr. President, I rise today to pay tribute to the seven members of the U.S. Marine Corps who died on January 9, 2002, when their KC–130 plane crashed in Pakistan. We are grateful for their service to the United States and are humbled by the ultimate sacrifice they made in defense of our country.

In Indiana, we grieve the untimely death of one of our own, Sgt. Jeannette Winters. Sergeant Winters grew up in Gary, IN and followed in the footsteps of her older brother, Matthew, when she joined the Marine Corps in 1997. Sergeant Winters was deployed for Operation Enduring Freedom in December and worked as a radio operator on the KC–130 plane.

Jeannette is remembered fondly by her friends and family as a caring person who had a positive outlook on life. She loved her country and was a proud marine who served honorably for more than 4 years. Her courage and her commitment to our country are a credit to her family and to the State of Indiana.

It is my privilege to pay tribute to Sgt. Jeannette Winters for her bravery and sacrifice by honoring her in the official RECORD of the U.S. Senate. I send my heartfelt condolences to her family and friends. Sergeant Winters and all of the brave men and women of our Armed Forces will remain in our thoughts and prayers.

When I reflect on the just cause in which we are engaged, on our commitment to routing out the scourge of terrorism across the world, I am reminded of the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

ADDITIONAL STATEMENTS

TRIBUTE TO DARRELL J. LOCKWOOD

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Darrell Lockwood of Goffstown, NH,

for being named by the New Hampshire School Administrators Association in coordination with the American Association of School Administrators as New Hampshire Superintendent of the Year for 2001–2002.

Darrell has been a dedicated member of the educational community for many years. He was appointed superintendent in 1998 and formerly served as a teacher, principal and business administrator from 1976 through 1987.

An exemplary community contributor, Darrell has been actively involved in many educational associations and organizations including: adjunct faculty member Rivier College and Plymouth State College, chairman South Central School Administrators Association, representative Northeast Superintendents Leadership Council and member and past president of the Goffstown Rotary Club.

Darrell received his Doctorate of Education in Curriculum, Instruction and Administration from Boston College in Chestnut Hill, MA, his Masters in Education from Antioch University in Keene, NH and a Bachelor of Science in Education from Westfield State College in Westfield, MA.

As a former school teacher, I applaud Darrell for his devoted service to the educational community in New Hampshire. Thanks to his leadership and guidance, many young people in the state have benefitted from his skills in teaching and administration. It is truly an honor and a privilege to represent him in the United States Senate.●

HONORING WALT DISNEY

● Mrs. CARNAHAN. Mr. President, we are all familiar with the quote ''I only hope that we don't lose sight of one thing—that it was all started by a mouse.'' Immediately, my mind turns to Walt Disney and a smile comes across my face. His lifetime achievements are well known by all and often told, but today I want to talk about the boy. Walt Disney grew up with roots deep in Missouri. A boy whose early childhood experiences and memories would be the foundation for the man who would take the dreams of America, and make them come true.

This year we mark the one hundredth anniversary of Walt's birth, and all over America people are gathering to celebrate. In Marceline, MO, Walt's hometown, the Centennial Celebration drew a reported 50,000 visitors anxious to participate. People came from all over the world to get a feel for what Walt experienced there, including a dedication to the kind of group effort that was a hallmark of American farming around the turn of the century. The idealized Main Street in Disneyland, the country life depicted in ''Old Yeller,'' and even the fascination with animals that led to the True-Life Adventures, all have their origins on that farm in Marceline.

In Kansas City they also celebrate one of the most successfully creative men of the 20th century. At age 9, Walt and his family moved to Kansas City where his father bought a Kansas City Star newspaper route. Walt and his brother, Roy, had to wake at 3:00 a.m. every day to deliver newspapers, developing a work ethic in Walt that would later wear out all but the sturdiest of staff members. It was his father's gritty determination and resilience balanced by his mother's love of fun and a pleasure in people that added to his wealth of experience from which he was to draw in films and other creative ventures for the rest of his life. Legend has it that the idea for Mickey Mouse came to him from a memory of a friendly mouse that begged for food in his Kansas City art studio.

We all owe him our gratitude. Try to imagine a world without Walt Disney—a world without his magic, whimsy, and optimism. Fortunately we don't have to. Walt did more to touch the hearts, minds, and emotions of millions of Americans than any other man in the past century. A mouse may have started it, but through his work he brought joy, happiness, and a universal means of communication to the people all over the world.●

REPORT OF THE NATIONAL INTEREST RELATIVE TO JAPAN AND CHEMICAL WEAPONS—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 64

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on January 25, 2002, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying paper; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to the authority vested in me by section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) (the ''Act''), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspensions under section 902 of the Act insofar as such suspensions pertain to the export of defense articles or defense services in support of efforts by the Government of Japan to destroy Japanese chemical weapons abandoned during World War II in the People's Republic of China. License requirements remain in place for these exports and require review and approval on a case-by-case basis by the United States Government.

GEORGE BUSH.

THE WHITE HOUSE, *January 25, 2002.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5189. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Board's report under the Government in the Sunshine Act for calendar year 2001; to the Committee on Governmental Affairs.

EC–5190. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2002–2003 Subsistence Taking of Fish and Shellfish Regulations'' (RIN1018–AH77) received on January 23, 2002; to the Committee on Energy and Natural Resources.

EC–5191. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the status of U.S. efforts regarding Iraq's compliance with UN Security Council resolutions; to the Committee on Foreign Relations.

EC–5192. A communication from the President of the United States, transmitting, pursuant to law, a supplemental report relative to Bosnia and Herzegovina and other states in the region concerning the North Atlantic Treaty Organization led Stabilization Force; to the Committee on Foreign Relations.

EC–5193. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Clean Water Act Section 404 Penalty Policy''; to the Committee on Environment and Public Works.

EC–5194. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program'' (FRL7127–8) received on January 16, 2002; to the Committee on Environment and Public Works.

EC–5195. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of the Clean Air Act, Section 112(1), Delegation of Authority to the Idaho Department of Environmental Quality'' (FRL7126–3) received on January 16, 2002; to the Committee on Environment and Public Works.

EC–5196. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Request for Proposals for an Improved Atmospheric Nitrogen Deposition Data Set for the Chesapeake Bay Program'' (FRL7129–4) received on January 16, 2002; to the Committee on Environment and Public Works.

EC–5197. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, a report on environmental assessment, restoration, and cleanup activities for Fiscal Year 2000; to the Committee on Environment and Public Works.

EC–5198. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York's Reasonable Further Plans, Transportation Conformity Budgets, Reasonably Available Control Measure Analysis and 1-Hour Ozone Attainment Demonstration State Implementation

Plan'' (FRL7132–5) received on January 18, 2002; to the Committee on Environment and Public Works.

EC–5199. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendments to the Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program; Partial Withdrawal of Direct Final Rule'' (FRL7132–3) received on January 18, 2002; to the Committee on Environment and Public Works.

EC–5200. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Relaxation of Summer Gasoline Volatility Standard for the Denver/Boulder Area'' (FRL7130–9) received on January 18, 2002; to the Committee on Environment and Public Works.

EC–5201. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: Removal of Restrictions on Certain Fire Suppression Substitutes for Ozone-Depleting Substances; and Listing of Substitutes'' (FRL7130–7) received on January 18, 2002; to the Committee on Environment and Public Works.

EC–5202. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Guidelines on Awarding Section 319 Grants to Indian Tribes in FY 2002'' received on January 18, 2002; to the Committee on Environment and Public Works.

EC–5203. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New Jersey Reasonable Further Progress Plans, Transportation Conformity Budgets and 1-Hour Ozone Attainment Demonstrations State Implementation Plans'' (FRL7132–4) received on January 18, 2002; to the Committee on Environment and Public Works.

EC–5204. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Endangered Status for Carex lutea (Golden Sedge)'' (RIN1018–AF68) received on January 23, 2002; to the Committee on Environment and Public Works.

NOMINATIONS DISCHARGED

Pursuant to a unanimous consent agreement of January 25, 2002, the Committee on Finance was discharged of the following nominations:

DEPARTMENT OF THE TREASURY

Edward Kingman, Jr., of Maryland, to be an Assistant Secretary of the Treasury.

Edward Kingman, Jr., of Maryland, to be Chief Financial Officer, Department of the Treasury.

Pursuant to a unanimous consent agreement of January 25, 2002, the Committee on Health, Labor, and Pensions was discharged of the following nominations:

DEPARTMENT OF LABOR

Samuel T. Mok, of Maryland, to be Chief Financial Officer, Department of Labor.

DEPARTMENT OF EDUCATION

Jack Martin, of Michigan, to be Chief Financial Officer, Department of Education.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Eve Slater, of New Jersey, to be an Assistant Secretary of Health and Human Services.

EXECUTIVE OFFICE OF THE PRESIDENT

Andrea G. Barthwell, of Illinois, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

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. MCCONNELL:

S. 1898. A bill to establish the Green River National Wildlife Refuge in the State of Kentucky; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 666

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 666, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 1209

At the request of Mr. BINGAMAN, the names of the Senator from Georgia (Mr. CLELAND), the Senator from New Jersey (Mr. CORZINE), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1280

At the request of Mr. CLELAND, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1280, a bill to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers.

S. 1476

At the request of Mr. CLELAND, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1476, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1605

At the request of Mr. CONRAD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1605, a bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for four hemodialysis treatments per week for certain patients, to provide for an increased update in the composite payment rate for dialysis treatments, and for other purposes.

S. 1644

At the request of Mr. CAMPBELL, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1644, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 1707

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. RES. 182

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 182, a resolution expressing the sense of the Senate that the United States should allocate significantly more resources to combat global poverty.

S. CON. RES. 94

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

AMENDMENT NO. 2705

At the request of Mr. SMITH of Oregon, the names of the Senator from Maine (Ms. COLLINS), the Senator from Colorado (Mr. ALLARD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of amendment No. 2705 .

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 1898. A bill to establish the Green River National Wildlife Refuge in the State of Kentucky; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, I rise today to introduce the Green River National Wildlife Refuge Act of 2002. Seven years ago Kentucky was the only State in the Nation that did not have its own national wildlife refuge. I was proud to remedy this problem by helping enact legislation to establish the Clarks River National Wildlife Refuge in Marshall County, KY. Nearly half of the targeted 18,000 acres have been acquired for this refuge, all from willing sellers. And this spring, the refuge headquarters building will be completed.

Given the success and progress of the Clarks River refuge, I am proud to partner with the efforts of the United States Fish and Wildlife Service to establish Kentucky's second national wildlife refuge on approximately 23,000 acres in Henderson County along the confluence of the Green River and the Ohio River. This targeted refuge area will provide a diverse array of conservation, recreation, and environmental education opportunities for everyone from tourists to wildlife enthusiasts to local school groups.

The proposed refuge site in the Green River bottoms area was once part of a large bottomland hardwood forest. Although this wetland area has largely been replaced by agriculture, it serves as a popular spot for a variety of waterfowl and migratory birds, especially when desirable water levels occur. In fact, on February 1, 1999, more than 10,000 ducks and 8,000 geese were recorded as visitors to the Green River area. The site also is home to several endangered or threatened species, such as the fanshell, Indiana bat maternity colonies, the copperbelly snake, and a number of different mussels. Establishing a refuge in this area offers a valuable opportunity to restore hardwood forest to the Green River bottoms area, which will, in turn, help provide a safe and fruitful habitat for migratory birds and wildlife and help stop the erosion that threatens to change the course of the Ohio River.

Outdoor recreationalists, including hunters, fishermen, birdwatchers, nature photographers, will enjoy many benefits from the protection and restoration of a diverse and thriving wildlife habitat. Indeed, the proposed refuge area already hosts a large population of white-tailed deer, gray squirrel, catfish, and carp, which will provide exceptional hunting and fishing opportunities.

The U.S. Fish and Wildlife Service already has taken significant steps to make the Green River National Wildlife Refuge a reality. I think it is important, however, to ensure that any land acquired for this refuge is obtained only from willing sellers, just as is the case with Clarks River National Wildlife Refuge. Although I understand that the U.S. Fish and Wildlife Service has no plans to condemn private property for the refuge, I believe that the landowners in Henderson County deserve a legislative guarantee to assure that the Refuge will not infringe upon their rights as private property owners. My legislation would provide that guarantee.

I look forward to partnering with the U.S. Fish and Wildlife Service to bring this project to fruition, and I ask unanimous consent that a copy of this bill, be printed in the RECORD.

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

S. 1898

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 ''Green River National Wildlife Refuge Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Green River bottoms area, Kentucky, was once part of a large bottomland hardwood forest;

(2) most of the bottoms area has been converted to agricultural use through—

(A) draining of wetland;

(B) altering of interior drainage systems; and

(C) clearing of bottomland hardwood forest;

(3) as of the date of enactment of this Act, the bottoms area is predominantly ridge and swale farmland, with river-scar oxbows, several sloughs, wet depression areas, and a small quantity of bottomland hardwood forest;

(4) approximately 1,200 acres of bottomland hardwood forest remain, consisting mostly of cypress, willow, hackberry, silver maple, ash, and buttonbush;

(5) many of the interior drainage systems on the land offer excellent opportunities to restore, with minor modifications, the historical hydrology, wetland, and bottomland hardwood forest of the bottoms area to high-quality wildlife habitats;

(6) in the bottoms area, waterfowl occur in large numbers when sufficient water levels occur, primarily when flood conditions from the Ohio River and the Green River negate the extensive drainages and alterations made by man;

(7) the wooded and shrub tracts of the bottoms area are used by many species of nongame neotropical migratory birds;

(8) migratory shorebirds use the bottoms area during spring migrations;

(9) wading birds such as snipe, great blue heron, green heron, common egret, and great egret frequent the bottoms area;

(10) bald eagles and myriad other raptors frequent the bottoms area;

(11) several species listed as endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) have been found near the bottoms area, including Indiana bat maternity colonies, fanshell, pink mucket pearly mussel, and fat pocketbook;

(12) several species of mussel listed as endangered or threatened species under that Act historically occurred near the bottoms area, including purple cat's paw pearly mussel, tubercled-blossom pearly mussel, ring pink, and white wartyback pearly mussel;

(13) the copperbelly water snake, covered by the Copperbelly Water Snake Conservation Plan, is found in the wetland complex and buttonbush shrub in the Scuffletown area;

(14) significant populations of resident game species, including white-tailed deer, swamp rabbit, cottontail rabbit, gray squirrel, mink, muskrat, beaver, fox, and coyote, occur in the bottoms area;

(15) the Ohio River and the Green River are important habitat for big river species such as paddlefish, sturgeon, catfish, carp, buffalo, and gar;

(16) conservation, enhancement, and ecological restoration of the bottoms area through inclusion in the National Wildlife Refuge System would help meet the habitat conservation goals of—

(A) the North American Waterfowl Management Plan;

(B) the Lower Mississippi Joint Venture;

(C) the Interior Low Plateaus Bird Conservation Plan; and

(D) the Copperbelly Water Snake Conservation Plan;

(17) the valuable complex of wetland habitats comprising the bottoms area, with its many forms of wildlife, has extremely high recreational value for hunters, anglers, birdwatchers, nature photographers, and others; and

(18) the Green River bottoms area is deserving of inclusion in the National Wildlife Refuge System.

SEC. 3. PURPOSE.

The purpose of this Act is to establish the Green River National Wildlife Refuge in the Green River bottoms area, Henderson County, Kentucky, to provide—

(1) habitat for migrating and wintering waterfowl;

(2) habitat for nongame land birds;

(3) habitats for a natural diversity of fish and wildlife;

(4) nesting habitat for wood ducks and other locally nesting migratory waterfowl;

(5) high-quality hunting and sportfishing opportunities; and

(6) opportunities for environmental education, interpretation, and wildlife-oriented recreation.

SEC. 4. DEFINITIONS.

In this Act:

(1) REFUGE.—The term ''Refuge'' means the Green River National Wildlife Refuge established under section 5.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 5. ESTABLISHMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish the Green River National Wildlife Refuge, consisting of approximately 23,000 acres of Federal land, water, and interests in land or water within the boundaries depicted on the map entitled ''Green River National Wildlife Refuge'', dated September 10, 2001.

(2) BOUNDARY REVISIONS.—The Secretary shall make such minor revisions of the boundaries of the Refuge as are appropriate to carry out the purposes of the Refuge or to facilitate the acquisition of land, water, and interests in land or water within the Refuge.

(3) AVAILABILITY OF MAP.—The map referred to in paragraph (1) shall be available for inspection in appropriate offices of the United States Fish and Wildlife Service.

(b) EFFECTIVE DATE.—The establishment of the Refuge shall take effect on the date on which the Secretary publishes, in the Federal Register and publications of local circulation in the vicinity of the Refuge, a notice that sufficient property has been acquired by the United States within the Refuge to constitute an area that can be efficiently managed as a national wildlife refuge.

SEC. 6. ACQUISITION OF LAND, WATER, AND INTERESTS IN LAND OR WATER.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may obtain by purchase from willing sellers, donation, or exchange up to 23,000 acres of land and water, or interests in land or water, within the boundaries of the Refuge described in section 5(a)(1).

(b) INCLUSION IN REFUGE.—Any land, water, or interest acquired by the Secretary under this section shall be part of the Refuge.

SEC. 7. ADMINISTRATION.

In administering the Refuge, the Secretary shall—

(1) conserve, enhance, and restore the native aquatic and terrestrial community characteristics of the Green River (including associated fish, wildlife, and plant species);

(2) conserve, enhance, and restore habitat to maintain and assist in the recovery of species of animals and plants that are listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(3) in providing opportunities for compatible fish- and wildlife-oriented recreation,

ensure that hunting, fishing, wildlife observation and photography, and environmental education and interpretation are the priority general public uses of the Refuge, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)); and

(4) encourage the use of volunteers and facilitate partnerships among the United States Fish and Wildlife Service, local communities, conservation organizations, and other non-Federal entities to promote—

(A) public awareness of the resources of the Refuge and the National Wildlife Refuge System; and

(B) public participation in the conservation of those resources.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for—

(1) the acquisition of land and water within the boundaries of the Refuge; and

(2) the development, operation, and maintenance of the Refuge.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2709. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table.

SA 2710. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2711. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2712. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2713. Mr. DASCHLE (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. DASCHLE to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2714. Mr. DURBIN (for himself, Mr. WELLSTONE, Mr. DAYTON, Ms. LANDRIEU, and Mrs. LINCOLN) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2715. Mr. LOTT (for Mr. INHOFE) submitted an amendment intended to be proposed by Mr. LOTT to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2716. Mr. SMITH, of Oregon (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2717. Mr. NICKLES (for Mr. BOND (for himself, Ms. COLLINS, Mr. ENZI, Mr. ALLEN, and Mr. NICKLES)) proposed an amendment to the bill H.R. 622, supra.

SA 2718. Mr. REID (for Mr. BAUCUS (for himself, Mr. TORRICELLI, and Mr. BAYH)) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2719. Mr. REID (for Mr. HARKIN) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2720. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2721. Mr. REID (for Mr. BAUCUS) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) supra.

SA 2722. Mr. ALLARD (for himself, Mr. HATCH, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2709. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 20, strike ''or''.

On page 9, line 22, strike the comma and insert '', or''.

On page 9, between lines 22 and 23, insert:

''(V) which is qualified retail improvement property,

On page 15, line 7, strike the end quotation marks and the second period.

On page 15, after line 7, insert:

''(4) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is primarily used or held for use in a qualified retail business at the location of such improvement, but only if such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—The term 'qualified retail improvement' does not include any improvement of a type described in clauses (i) through (iv) of subsection (k)(3)(B).

''(C) QUALIFIED RETAIL BUSINESS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified retail business' means a trade or business of selling tangible personal property to the general public.

''(ii) TREATMENT OF CERTAIN SALES OF INTANGIBLE PROPERTY OR SALES.—Any sale of intangible property or services shall be considered a sale of tangible property if such sale is incidental to the sale of tangible property. A trade or business shall not fail to be treated as a qualified retail business by reason of sales of intangible property or services if such sales (other than sales that are incidental to the sale of tangible personal property) represent less than 10 percent of the total sales of the trade or business at the location.''.

SA 2710. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

SA 2711. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.

(a) 5-YEAR RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 168(i)(2) (defining qualified technological equipment) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) any wireless telecommunication equipment.''.

(2) DEFINITION OF WIRELESS TELECOMMUNICATION EQUIPMENT.—Paragraph (2) of section 168(i) is amended by adding at the end the following:

''(D) WIRELESS TELECOMMUNICATION EQUIPMENT.—

''(i) IN GENERAL.—For purposes of this paragraph—

''(I) IN GENERAL.—The term 'wireless telecommunication equipment' means equipment which is used in the transmission, reception, coordination, or switching of wireless telecommunications service.

''(II) EXCEPTION.—The term 'wireless telecommunication equipment' shall not include towers, buildings, T–1 lines, or other cabling

which connects cell sites to mobile switching centers.

''(ii) WIRELESS TELECOMMUNICATIONS SERVICE.—For purposes of clause (i), the term 'wireless telecommunications service' includes any commercial mobile radio service as defined in title 47 of the Code of Federal Regulations.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001.

SA 2712. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DELAY IN MEDICAID UPL CHANGES FOR NON-STATE GOVERNMENT-OWNED OR OPERATED HOSPITALS.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) The Secretary of Health and Human Services, in regulations promulgated on January 12, 2001, provided for an exception to the upper limits on payment under State medicaid plans so to permit payment to city and county public hospitals at a rate up to 150 percent of the medicare payment rate.

(2) The Secretary justified this exception because these hospitals—

(A) provide access to a wide range of needed care not often otherwise available in underserved areas;

(B) deliver a significant proportion of uncompensated care; and

(C) are critically dependent on public financing sources, such as the medicaid program.

(3) There has been no evidence presented to Congress that has changed this justification for such exception.

(b) MORATORIUM ON UPL CHANGES.—Any change in the upper limits on payment under title XIX of the Social Security Act for services of non-State government-owned or operated hospitals, whether based on the final rule published on January 18, 2002, or otherwise, may not be effective before the later of January 1, 2003, or 3 months after the submission to Congress of the plan described in subsection (c).

(c) MITIGATION PLAN.—The Secretary of Health and Human Services shall submit to Congress a report that contains a plan for mitigating the loss of funding to non-State government-owned or operated hospitals as a result of any change in the upper limits on payment referred to in subsection (b). Such report shall also include such recommendations for legislative action as the Secretary deems appropriate.

SA 2713. Mr. DASCHLE (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. DASCHLE to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV—TEMPORARY ENHANCED UNEMPLOYMENT BENEFITS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Temporary Unemployment Compensation Act of 2002''.

SEC. 402. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of temporary enhanced unemployment compensation to individuals; and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have—

(I) exhausted all rights to regular compensation under the State law (or, as the case may be, all rights to temporary enhanced unemployment compensation); or

(II) received 26 weeks of regular compensation under the State law (or, as the case may be, 26 weeks of temporary enhanced unemployment compensation);

(ii) do not have any rights to regular compensation under the State law of any other State (or to temporary enhanced unemployment compensation); and

(iii) are not receiving compensation under the unemployment compensation law of any other country.

(2) SPECIAL RULES REGARDING TEMPORARY ENHANCED UNEMPLOYMENT COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), eligibility for, and the amount of, temporary enhanced unemployment compensation shall be determined in the same manner as eligibility for, and the amount of, regular compensation is determined under the State law.

(B) ELIGIBILITY FOR TEUC.—In the case of an individual who is not eligible for regular compensation under the State law because—

(i) of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for temporary enhanced unemployment compensation under subparagraph (A) shall be determined by applying a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits, except that this clause shall not apply unless wage data for that quarter has been reported to the State or supplied to the State agency on behalf of the individual; or

(ii) such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, only part-time (and not full-time) work, then eligibility for temporary enhanced unemployment compensation under subparagraph (A) shall be determined without regard to the fact that such individual is seeking, or is available for, only part-time (and not full-time) work, except that this clause shall not apply unless—

(I) the individual's employment on which eligibility for the temporary enhanced unemployment compensation is based was part-time employment; or

(II) the individual can show good cause for seeking, or being available for, only part-time (and not full-time) work.

(C) INCREASED BENEFITS.—

(i) INDIVIDUALS ELIGIBLE FOR REGULAR COMPENSATION.—In the case of an individual who is eligible for regular compensation (including dependents' allowances) under the State law without regard to this paragraph, the amount of temporary enhanced unemployment compensation payable to such individual for any week shall be an amount equal to the greater of—

(I) 15 percent of the amount of such regular compensation payable to such individual for the week; or

(II) $25.

(ii) INDIVIDUALS NOT ELIGIBLE FOR REGULAR COMPENSATION BUT ELIGIBLE FOR TEUC BY REASON OF SUBPARAGRAPH (B).—In the case of an individual who is eligible for temporary enhanced unemployment compensation under this paragraph by reason of either clause (i) or (ii) of subparagraph (B), the amount of temporary enhanced unemployment compensation payable to such individual for any week shall be equal to the amount of compensation payable to such individual (as determined under subparagraph (A)) for the week, plus an amount equal to the greater of—

(I) 15 percent of the amount so determined; or

(II) $25.

(iii) ROUNDING.—For purposes of determining the amount under clause (i)(I) or (ii)(I), such amount shall be rounded to the dollar amount specified under the State law.

(c) NONREDUCTION RULE.—Under an agreement entered into under this title, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding any temporary enhanced unemployment compensation) will be less than the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—Rules similar to the rules under subsection (b)(2) shall apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, neither regular compensation, temporary enhanced unemployment compensation, extended compensation, nor additional compensation under any Federal or State law shall be payable to any individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(3) TREATMENT OF OTHER UNEMPLOYMENT COMPENSATION.—After the date on which a State enters into an agreement under this title, any regular compensation (or, as the case may be, temporary enhanced unemployment compensation) in excess of 26 weeks, any extended compensation, and any additional compensation under any Federal or State law shall be payable to an individual in accordance with the State law after such individual has exhausted any rights to temporary supplemental unemployment compensation under the agreement.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i)(I), an individual shall be considered to have exhausted such individual's rights to regular compensation (or, as the case may be, rights to temporary enhanced unemployment compensation) under a State law (or agreement under this title) when—

(1) no payments of regular compensation (or, as the case may be, rights to temporary enhanced unemployment compensation) can be made under such law (or such agreement) because the individual has received all such compensation available to the individual based on employment or wages during the individual's base period; or

(2) the individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC. RELATING TO TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION.—For purposes of any agreement under this title—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to—

(A) the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year; plus

(B) the amount of any temporary enhanced unemployment compensation payable to such individual for a week for total unemployment during such individual's benefit year;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 403 shall not exceed the amount established in such account for such individual.

SEC. 403. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the greater of—

(A) 50 percent of—

(i) the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law; plus

(ii) the amount of any temporary enhanced unemployment compensation payable to the individual during the individual's benefit year under the agreement; or

(B) 13 times the individual's weekly benefit amount.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of paragraph (1)(B), an individual's weekly benefit amount for any week is an amount equal to—

(A) the amount of regular compensation (including dependents' allowances) under the State law payable to the individual for such week for total unemployment; plus

(B) the amount of any temporary enhanced unemployment compensation under the agreement payable to the individual for such week for total unemployment.

SEC. 404. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced unemployment compensation made payable to individuals by such State;

(2) 100 percent of any regular compensation which would have been temporary enhanced unemployment compensation under this title but for the fact that its State law contains provisions comparable to the provisions in clauses (i) and (ii) of section 402(b)(2)(B); and

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated, without fiscal year limitation, out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 501(a)) and certified by the Secretary to the Secretary of the Treasury.

SEC. 405. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used, in accordance with subsection (b), for the making of payments (described in section 404(a)) to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 404(a) which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account, as so established (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund (as so established).

SEC. 406. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any temporary enhanced unemployment compensation or temporary supplemental unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for any further benefits under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any temporary enhanced unemployment compensation or temporary supplemental unemployment compensation under this title to which such individuals were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation, temporary enhanced unemployment compensation, or temporary supplemental unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary enhanced unemployment compensation or the temporary supplemental unemployment compensation to which such individuals were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 407. DEFINITIONS.

In this title, the terms ''compensation'', ''regular compensation'', ''extended compensation'', ''additional compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 408. APPLICABILITY.

(a) IN GENERAL.—An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 6, 2003.

(b) SPECIFIC RULES.—

(1) IN GENERAL.—Under such an agreement, the following rules shall apply:

(A) ALTERNATIVE BASE PERIODS.—The payment of temporary enhanced unemployment compensation by reason of section 402(b)(2)(B)(i) (relating to alternative base

periods) shall not apply except in the case of initial claims filed on or after the first day of the week that includes September 11, 2001.

(B) PART-TIME EMPLOYMENT AND INCREASED BENEFITS.—The payment of temporary enhanced unemployment compensation by reason of subparagraphs (B)(ii) and (C) of section 402(b)(2) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment described in subsection (a), regardless of the date on which an individual's initial claim for benefits is filed.

(C) ELIGIBILITY FOR TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION.—The payment of temporary supplemental unemployment compensation pursuant to section 402(b)(1)(B) shall not apply except in the case of individuals who first meet either the condition described in subclause (I) or (II) of clause (i) of such section on or after the first day of the week that includes September 11, 2001.

(2) REAPPLICATION PROCESS.—

(A) ALTERNATIVE BASE PERIODS.—In the case of an individual who filed an initial claim for regular compensation on or after the first day of the week that includes September 11, 2001, and before the date that the State entered into an agreement under subsection (a)(1) that was denied as a result of the application of the base period that applied under the State law prior to the date on which the State entered into the agreement, such individual—

(i) may file a claim for temporary enhanced unemployment compensation based on section 402(b)(2)(B)(i) (relating to alternative base periods) on or after the date on which the State enters into such agreement and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(B) PART-TIME EMPLOYMENT.—In the case of an individual who before the date that the State entered into an agreement under subsection (a)(1) was denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work, such individual—

(i) may file a claim for temporary enhanced unemployment compensation based on section 402(b)(2)(B)(ii) (relating to part-time employment) on or after the date on which the State enters into the agreement under subsection (a)(1) and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(3) NO RETROACTIVE PAYMENTS FOR WEEKS PRIOR TO AGREEMENT.—No amounts shall be payable to an individual under an agreement entered into under this title for any week of unemployment prior to the week beginning after the date on which such agreement is entered into.

SEC. 409. RULE OF CONSTRUCTION REGARDING CHANGES TO STATE LAW.

Nothing in this title shall be construed as requiring a State to modify the laws of such State in order to enter into an agreement under this title or to comply with the provisions of the agreement described in section 402(b).

SEC. 410. WORKFORCE INVESTMENT ACTIVITIES.

Section 134(d)(4) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(d)(4)) is amended by adding at the end the following:

''(H) IN TRAINING WITH THE APPROVAL OF THE STATE AGENCY.—Notwithstanding any other provision of law, an eligible adult or dislocated worker receiving training services (other than on-the-job training) under this paragraph shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.''.

SA 2714. Mr. DURBIN (for himself, Mr. WELLSTONE, Mr. DAYTON, Ms. LANDRIEU, and Mrs. LINCOLN) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

Strike title IV and insert the following:

TITLE IV—TEMPORARY ENHANCED UNEMPLOYMENT BENEFITS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Temporary Unemployment Compensation Act of 2002''.

SEC. 402. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—

(1) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(A) payments of temporary enhanced unemployment compensation to individuals; and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have—

(I) exhausted all rights to regular compensation under the State law (or, as the case may be, all rights to temporary enhanced unemployment compensation); or

(II) received 26 weeks of regular compensation under the State law (or, as the case may be, 26 weeks of temporary enhanced unemployment compensation);

(ii) do not have any rights to regular compensation under the State law of any other State (or to temporary enhanced unemployment compensation); and

(iii) are not receiving compensation under the unemployment compensation law of any other country.

(2) SPECIAL RULES REGARDING TEMPORARY ENHANCED UNEMPLOYMENT COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), eligibility for, and the amount of, temporary enhanced unemployment compensation shall be determined in the same manner as eligibility for, and the amount of, regular compensation is determined under the State law.

(B) ELIGIBILITY FOR TEUC.—In the case of an individual who is not eligible for regular compensation under the State law because—

(i) of the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for temporary enhanced unemployment compensation under subparagraph (A) shall be determined by applying a base period ending at the close of the calendar quarter most recently completed before the date of the individual's application for benefits, except that this clause shall not apply unless wage data for that quarter has been reported to the State or supplied to the State agency on behalf of the individual; or

(ii) such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, only part-time (and not full-time) work, then eligibility for temporary enhanced unemployment compensation under subparagraph (A) shall be determined without regard to the fact that such individual is seeking, or is available for, only part-time (and not full-time) work, except that this clause shall not apply unless—

(I) the individual's employment on which eligibility for the temporary enhanced unemployment compensation is based was part-time employment; or

(II) the individual can show good cause for seeking, or being available for, only part-time (and not full-time) work.

(C) INCREASED BENEFITS.—

(i) INDIVIDUALS ELIGIBLE FOR REGULAR COMPENSATION.—In the case of an individual who is eligible for regular compensation (including dependents' allowances) under the State law without regard to this paragraph, the amount of temporary enhanced unemployment compensation payable to such individual for any week shall be an amount equal to the greater of—

(I) 15 percent of the amount of such regular compensation payable to such individual for the week; or

(II) $25.

(ii) INDIVIDUALS NOT ELIGIBLE FOR REGULAR COMPENSATION BUT ELIGIBLE FOR TEUC BY REASON OF SUBPARAGRAPH (B).—In the case of an individual who is eligible for temporary enhanced unemployment compensation under this paragraph by reason of either clause (i) or (ii) of subparagraph (B), the amount of temporary enhanced unemployment compensation payable to such individual for any week shall be equal to the amount of compensation payable to such individual (as determined under subparagraph (A)) for the week, plus an amount equal to the greater of—

(I) 15 percent of the amount so determined; or

(II) $25.

(iii) ROUNDING.—For purposes of determining the amount under clause (i)(I) or (ii)(I), such amount shall be rounded to the dollar amount specified under the State law.

(c) NONREDUCTION RULE.—Under an agreement entered into under this title, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a way such that the average weekly amount of regular compensation which will be payable during the period of the agreement (determined disregarding any temporary enhanced unemployment compensation) will be less than the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on September 11, 2001.

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—Rules similar to the rules under subsection (b)(2) shall apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION TO SERVE AS SECOND-TIER BENEFITS.—Notwithstanding any other provision of law, neither regular compensation, temporary enhanced unemployment compensation, extended compensation, nor additional compensation under any Federal or State law shall be payable to any individual

for any week for which temporary supplemental unemployment compensation is payable to such individual.

(3) TREATMENT OF OTHER UNEMPLOYMENT COMPENSATION.—After the date on which a State enters into an agreement under this title, any regular compensation (or, as the case may be, temporary enhanced unemployment compensation) in excess of 26 weeks, any extended compensation, and any additional compensation under any Federal or State law shall be payable to an individual in accordance with the State law after such individual has exhausted any rights to temporary supplemental unemployment compensation under the agreement.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i)(I), an individual shall be considered to have exhausted such individual's rights to regular compensation (or, as the case may be, rights to temporary enhanced unemployment compensation) under a State law (or agreement under this title) when—

(1) no payments of regular compensation (or, as the case may be, rights to temporary enhanced unemployment compensation) can be made under such law (or such agreement) because the individual has received all such compensation available to the individual based on employment or wages during the individual's base period; or

(2) the individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) WEEKLY BENEFIT AMOUNT, TERMS AND CONDITIONS, ETC. RELATING TO TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION.—For purposes of any agreement under this title—

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to—

(A) the amount of regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year; plus

(B) the amount of any temporary enhanced unemployment compensation payable to such individual for a week for total unemployment during such individual's benefit year;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary supplemental unemployment compensation and the payment thereof, except where inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for whom a temporary supplemental unemployment compensation account is established under section 403 shall not exceed the amount established in such account for such individual.

SEC. 403. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary supplemental unemployment compensation, a temporary supplemental unemployment compensation account.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the greater of—

(A) 50 percent of—

(i) the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law; plus

(ii) the amount of any temporary enhanced unemployment compensation payable to the individual during the individual's benefit year under the agreement; or

(B) 13 times the individual's weekly benefit amount.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of paragraph (1)(B), an individual's weekly benefit amount for any week is an amount equal to—

(A) the amount of regular compensation (including dependents' allowances) under the State law payable to the individual for such week for total unemployment; plus

(B) the amount of any temporary enhanced unemployment compensation under the agreement payable to the individual for such week for total unemployment.

SEC. 404. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(1) 100 percent of any temporary enhanced unemployment compensation made payable to individuals by such State;

(2) 100 percent of any regular compensation which would have been temporary enhanced unemployment compensation under this title but for the fact that its State law contains provisions comparable to the provisions in clauses (i) and (ii) of section 402(b)(2)(B); and

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(c) ADMINISTRATIVE EXPENSES, ETC.—There is hereby appropriated, without fiscal year limitation, out of the employment security administration account of the Unemployment Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title. Each State's share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 501(a)) and certified by the Secretary to the Secretary of the Treasury.

SEC. 405. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Federal unemployment account (as established by section 904(g) of such Act (42 U.S.C. 1104(g))), of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used, in accordance with subsection (b), for the making of payments (described in section 404(a)) to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums described in section 404(a) which are payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification by transfers from the extended unemployment compensation account, as so established (or, to the extent that there are insufficient funds in that account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund (as so established).

SEC. 406. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received any temporary enhanced unemployment compensation or temporary supplemental unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for any further benefits under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received any temporary enhanced unemployment compensation or temporary supplemental unemployment compensation under this title to which such individuals were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation, temporary enhanced unemployment compensation, or temporary supplemental unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary enhanced unemployment compensation or the temporary supplemental unemployment compensation to which such individuals were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 407. DEFINITIONS.

In this title the terms ''compensation'', ''regular compensation'', ''extended compensation'', ''additional compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 408. APPLICABILITY.

(a) IN GENERAL.—An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 6, 2003.

(b) SPECIFIC RULES.—

(1) IN GENERAL.—Under such an agreement, the following rules shall apply:

(A) ALTERNATIVE BASE PERIODS.—The payment of temporary enhanced unemployment compensation by reason of section 402(b)(2)(B)(i) (relating to alternative base periods) shall not apply except in the case of initial claims filed on or after the first day of the week that includes September 11, 2001.

(B) PART-TIME EMPLOYMENT AND INCREASED BENEFITS.—The payment of temporary enhanced unemployment compensation by reason of subparagraphs (B)(ii) and (C) of section 402(b)(2) (relating to part-time employment and increased benefits, respectively) shall apply to weeks of unemployment described in subsection (a), regardless of the date on which an individual's initial claim for benefits is filed.

(C) ELIGIBILITY FOR TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION.—The payment of temporary supplemental unemployment compensation pursuant to section 402(b)(1)(B) shall not apply except in the case of individuals who first meet either the condition described in subclause (I) or (II) of clause (i) of such section on or after the first day of the week that includes September 11, 2001.

(2) REAPPLICATION PROCESS.—

(A) ALTERNATIVE BASE PERIODS.—In the case of an individual who filed an initial claim for regular compensation on or after the first day of the week that includes September 11, 2001, and before the date that the State entered into an agreement under subsection (a)(1) that was denied as a result of the application of the base period that applied under the State law prior to the date on which the State entered into the agreement, such individual—

(i) may file a claim for temporary enhanced unemployment compensation based on section 402(b)(2)(B)(i) (relating to alternative base periods) on or after the date on which the State enters into such agreement and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(B) PART-TIME EMPLOYMENT.—In the case of an individual who before the date that the State entered into an agreement under subsection (a)(1) was denied regular compensation under the State law's provisions relating to availability for work, active search for work, or refusal to accept work, solely by virtue of the fact that such individual is seeking, or available for, only part-time (and not full-time) work, such individual—

(i) may file a claim for temporary enhanced unemployment compensation based on section 402(b)(2)(B)(ii) (relating to part-time employment) on or after the date on which the State enters into the agreement under subsection (a)(1) and before the date on which such agreement terminates; and

(ii) if eligible, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which the individual files such claim.

(3) NO RETROACTIVE PAYMENTS FOR WEEKS PRIOR TO AGREEMENT.—No amounts shall be payable to an individual under an agreement entered into under this title for any week of unemployment prior to the week beginning after the date on which such agreement is entered into.

SEC. 409. RULE OF CONSTRUCTION REGARDING CHANGES TO STATE LAW.

Nothing in this title shall be construed as requiring a State to modify the laws of such State in order to enter into an agreement under this title or to comply with the provisions of the agreement described in section 102(b).

SA 2715. Mr. LOTT (for Mr. INHOFE) submitted an amendment intended to be proposed by Mr. LOTT to the bill H.R. 622 to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other puposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. ___. PRORATION OF HEAVY VEHICLE USE TAX BETWEEN PURCHASERS OF SAME VEHICLE.

(a) IN GENERAL.—Section 4481(c) of the Internal Revenue Code of 1986 (relating to proration of tax) is amended by adding at the end the following new paragraph:

''(3) WHERE VEHICLE SOLD.—If in any taxable period a highway motor vehicle is sold before the last day in such period by the person who paid the tax imposed by this section for any portion of such period ending with such last day, the portion of the tax imposed by this section for the period from the date of the sale to such last day shall be credited or refunded (without interest) to such person. In the case of a refund, such refund shall be made not later than 45 days after such last day.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4481(c)(1) of the Internal Revenue Code of 1986 is amended by inserting ''by the person described in subsection (b)'' after ''vehicle''.

(2) Section 4481(d) of such Code is amended to read as follows:

''(d) CROSS REFERENCE.—

''For privilege of paying tax imposed by this section in installments, see section 6156.''.

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

SA 2716. Mr. SMITH of Oregon (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

''(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

''(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified property' means property—

''(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

''(III) which is qualified leasehold improvement property, or

''(IV) which is eligible for depreciation under section 167(g),

''(ii) the original use of which commences with the taxpayer after December 31, 2001,

''(iii) which is—

''(I) acquired by the taxpayer after December 31, 2001, and before January 1, 2004, but only if no written binding contract for the acquisition was in effect before January 1, 2002, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2001, and before January 1, 2004, and

''(iv) which is placed in service by the taxpayer before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

''(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

''(i) IN GENERAL.—The term 'qualified property' includes property—

''(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

''(II) which has a recovery period of at least 10 years or is transportation property, and

''(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

''(ii) ONLY PRE-JANUARY 1, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2004.

''(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term 'transportation property' means tangible personal property used in the trade or business of transporting persons or property.

''(C) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

''(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(D) SPECIAL RULES.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

''(I) is originally placed in service after December 31, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

''(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $4,600.

''(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

''(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

''(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.''.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) of the Internal Revenue Code of 1986 (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

''(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—The deduction under section 168(k) shall be allowed.''

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''clause (ii)'' both places it appears and inserting ''clauses (ii) and (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date.

SA 2717. Mr. NICKLES (for Mr. BOND (for himself, Ms. COLLINS, Mr. ENZI, Mr. ALLEN, and Mr. NICKLES)) proposed an amendment to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end, add the following:

SEC. ___. TEMPORARY INCREASE IN EXPENSING UNDER SECTION 179.

(a) IN GENERAL.—The table contained in section 179(b)(1) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended to read as follows:

"If the taxable year begins in:	The applicable amount is:
2001	$24,000
2002 or 2003	$40,000
2004 or thereafter	$25,000.''

(b) TEMPORARY INCREASE IN AMOUNT OF PROPERTY TRIGGERING PHASEOUT OF MAXIMUM BENEFIT.—Paragraph (2) of section 179(b) of the Internal Revenue Code of 1986 is amended by inserting before the period ''($325,000 in the case of taxable years beginning during 2002 or 2003)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 2718. Mr. REID (for Mr. BAUCUS (for himself, Mr. TORRICELLI, and Mr. BAYH)) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

Strike section 201 and insert the following:

SEC. 201. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

''(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

''(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified property' means property—

''(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

''(III) which is qualified leasehold improvement property, or

''(IV) which is eligible for depreciation under section 167(g),

''(ii) the original use of which commences with the taxpayer after December 31, 2001,

''(iii) which is—

''(I) acquired by the taxpayer after December 31, 2001, and before January 1, 2004, but only if no written binding contract for the acquisition was in effect before January 1, 2002, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2001, and before January 1, 2004, and

''(iv) which is placed in service by the taxpayer before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

''(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

''(i) IN GENERAL.—The term 'qualified property' includes property—

''(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

''(II) which has a recovery period of at least 10 years or is transportation property, and

''(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

''(ii) ONLY PRE-JANUARY 1, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2004.

''(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term 'transportation property' means tangible personal property used in the trade or business of transporting persons or property.

''(C) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

''(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(D) SPECIAL RULES.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

''(I) is originally placed in service after December 31, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

''(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $4,600.

''(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

''(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

''(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.''.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

''(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—The deduction under section 168(k) shall be allowed.''

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by striking ''clause (ii)'' both places it appears and inserting ''clauses (ii) and (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date.

SA 2719. Mr. REID (for Mr. HARKIN) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

Strike section 301 and insert the following:

SEC. 301. TEMPORARY INCREASES OF MEDICAID FMAP FOR FISCAL YEAR 2002.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2001 FMAP.—Notwithstanding any other provision of law, but subject to subsection (d), if the FMAP determined without regard to this section for a State for fiscal year 2002 is less than the FMAP as so determined for fiscal year 2001, the FMAP for the State for fiscal year 2001 shall be substituted for the State's FMAP for fiscal year 2002, before the application of this section.

(b) GENERAL 3 PERCENTAGE POINTS INCREASE.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), for each State for each calendar quarter in fiscal year 2002, the FMAP (taking into account the application of subsection (a)) shall be increased by 3 percentage points.

(c) FURTHER INCREASE FOR STATES WITH HIGH UNEMPLOYMENT RATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to subsections (e) and (f), the FMAP for a high unemployment State for a calendar quarter in fiscal year 2002 (and any subsequent calendar quarter in such fiscal year regardless of whether the State continues to be a high unemployment State for a calendar quarter in such fiscal year) shall be increased (after the application of subsections (a) and (b)) by 1.50 percentage points.

(2) HIGH UNEMPLOYMENT STATE.—

(A) IN GENERAL.—For purposes of this subsection, a State is a high unemployment State for a calendar quarter if, for any 3 consecutive month period beginning on or after June 2001 and ending with the second month before the beginning of the calendar quarter, the State has an average seasonally adjusted unemployment rate that exceeds the average weighted unemployment rate during such period. Such unemployment rates for such months shall be determined based on publications of the Bureau of Labor Statistics of the Department of Labor.

(B) AVERAGE WEIGHTED UNEMPLOYMENT RATE DEFINED.—For purposes of subparagraph (A), the ''average weighted unemployment rate'' for a period is—

(i) the sum of the seasonally adjusted number of unemployed civilians in each State and the District of Columbia for the period; divided by

(ii) the sum of the civilian labor force in each State and the District of Columbia for the period.

(d) 1-YEAR INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to fiscal year 2002, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 6 percentage points of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); and

(2) payments under titles IV and XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(f) STATE ELIGIBILITY.—A State is eligible for an increase in its FMAP under subsection (b) or (c) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 1, 2001.

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) IMPLEMENTATION FOR REMAINDER OF FISCAL YEAR 2002.—The Secretary of Health and Human Services shall increase payments to States under title XIX for the second, third, and fourth calendar quarters of fiscal year 2002 to take into account the increases in the FMAP provided for in this section for fiscal year 2002 (including the first quarter of such fiscal year).

SA 2720. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. TAX INCENTIVES FOR QUALIFIED UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45G. UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION WAGE CREDIT.

''(a) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the United States independent film and television production wage credit determined under this section with respect to any taxpayer for any taxable year is an amount equal to 25 percent of the qualified wages paid or incurred per qualified United States independent film and television production during such taxable year.

''(2) HIGHER PERCENTAGE FOR PRODUCTION EMPLOYMENT IN CERTAIN AREAS.—In the case of qualified employees in any qualified United States independent film and television production located in an area eligible for designation as a low-income community under section 45D or eligible for designation by the Delta Regional Authority as a distressed county or isolated area of distress, paragraph (1) shall be applied by substituting '35 percent' for '25 percent'.

''(b) ONLY FIRST $25,000 OF WAGES PER PRODUCTION TAKEN INTO ACCOUNT.—With respect to each qualified United States independent film and television production, the amount of qualified wages paid or incurred to each qualified employee or personal service corporation which may be taken into account per such production shall not exceed $25,000.

''(c) QUALIFIED WAGES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified wages' means—

''(A) any wages paid or incurred by an employer for services performed in the United States by an employee while such employee is a qualified employee,

''(B) the employee fringe benefit expenses of the employer allocable to such services performed by such employee,

''(C) any payments made to personal service corporations as defined in section 269A(b)(1) for services performed in the United States, and

''(D) renumeration, other than wages, for services personally rendered in the United States.

''(2) QUALIFIED EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified employee' means, with respect to any period, any individual who renders personal services if substantially all of such services are performed during such period in an activity related to any qualified United States independent film and television production.

''(B) CERTAIN INDIVIDUALS NOT ELIGIBLE.—Such term shall not include—

''(i) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1), and

''(ii) any 5-percent owner (as defined in section 416(i)(1)(B).

''(3) COORDINATION WITH OTHER WAGE CREDITS.—No credit shall be allowed under any other provision of this chapter for wages paid to any employee during any taxable year if the employer is allowed a credit under this section for any of such wages.

''(4) WAGES.—The term 'wages' has the same meaning as when used in section 51.

''(5) EMPLOYEE FRINGE BENEFIT EXPENSES.—The term 'employee fringe benefit expenses' means the amount allowable as a deduction under this chapter to the employer for any taxable year with respect to—

''(A) employer contributions under stock bonus, pension, profit-sharing, or annuity plan,

''(B) employer-provided coverage under any accident or health plan for employees, and

''(C) the cost of life or disability insurance provided to employees.

Any amount treated as wages under paragraph (1)(A) shall not be taken into account under this subparagraph.

''(d) QUALIFIED UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified United States independent film and television production' means any production of any motion picture (whether released theatrically or directly to video cassette or any other format), television or cable programming, mini series, episodic television, movie of the week, or pilot production for any of the preceding productions if—

''(A) 75 percent of the total wages of the production are qualified wages,

''(B) the production is created primarily for use as public entertainment or for educational purposes, and

''(C) the total cost of wages of the production is more than $200,000 but less than $10,000,000.

Such term shall not include any production if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with sexually explicit conduct). For purposes of subparagraph (A), no day of photography shall be considered a day of principal photography unless the cost of wages for the production for that day exceeds the average daily cost of wages for such production.

''(2) PUBLIC ENTERTAINMENT.—The term 'public entertainment' includes a motion picture film, video tape, or television program intended for initial broadcast via the public broadcast spectrum or delivered via cable distribution, or productions that are submitted to a national organization in existence on July 27, 2001, that rates films for violent or adult content. Such term does not include any film or tape the market for which is primarily topical, is otherwise essentially transitory in nature, or is produced for private noncommercial use.

''(3) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2002, the $10,000,000 amount contained in paragraph (1)(C) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $500,000, such amount shall be rounded to the nearest multiple of $500,000.

''(e) CONTROLLED GROUPS.—For purposes of this section—

''(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

''(2) the credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

''(f) APPLICATION OF CERTAIN OTHER RULES.—For purposes of this section, rules similar to the rules of section 51(k) and subsections (c) and (d) of section 52 shall apply.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the United States independent film and television production wage credit determined under section 45G(a).''.

(c) NO CARRYBACKS.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the United States independent film and television production wage credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(d) DENIAL OF DOUBLE BENEFIT.—Subsection (a) of section 280C of the Internal Revenue Code of 1986 is amended by inserting ''45G(a),'' after ''45A(a),''.

(e) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45G. United States independent film and television production wage credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SA 2721. Mr. REID (for Mr. BAUCUS) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

At the end add the following:

TITLE ____—EMERGENCY AGRICULTURE ASSISTANCE

Subtitle A—Income Loss Assistance

SEC. ___01. INCOME LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use $1,800,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying income losses in calendar year 2001.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and economic losses as were used in administering that section.

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary may use funds made available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

SEC. ___02. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use $500,000,000 of the funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the President or the Secretary after January 1, 2001, of which $12,000,000 shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105–277; 114 Stat. 1549A–51).

Subtitle B—Administration

SEC. ___11. COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. ___12. ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—In addition to funds otherwise available, not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to pay the salaries and expenses of the Department of Agriculture in carrying out this title $50,000,000, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

SEC. ___13. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this subtitle shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SA 2722. Mr. ALLARD (for himself, Mr. HATCH, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PERMANENT EXTENSION OF RESEARCH CREDIT; INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) PERMANENT EXTENSION OF RESEARCH CREDIT.—

(1) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after the date of the enactment of this Act.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(A) by striking ''2.65 percent'' and inserting ''3 percent'',

(B) by striking ''3.2 percent'' and inserting ''4 percent'', and

(C) by striking ''3.75 percent'' and inserting ''5 percent''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

ORDER OF BUSINESS

Mr. LUGAR. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for more than 10 minutes.

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

Mr. LUGAR. I thank the Chair.

NATO'S ROLE IN THE WAR ON TERRORISM

Mr. LUGAR. Mr. President, I enjoyed the opportunity last week in Brussels, Belgium, to address the permanent representatives to the North Atlantic Treaty Organization, NATO, on the subject of the Alliance's forthcoming summit in Prague next November, as well as the likely agenda that will include the issues of NATO enlargement and Russia-NATO cooperation.

Perhaps more importantly, I was asked to consider and discuss with the Ambassadors of NATO the Alliance's future 3, 5, and 10 years out and to assess the impact of the events of September 11 and the consequent war on terrorism with the future role of NATO. These are the comments I made on that occasion.

There are moments in history when world events suddenly allow us to see the challenges facing our societies with a degree of clarity previously unimaginable. The events of September 11 have created one of those rare moments. We can see clearly the challenges we face and now confront and what needs to be done.

September 11 forced Americans to recognize that the United States is exposed to an existential threat from terrorism and the possible use of weapons of mass destruction by terrorists. Meeting that threat is the premier security challenge of our time. There is a clear and present danger that terrorists will gain the capability to carry out catastrophic attacks on Europe and the United States using nuclear, biological, or chemical weapons.

In 1996, I made, the Chair will recall, an unsuccessful bid for the Presidency of the United States. Three of my campaign television ads on that occasion, widely criticized for being farfetched and grossly alarming, depicted a mushroom cloud and warned of the existential threat posed by the growing dangers of weapons of mass destruction in the hands of terrorist groups. I argued that the next President should be selected on the basis of being able to meet that challenge.

Recently, those ads have been replayed on national television and are viewed from a different perspective. The images of those planes crashing into the World Trade Center on September 11 will remain with us all for some time to come. We might not have been able to prevent the attacks of September 11, but we can draw the right lessons from those events now, and one of those lessons is just how vulnerable our societies are to such attacks.

September 11 has destroyed many myths. One of those was the belief that the West was no longer threatened after the collapse of communism and our victory in the cold war, and perhaps nowhere was that myth stronger than in the United States where many Americans believed that America's strength made us invulnerable. We know now we are all vulnerable—Americans and Europeans.

The terrorists seek massive impact through indiscriminate killing of people and destruction of institutions, historical symbols, and the basic fabric of our societies. The next attack, however, could just as easily be in London, Paris, or Berlin as in Washington, and it could, or is even likely to, involve weapons or materials of mass destruction.

The sober reality is that the danger of Americans and Europeans being killed today at work or at home is perhaps greater than at any time in recent history. Indeed, the threat we face today may be just as existential as the one we faced during the cold war since it is increasingly likely to involve the use of weapons of mass destruction against our societies.

We are again at one of those moments when we must look in the mirror and ask ourselves whether we as leaders are prepared to draw the right conclusions and do what we can now to reduce that threat or whether it will take another, even deadlier, attack to force us into action.

Each of us recognizes that the war against terrorism and weapons of mass destruction must be fought on many fronts—at home and abroad—and it must be fought with many tools—political, economic, and military.

President Bush is seeking to lead a global coalition in a global war to root out terrorist cells and stop nation states from harboring terrorists.

The flip side of this policy is one that I have spent a lot of time thinking about; namely, the urgent need to extend the war on terrorism to nuclear, biological, and chemical weapons. Al-Qaida-like terrorists will use NBC weapons if they can obtain them.

Our task can be succinctly stated: Together we must keep the world's most dangerous technologies out of the hands of the world's most dangerous people. The events of September 11 and the subsequent public discovery of al-Qaida's methods, capabilities, and intentions have finally brought the vulnerability of our countries to the forefront.

The terrorists have demonstrated suicidal tendencies and are beyond deterrence. We must anticipate they will use weapons of mass destruction in NATO countries if allowed that opportunity.

Without oversimplifying the motivations of terrorists in the past, it appears that most acts of terror attempted to bring about change in a regime or change in governance or status in a community or state.

Usually, the terrorists made demands that could be negotiated or accommodated. The targets were selected to create and increase pressure for change.

In contrast, the al-Qaida terrorist attacks on the United States were planned to kill thousands of people indiscriminately. There were no demands for change or negotiation. Osama bin Laden was filmed conversing about results of the attack which exceeded his earlier predictions of destruction. Massive destruction of institutions, wealth, national morale, and innocent people was clearly his objective.

Over 3,000 people from a host of countries perished. Recent economic estimates indicate $60 billion of loss to the

United States economy from all facets of the September 11 attacks and the potential loss of over 1.6 million jobs. Horrible as these results have been, military experts have written about the exponential expansion of those losses had the al-Qaida terrorists used weapons of mass destruction.

The minimum standard for victory in this kind of war is the prevention of any of the individual terrorists or terrorist cells from obtaining weapons or materials of mass destruction.

The current war effort in Afghanistan is destroying the Afghan-based al-Qaida network and the Taliban regime. The campaign is also designed to demonstrate that governments that are hosts to terrorists face retribution. But as individual NATO countries prosecute this war, NATO must pay much more attention to the other side of the equation—that is, making certain that all weapons and materials of mass destruction are identified, continuously guarded, and systematically destroyed.

Unfortunately, beyond Russia and other states of the former Soviet Union, Nunn-Lugar-style cooperative threat reduction programs aimed at non-proliferation do not exist. They must now be created on a global scale, with counter-terrorism joining counter-proliferation as our primary objectives.

Today we lack even minimal international confidence about many weapons programs, including the number of weapons or amounts of materials produced, the storage procedures employed, and production or destruction programs. NATO allies must join with the United States to change this situation. We need to join together to restate the terms of minimal victory in the war against terrorism we are currently fighting—to wit, that every nation that has weapons and materials of mass destruction must account for what it has, spend its own money or obtain international technical and financial resources to safely secure what it has, and pledge that no other nation, cell or cause will be allowed access to or use of these weapons or materials.

Some nations, after witnessing the bombing of Afghanistan and the destruction of the Taliban government, may decide to proceed along a cooperative path of accountability regarding their weapons and materials of mass destruction. But other states may decide to test the U.S. will and staying power. Such testing will be less likely if the NATO allies stand shoulder to shoulder with the U.S. in pursuing such a counter-terrorism policy.

The precise replication of the Nunn-Lugar program will not be possible everywhere, but a satisfactory level of accountability, transparency and safety can and must be established in every nation with a weapons of mass destruction program. When such nations resist such accountability, or their governments make their territory available to terrorists who are seeking weapons of mass destruction, then NATO nations should be prepared to join with the U.S. to use force as well as all diplomatic and economic tools at their collective disposal.

I do not mention the use of military force lightly or as a passing comment. The use of military force could mean war against a nation state remote from Europe or North America. This awesome contingency requires the utmost in clarity now. Without being redundant, let me describe the basic elements of such a strategy even more explicitly.

NATO should list all nation states which now house terrorist cells, voluntarily or involuntarily. The list should be supplemented with a map which illustrates to all of our citizens the location of these states, and how large the world is. Through intelligence sharing, termination of illicit financial channels, support of local police work, diplomacy, and public information, NATO and a broader coalition of nations fighting terrorism will seek to root out each cell in a comprehensive manner for years to come and keep a public record of success that the world can observe and measure. If we are diligent and determined, we will end most terrorist possibilities.

Perhaps most importantly, we will draw up a second list that will contain all of the states that have materials, programs, and/or weapons of mass destruction. We will demand that each of these nation states account for all of the materials, programs, and weapons in a manner which is internationally verifiable. We will demand that all such weapons and materials be made secure from theft or threat of proliferation using the funds of that nation state and supplemented by international funds if required. We will work with each nation state to formulate programs of continuing accountability and destruction which may be of mutual benefit to the safety of citizens in the host state as well as the international community. The latter will be a finite list, and success in the war against terrorism will not be achieved until all nations on that list have complied with these standards.

The Nunn-Lugar program has demonstrated that extraordinary international relationships are possible to improve controls over weapons of mass destruction. Programs similar to the Nunn-Lugar program should be established in each of the countries in the coalition against terrorism that wishes to work with the United States and hopefully its NATO allies on safe storage, accountability and planned destruction.

If these remarks had been delivered before September 11, I would now offer some eloquent thoughts about the importance of continuing NATO enlargement and of trying to build a cooperative NATO–Russian relationship. In a speech last summer preceding the remarkable call by President Bush in Warsaw for a NATO which stretched from the Baltics to the Black Sea, I listed Slovenia, Slovakia, Estonia, Latvia, Lithuania, Romania, and Bulgaria as strong candidates for membership consideration. I visited five of these countries last summer to encourage continuing progress in meeting the criteria for joining the Alliance. After ten years of hands-on experience in working with Russian political, military, and scientific leaders to carefully secure and to destroy materials and weapons of mass destruction in cooperative threat reduction programs, I anticipate that a new NATO–Russian relationship could be of enormous benefit in meeting the dangerous challenges which we must now confront together. In many ways, September 11 has strengthened my conviction that both of these efforts are critical.

But they can no longer be our only major priorities. As important as they are, neither NATO enlargement nor NATO–Russia cooperation is the most critical issue facing our nations today. That issue is the war on terrorism. NATO has to decide whether it wants to participate in this war. It has to decide whether it wants to be relevant in addressing the major security challenge of our day. Those of us who have been the most stalwart proponents of enlargement in the past have an obligation to point out that, as important as NATO enlargement remains, the major security challenge we face today is the intersection of terrorism with weapons of mass destruction.

If we fail to defend our societies from a major terrorist attack involving weapons of mass destruction, we and the Alliance will have failed in the most fundamental sense of defending our nations and our way of life—and ultimately no one will care what NATO did or did not accomplish on enlargement at the Prague summit in November this year. That's why the Alliance must fundamentally rethink its role in the world in the wake of September 11.

At the Washington summit in the spring of 1999, NATO heads of state made a bold statement. They stated that they wanted NATO to be as relevant to the threats of the next 50 years as it was to the threats of the past five decades.

The Alliance invoked Article 5 for the first time in its history in response to September 11. But, NATO itself has only played a limited, largely political and symbolic role in the war against terrorism. To some degree, Washington's reluctance to turn to NATO was tied to the fact that the U.S. had to scramble to put together a military response involving logistics, basing and special forces quickly—and it was easier to do that ourselves. Since it was the U.S. itself that was attacked, we were highly motivated to assume the lion's share of burden of the military role of the war on terrorism and we had the capability to do so.

But U.S. reticence to turn to NATO was also tied to other facts. Some Americans have lost confidence in the Alliance. Years of cuts in defense

spending and failure to meet pledge after pledge to improve European military capabilities has left some Americans with doubts as to what our allies could realistically contribute. Rightly or wrongly, the legacy of Kosovo has reinforced the concern that NATO is not up to the job of fighting a modern war. The U.S. did have confidence in a select group of individual allies. But it did not have confidence in the institution that is NATO. The fact that some military leaders of NATO's leading power didn't want to use the Alliance it has led for half a century is a worrying sign.

Some in Washington did suggest to the Administration that it could and should be more creative in involving NATO. Senator JOSEPH BIDEN and I, for example, wrote an ''op-ed'' suggesting a number of tasks the Alliance could assume in the war on terrorism. But I am not here to second-guess the President and his national security team on these issues. Whether we should have used NATO more is a question best left to future historians. The strategy the U.S. employed in Afghanistan worked, and I congratulate the Administration for that success.

The key issue is: where do we go from here? Will we—Americans and Europeans—now decide to prepare NATO for the next stages in the war against terrorism? If not, how should we organize outside of NATO to meet the military challenges of the war on terrorism? What do we want NATO to look like in three to five years? How do we launch that process between now and the Prague summit next November?

We will not find a single American answer to these questions. Indeed, as I listen to the administration and my colleagues around Washington, I hear very different views. One school of thought holds that NATO should simply remain the guarantor of peace in Europe. With successful integration of all of Central and Eastern Europe into the Alliance, they see NATO's next priority as trying to integrate Russia and Ukraine into European security via the new NATO-Russia Council. They accept the fact that NATO is likely to become more and more a political organization such as the OSCE but one with at least some military muscle. They consider any attempt to give the Alliance a military role beyond Europe ''a bridge too far.'' If all NATO does is keep the peace in an increasingly secure Europe, that's enough.

A second school thinks NATO as it is currently constituted is about the best we can do. It does not want to take a big leap forward either with regard to NATO cooperation with Russia or with respect to new missions such as a war against terrorism. This school would be willing to enlarge to some additional countries but is much more cautious about NATO-Russia cooperation. It is willing to work with allies on future missions, but on an ad hoc basis and not as an Alliance, lest a NATO framework create ''war by committee'' and coalition ''drag'' on the prosecution of hostilities. It prefers a division of labor whereby the U.S. focuses on the big wars and leaves peacekeeping in and around Europe to the Europeans.

A third way of thinking about NATO is to see it as the natural defense arm of the trans-Atlantic community and the institution we should turn to for help in meeting new challenges such as terrorism and weapons of mass destruction. With Europe increasingly secure, the Alliance needs to be ''retooled'' so that it can handle the most critical threats to our security. If that means it has to go beyond Europe in the future, so be it.

This last way of thinking about NATO's future is closest to my own for several reasons. First, I have always had a problem with the ''division of labor'' argument that assumes the U.S. will handle the big wars outside of Europe and lets Europeans take care of the small wars within Europe. It presupposes that the U.S. has less interest in Europe and that Europeans have less interests in the rest of the world. Both are wrong. We have interests in Europe and Europeans have interests in the rest of the world—and we should be trying to tackle them together.

Second, the U.S. needs a military alliance with Europe to confront effectively problems such as terrorism and weapons of mass destruction. We cannot do it on an ad hoc basis. We were willing to proceed more or less alone in Afghanistan. But we might not be so inclined next time, depending on the circumstances. What if the next attack is on Europe—or on America and Europe simultaneously? The model used in Afghanistan would not work in those scenarios. Americans expect our closest allies to fight with us in this war on terrorism—and they expect our leaders to come up with a structure that allows us to do so promptly and successfully.

Third, the problem we faced in Kosovo, and the problems we are encountering with respect to developing adequate military capabilities to meet the new threats, do not lead me to conclude that the answer is to reduce NATO to a purely political role. Rather, they are arguments to expand our efforts to fix capability problems so that NATO can operate more effectively in the future. Americans do not want to carry the entire military burden of the war on terrorism by themselves. Nor should we. We want allies to share the burden. The last attack may have been unique in that regard. We were shocked by attacks on our homeland. The U.S. was prepared to respond immediately and to do most of the work itself. But what if the next attack is on Brussels, or on France and the U.S. at the same time?

Finally, some of my critics have said: Senator, that is a great idea but it simply is not ''doable.'' And it would be a mistake even to try because you might fail and that would embarrass President Bush and hurt the Alliance. I find it hard to believe that the U.S. and Europe—some of the richest and most advanced countries in the world—are incapable of organizing themselves to come up with an effective military alliance to fight this new threat.

When NATO was founded, there were those who said it would be impossible to have a common strategy toward the Soviet Union. And in early 1993 when I delivered my first speech calling for NATO not only to enlarge but to prepare for substantial ''out of area'' activities, many people told me that what I was proposing ran the risk of destroying the Alliance. Those of us who believed in NATO enlargement stuck to our guns. We now have three new Permanent Representatives at NATO Headquarters, and a much more vital NATO as a result.

My view can be easily summarized. America is at war and feels more vulnerable than at any time since the end of the cold war and perhaps since World War II. The threat we face is global and existential. We need allies and alliances to confront it effectively. Those alliances can no longer be circumscribed by artificial geographic boundaries. All of America's alliances are going to be reviewed and recast in light of this new challenge, including NATO. If NATO is not up to the challenge of becoming effective in the new war against terrorism, then our political leaders may be inclined to search for something else that will answer this need.

I believe that September 11 opened an enormous opportunity to revitalize the trans-Atlantic relationship. It would be a mistake to let this opportunity slip through our fingers. Neither side of the Atlantic has thus far grasped that opportunity fully. It is a time to think big, not small. It is a time when our proposals should not be measured by what we think is ''doable'' but rather shaped by what needs to be done to meet the new existential threat we face.

In the early 1990s we needed to make the leap from NATO defending Western Europe to the Alliance assuming responsibility for the continent as a whole. Today we must make a further leap and recognize that, in a world in which terrorist threats can be planned in Germany, financed in Asia, and carried out in the United States, old distinctions between ''in'' and ''out of area'' have become utterly meaningless. Indeed, given the global nature of terrorism, boundaries and other geographical distinctions are without relevance.

At NATO's founding on April 4, 1949, President Harry S Truman described the creation of the Alliance as a neighborly act taken by countries conscious of a shared heritage and common values, as democracies determined to defend themselves against the threat they faced. Those same values that Truman talked about defending in 1949 are under attack today, but this time from a very different source.

In 1949, President Truman went on to say that the Washington Treaty was a very simple document, but one that might have prevented two world wars had it been in existence in 1914 or 1939. Protecting Western Europe, he opined, was an important step toward creating peace in the world. And he predicted that the positive impact of NATO would be felt beyond its borders and throughout the World.

Those words strike me as prescient today. Truman was right. NATO prevented war in Europe for 50 years. It is now in the process of making all of Europe safe and secure and of building a new relationship with Russia. That, in itself, is a remarkable accomplishment. But if NATO does not help tackle the most pressing security threat to our countries today—a threat I believe is existential because it involves the threat of weapons of mass destruction—it will cease to be the premier alliance it has been and will become increasingly marginal.

That is why NATO's agenda for Prague has to be both broadened—and integrated. While NATO enlargement and deepened NATO-Russia cooperation will be central to the summit's agenda, they must now be complemented by a plan to translate the fighting of terrorism into one of NATO's central military missions. NATO enlargement and NATO-Russia cooperation should be pursued in a way that strengthens, not weakens, that agenda. This means that new members must be willing and able to sign up to new NATO requirements in this area, and that the new NATO-Russia Council must be structured in a way that strongly supports the Alliance in undertaking such new military tasks.

To leave NATO focused solely on defending the peace in Europe from the old threats would be to reduce it to sort of a housekeeping role in an increasingly secure continent. To do so at a time when we face a new existential threat posed by terrorism and weapons of mass destruction will condemn it to a marginal role in meeting the major challenge of our time.

That is why this issue has to be front and center on NATO's agenda before, during and after Prague. The reality is that we can launch the next round of NATO enlargement as well as a new NATO-Russia relationship at Prague, and the Alliance can still be seen as failing—that's right, failing—unless it starts to transform itself into an important new force in the war on terrorism.

I plan to work with the Bush administration in the months and years ahead in an effort to promote such a transformation of the Alliance and hope that Allied governments as well as Members of Congress and the members of the legislatures we represent will strongly, enthusiastically join me in this effort.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: 470, 567, 569, 618, 619, 620, 622, 623, 625 through 633, 635, 636, 638, 639, 640, 641, 642, 648, 649, 652 through 657, 659, 660, 661, and the nominations placed on the Secretary's desk, that the nominations be confirmed, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and any statements be printed in the RECORD.

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

The nominations considered and confirmed en bloc are as follows:

SMALL BUSINESS ADMINISTRATION

Thomas M. Sullivan, of Massachusetts, to be Chief Counsel for Advocacy, Small Business Administration.

DEPARTMENT OF STATE

Christopher Bancroft Burnham, of Connecticut, to be Chief Financial Officer, Department of State.

Christopher Bancroft Burnham, of Connecticut, to be an Assistant Secretary of State (Resource Management). (New Position)

DEPARTMENT OF THE INTERIOR

Harold Craig Manson, of California, to be Assistant Secretary for Fish and Wildlife.

DEPARTMENT OF ENERGY

Michael Smith, of Oklahoma, to be an Assistant Secretary of Energy (Fossil Energy).

Beverly Cook, of Idaho, to be an Assistant Secretary of Energy (Environment, Safety and Health).

DEPARTMENT OF THE INTERIOR

Rebecca W. Watson, of Montana, to be an Assistant Secretary of the Interior.

Jeffrey D. Jarrett, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

DEPARTMENT OF STATE

William R. Brownfield, of Texas, 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 and Chile.

John V. Hanford III, of Virginia, to be Ambassador at Large for International Religious Freedom.

Donna Jean Hrinak, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Ministery, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

James David McGee, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Kenneth P. Moorefield, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Kenneth P. Moorefield, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic.

John D. Ong, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

Earl Norfleet Phillips, Jr., of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

John Price, of Utah, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritus, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Charles S. Shapiro, of Georgia, 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 Bolivarian Republic of Venezuela.

Arthur E. Dewey, of Maryland, to be an Assistant Secretary of State (Population, Refugees, and Migration).

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Frederick W. Schieck, of Virginia, to be Deputy Administrator of the United States Agency for International Development.

Adolfo A. Franco, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

Roger P. Winter, of Maryland, to be an Assistant Administrator of the United States Agency for International Development.

PEACE CORPS

Gaddi H. Vasquez, of California, to be Director of the Peace Corps.

Josephine K. Olsen, of Maryland, to be Deputy Director of the Peace Corps.

DEPARTMENT OF JUSTICE

David Preston York, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

Michael A. Battle, of New York, to be United States Attorney for the Western District of New York for a term of four years.

Dwight MacKay, of Montana, to be United States Marshal for the District of Montana for the term of four years.

Mauricio J. Tamargo, of Florida, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2003.

DEPARTMENT OF THE TREASURY

B. John Williams, Jr., of Virginia, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Janet Hale, of Virginia, to be an Assistant Secretary of Health and Human Services.

Joan E. Ohl, of West Virginia, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.

DEPARTMENT OF THE TREASURY

Richard Clarida, of Connecticut, to be an Assistant Secretary of the Treasury.

SOCIAL SECURITY ADMINISTRATION

James B. Lockhart, III, of Connecticut, to be Deputy Commissioner of Social Security for a term of six years.

Harold Daub, of Nebraska, to be a Member of the Social Security Advisory Board for the remainder of the term expiring September 30, 2006.

DEPARTMENT OF ENERGY

Everet Beckner, of New Mexico, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

FOREIGN SERVICE

PN1245 Foreign Service nominations (127) beginning Patrick C. Hughes, and ending Mason Yu, which nominations were received by the Senate and appeared in the Congressional Record of November 27, 2001.

PN1246 Foreign Service nominations (159) beginning Kathleen T. Albert, FL, and ending Sunghwan Yi, which nominations were received by the Senate and appeared in the Congressional Record of November 27, 2001.

PN1141–1 Foreign Service nominations (149) beginning Shaun Edward Donnelly, and ending Charles R. Wills, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2001.

NOMINATION OF MICHAEL SMITH

• Mr. INHOFE. Mr. President, I am pleased to stand before the Senate today to wholeheartedly endorse the nomination of Mike Smith to be the Assistant Secretary of Energy for Fossil Energy.

Mike is a red-white-and-blue American. He has an outstanding pedigree including the good common sense to come from the great State of Oklahoma. In fact, in his own words, ''I was born and raised in the middle of the Oklahoma City Field and attended the only high school in the Nation with a producing oil well in the middle of the front sidewalk.''

Mike then proudly donned the crimson and cream of the University of Oklahoma for 7 years while earning his undergraduate and law degrees.

Immediately thereafter, he patriotically donned Army green during the Vietnam war.

As an attorney he has represented oil and gas workers, drilling contractors, service companies, exploration firms, independents, and, ultimately, larger operators.

He knows business, too, having run a small, independent oil and gas company in central and western Oklahoma. He has served on the board of directors of the Oklahoma Independent Petroleum Association and been its president.

Moreover, Mike Smith brings to the Department of Energy an excellent background in government service. He served on the Oklahoma Energy Resources Board, a State agency, providing environmental cleanup and public education, voluntarily funded by our State's producers and royalty owners.

Mike served under the sky blue and buckskin tan flag of Oklahoma when Gov. Frank Keating appointed him to be Oklahoma's Secretary of Energy. In that capacity Mike served my State as its official representative to the Interstate Oil and Gas Compact Commission, the Interstate Mining Compact Commission, the Southern States Energy Board, and the Governors' Ethanol Coalition.

President Bush has assembled a banner group to assist him in running the Department of Energy, beginning with my friend and former colleague, Secretary Spence Abraham. Mike Smith is of the highest caliber and another true-blue selection by President Bush.

I am proud of my fellow Oklahoman. I am excited to work closely with him to develop our national energy policy, particularly to ensure adequate supplies of affordable and clean energy.

America's energy strengths derive from the rich natural bounty of our coal, our natural gas, and our oil, as well as from our blessed human ingenuity fostered by America's free market.

I am proud to testify to my fellow Americans that America's energy strengths will be handled with flying colors by the ingenuity of Oklahoman Mike Smith.•

Mr. REID. Mr. President, as the majority leader indicated earlier today, we have confirmed, I believe, 43 nominations including action on today's 2 judges. That is really a good piece of work for the week.

NOMINATIONS DISCHARGED

NOMINATION OF EDWARD KINGMAN, OF MARYLAND, TO BE ASSISTANT SECRETARY OF TREASURY AND CHIEF FINANCIAL OFFICER AT THE DEPARTMENT OF TREASURY

Mr. REID. Mr. President, I ask unanimous consent the Finance Committee be discharged from further consideration of the nomination of Edward Kingman to be Assistant Secretary of Treasury and his nomination to be Chief Financial Officer at the Department of Treasury; that the nomination be agreed to, the motion to reconsider be laid on the table; that any statements thereon be printed in the RECORD; and the President be immediately notified of the Senate's action.

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

The nomination was considered and confirmed.

NOMINATIONS OF SAMUEL T. MOK, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER FOR THE DEPARTMENT OF LABOR; JACK MARTIN, OF MICHIGAN, TO BE CHIEF FINANCIAL OFFICER FOR THE DEPARTMENT OF EDUCATION; ANDREA G. BARTHWELL, OF ILLINOIS, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION AT THE OFFICE OF NATIONAL DRUG CONTROL POLICY; AND EVE SLATER, OF NEW JERSEY, TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. REID. Mr. President, I ask unanimous consent the Health Committee be discharged from further consideration of the following nominations: Samuel T. Mok to be Chief Financial Officer for the Department of Labor; Jack Martin to be Chief Financial Officer for the Department of Education; Andrea G. Barthwell to be Deputy Director for Demand Reduction at the Office of National Drug Control Policy; and Eve Slater to be Assistant Secretary of Health and Human Services; that the nominations be confirmed, the motions to reconsider be laid on the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations were considered and confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR MONDAY, JANUARY 28, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 3 p.m. on Monday, January 28; that following the prayer and pledge the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 622.

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

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes on Monday. Any rollcall votes will occur on Tuesday. That time will be established on Monday.

ADJOURNMENT UNTIL MONDAY, JANUARY 28, 2002, AT 3 P.M.

Mr. REID. Mr. President, if there is no further business to come before the

Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:49 p.m., adjourned until Monday, January 28, 2002, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 25, 2002:

SMALL BUSINESS ADMINISTRATION

THOMAS M. SULLIVAN, OF MASSACHUSETTS, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION.

DEPARTMENT OF STATE

CHRISTOPHER BANCROFT BURNHAM, OF CONNECTICUT, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE.

CHRISTOPHER BANCROFT BURNHAM, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF STATE (RESOURCE MANAGEMENT).

DEPARTMENT OF THE INTERIOR

HAROLD CRAIG MANSON, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE.

DEPARTMENT OF ENERGY

MICHAEL SMITH, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF ENERGY (FOSSIL ENERGY).

BEVERLY COOK, OF IDAHO, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH).

DEPARTMENT OF THE INTERIOR

REBECCA W. WATSON, OF MONTANA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

JEFFREY D. JARRETT, OF PENNSYLVANIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.

DEPARTMENT OF STATE

WILLIAM R. BROWNFIELD, OF TEXAS, 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 CHILE.

JOHN V. HANFORD III, OF VIRGINIA, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

DONNA JEAN HRINAK, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

JAMES DAVID MCGEE, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

KENNETH P. MOOREFIELD, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

KENNETH P. MOOREFIELD, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC.

JOHN D. ONG, OF OHIO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NORWAY.

EARL NORFLEET PHILLIPS, JR., OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BARBADOS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ST. KITTS AND NEVIS, SAINT LUCIA, ANTIGUA AND BARBUDA, THE COMMONWEALTH OF DOMINICA, GRENADA, AND SAINT VINCENT AND THE GRENADINES.

JOHN PRICE, OF UTAH, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MAURITIUS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL AND ISLAMIC REPUBLIC OF THE COMOROS AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

CHARLES S. SHAPIRO, OF GEORGIA, 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 BOLIVARIAN REPUBLIC OF VENEZUELA.

ARTHUR E. DEWEY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (POPULATION, REFUGEES, AND MIGRATION).

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FREDERICK W. SCHIECK, OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

ADOLFO A. FRANCO, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

ROGER P. WINTER, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

PEACE CORPS

GADDI H. VASQUEZ, OF CALIFORNIA, TO BE DIRECTOR OF THE PEACE CORPS.

JOSEPHINE K. OLSEN, OF MARYLAND, TO BE DEPUTY DIRECTOR OF THE PEACE CORPS.

DEPARTMENT OF THE TREASURY

B. JOHN WILLIAMS, JR., OF VIRGINIA, TO BE CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE AND AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JANET HALE, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

JOAN E., OHL, OF WEST VIRGINIA, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

RICHARD CLARIDA, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

SOCIAL SECURITY ADMINISTRATION

JAMES B. LOCKHART, III, OF CONNECTICUT, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR A TERM OF SIX YEARS.

HAROLD DAUB, OF NEBRASKA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 2006.

DEPARTMENT OF ENERGY

EVERET BECKNER, OF NEW MEXICO, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF EDUCATION

JACK MARTIN, OF MICHIGAN, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF EDUCATION.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

EVE SLATER, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF LABOR

SAMUEL T. MOK, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR.

DEPARTMENT OF THE TREASURY

EDWARD KINGMAN, JR., OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

EDWARD KINGMAN, JR., OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF THE TREASURY.

EXECUTIVE OFFICE OF THE PRESIDENT

ANDREA G. BARTHWELL, OF ILLINOIS, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

THE JUDICIARY

MARCIA S. KRIEGER, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

JAMES C. MAHAN, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA.

DEPARTMENT OF JUSTICE

DAVID PRESTON YORK, OF ALABAMA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ALABAMA FOR THE TERM OF FOUR YEARS.

MICHAEL A. BATTLE, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NEW YORK FOR A TERM OF FOUR YEARS.

DWIGHT MACKAY, OF MONTANA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MONTANA FOR THE TERM OF FOUR YEARS.

MAURICIO J. TAMARGO, OF FLORIDA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2003.

FOREIGN SERVICE NOMINATIONS BEGINNING SHAUN EDWARD DONNELLY AND ENDING CHARLES R. WILLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2001.

FOREIGN SERVICE NOMINATIONS BEGINNING PATRICK C. HUGHES AND ENDING MASON YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 27, 2001.

FOREIGN SERVICE NOMINATIONS BEGINNING KATHLEEN T. ALBERT FL AND ENDING SUNGHWAN YI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 27, 2001.