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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, January 27, 2003, at 2 p.m.

Senate

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Gracious God, You have called the men and women of this Senate to glorify You by being servant-leaders. The calling is shared by the officers of the Senate, the Senators' staffs, and all who enable the work done in this Chamber. Keep us focused on the liberating truth that we are here to serve You by serving our Nation. Our sole purpose is to accept Your absolute lordship over our lives and give ourselves totally to the work of this day. Give us the enthusiasm that comes from knowing the high calling of serving in government. Grant us the holy esteem of knowing that You seek to accomplish Your plans for America through the legislation of this Senate. Free us from secondary, self-serving goals. Help us to humble ourselves and ask how we may serve today. We know that happiness comes not from having things or getting recognition, but from serving in the great cause of implementing Your righteousness, justice, and mercy for every person and in every circumstance in this Nation. We take delight in the ultimate paradox of life: the more we give ourselves away, the more we can receive of Your love. In our Lord's name. 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.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with the time to be equally divided and with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Kentucky, the distinguished majority whip, is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today the Senate will be conducting a period of morning business to allow Senators to speak and introduce legislation. Talks continue with respect to the committee resolutions.

On behalf of the majority leader, I announce to all Members that this week we will need to complete action on the committee resolution and the appropriations bills for fiscal year 2003. It is the hope that the committee resolution will be agreed to by consent once an agreement is reached.

The appropriations bills will require floor time and votes throughout the week. As the majority leader mentioned last week, the Senate will remain in session to complete those matters. Therefore, votes are possible each day this week and Senators should plan their schedules accordingly.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Nevada.

ORGANIZING THE SENATE

Mr. REID. Mr. President, in regard to the organizing resolution, the two leaders thought we had about had it done on Friday, but I guess there has been a little bit of slippage on that. The two leaders have met today, and I hope, as my distinguished friend, the Senator from Kentucky, has mentioned, they can work this thing out quickly.

Speaking for only me personally, I hope what we can do is basically what we did last year: Have it the same as it was when it was 51 to 49 the other way. That seems to be the fair thing to do, and I hope we can work that out.

We have made progress on another issue that has been very important to the majority whip and to me, and that is the office space. I think we have been trying to work it out and have the leadership sign off on that. Hopefully, that can be arranged very quickly, which will be good for the majority whip and me at least.

Did the Chair announce morning business? I did not hear the Chair announce it.

The PRESIDING OFFICER. The Chair announced that.

Mr. REID. If I may be recognized, if my friend would withhold the quorum call.

The PRESIDING OFFICER. The Senator from Nevada.

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

WOMEN IN CONGRESS

Mr. REID. Mr. President, I wish to comment on an issue that I think is so important. In reading the Hill publication Roll Call, I think it speaks volumes to look at page 13. I see the distinguished Democratic leader coming in, and I am sure he would agree with that.

On this page, it indicates why, from the time he and I came to the Senate, things have changed for the better. This is a picture of all the women in the Senate. There are 3 Republicans and I think 9 or 10 Democrats. It is really a tremendously important picture.

I recall last year when the military construction appropriations bill came to the floor. That committee was chaired by the Senator from California, Mrs. FEINSTEIN, and the ranking member was the Senator from Texas, KAY BAILEY HUTCHISON. That says it all.

I think this is a better place and we are a better country for having these women in the Senate.

Then I show to my distinguished friend, the Democratic leader, on this same page there is a picture of the Democratic leader in the House of Representatives, NANCY PELOSI. I think that is really tremendous, and we should think every day about what a better place this is because of the women who have been elected to the House and Senate.

The PRESIDING OFFICER. The minority leader.

A CHANGE OF HEART OR ONLY A CHANGE OF FACE?

Mr. DASCHLE. Mr. President, I concur with the distinguished Senator from Nevada, the assistant Democratic leader. We have made a great deal of progress, as is evidenced by the number of women who now serve in the Senate as well as the House. In addition, of course, as we look to the election of the first woman as a leader of either caucus, I think that, too, speaks volumes for the transition that this country and the Congress itself have experienced over the course of the last couple of decades. We have made progress on women's rights, and many of us would like to think we have made progress as well on civil rights.

Over the course of the last several weeks, this country has been focused on the issue of civil rights. I think virtually every Member of the body spoke strongly about the need for healing and reconciliation as we consider the issue of civil rights and the rights of minorities in this country. We recognize we have a long way to go.

We have a new leader in the Republican caucus who has pledged to pursue these goals, and I applaud him for his willingness to do so. Unfortunately, yesterday the Republican leader may have caused confusion about his intent in that regard. His comments indicated to me that among the Republican leadership there may have been a change of face, but there has not been a change of heart.

When the administration chose to renominate Charles Pickering to the second highest court in the land, it now appears that in many respects, they did not even have a change of face. The question is whether or not all of us, Republicans and Democrats, can express in our actions what so many have expressed in words. If indeed it is a change of heart, we need to see actions that bear out such a change.

On the question of affirmative action, Senator FRIST said he supports it if affirmative action is defined as it was in the 1960 Civil Rights Act. Well, that was not affirmative action; that was civil rights. That was equal rights.

The real question of affirmative educational opportunity is now being asked in the United States Supreme Court. The administration has chosen to remain silent. Yesterday the Republican leader in the Senate did not ask them to break that silence or indicate a desire to break his.

When it comes to protecting equal rights, we still have a lot of work to do in changing hearts, in changing minds, and in changing laws. Unfortunately, that lesson still seems to be lost on a number of our Republican colleagues, in spite of their expressions of intent over the course of the last several weeks.

There will be much more to say and do on the issue of racial reconciliation in the coming weeks. I hope to see more than just words from our Republican colleagues, because yesterday it appeared that what we had hoped was a change of heart was little more than a change of face.

Last week the administration announced we would be able to see the details of the economic stimulus package they intend to offer.

Last week we also learned that during the month of December we lost 100,000 jobs; 100,000 jobs in December. That brings the total job loss since George Bush took office to 2.3 million jobs. When the President puts forth his stimulus plan, my concern is it will be a stimulus plan for the rich and a sedative for the rest. The reason I say that, in part, is because there is very little job creation in the first year under what we know of the President's plan. The President has acknowledged that in his first year he will be creating approximately 190,000 jobs. When that 190,000 jobs is compared to the 100,000 jobs lost in December alone, or the 2.3 million jobs lost in the first 2 years, 190,000 jobs is hardly a drop in the bucket. It is hardly worth writing home about. It is not the stimulus that all economists and the rest of the country expect the Congress to consider. That is the concern many have: 90 percent of the so-called stimulus plan the President is proposing takes place in the outyears—not when we are losing the jobs by the hundreds of thousands each month. It takes place in years beyond 2003.

If anything, the economists have said over and over if you are going to create a stimulus package, make sure it is immediate. Make sure it takes effect now, not at some point in the outyears. We made that mistake before. We are feeling the consequences of it. So, the fact it does not stimulate the economy is the first concern we have.

My second concern is the question of fairness. Mr. President, 200,000 millionaires get tax relief that exceeds the salary of 92 million Americans who make $50,000 or less. Again, 200,000 millionaires will get $89,000 annually as a tax cut while those who are making $50,000 a year or less will get somewhere in the vicinity of $70 or $80 a year in tax reduction. This proposal flunks the test of fairness.

I am troubled on two other accounts. In the last few weeks young men and women at Ellsworth Air Force Base in South Dakota have been sent off to the Persian Gulf to prepare for war. We hope that war will not come. But if war does come, they will be asked to put their lives on the line. They will be asked to put their lives on the line at the very time these millionaires are going to get an $89,000 tax break. For the life of me, I don't see where the fairness is in that.

Over the last 333 days, we have also suggested there has to be some form of drought relief, some form of assistance given to farmers and ranchers and people in rural areas who are suffering as a consequence of the drought. So far we have been unsuccessful. We have been unsuccessful because the administration has said we cannot afford $6 billion in drought assistance. What I don't understand is how in the name of fiscal fairness we can support $764 billion in tax cuts largely directed to those at the very top while we tell our farmers and ranchers they are not eligible for any assistance and while we send our young men and women off to war. On the issue of fairness, this plan also fails.

Perhaps my biggest concern, however, goes to how reckless this plan is. People have to be reminded we are borrowing every single dollar of these funds to pay for the tax cut. We are borrowing that out of Social Security. We have no other recourse. Whatever money is going to go to the tax cut this year will be borrowed from the Social Security trust fund. So the fact we are borrowing at a time when we may go to war, where we may actually have to draw down more resources to be able to fight that war, seems senseless to me. To borrow at the magnitude the President is proposing, $764 billion in face value and perhaps $1 trillion when interest costs are factored in, $1 trillion when we have to fight a war, seems like the most reckless course for fiscal responsibility I can think of.

The Governors are not sounding a false alarm when they tell us this plan will cost them $4 billion. That is over and above the $50 billion shortfall they are currently experiencing all over this

country. In my own State of South Dakota, we are experiencing about a $50 million shortfall, one of the largest on record. But it is $50 billion nationwide. This tax plan will exacerbate that $50 billion by another $4 billion.

Mr. President, from the point of view of its stimulative value, from the point of view of fairness, from the point of view of our responsibilities and the potential for recklessness, this plan leaves a great deal to be desired. In fact, it causes very great concern to many.

I am also troubled that as we contemplate the need for action on this stimulus package, as we contemplate the need to address the omnibus appropriations bill, as we recognize we still have to work out our organizing resolution, that the Congress may take vacation next week. I hope we would refrain from taking a vacation next week. I hope we come to the floor, resolve these matters, work on them intently, bring this economic stimulus plan, have a good debate, make sure we are acting in good faith to try to deal with these tragic unemployment numbers that roll out month after month. That is my hope, that we stay here next week, that we address these concerns in a realistic, in a bipartisan, and in an immediate way, sending a clear message we are a lot more interested in getting this work done than we are in taking a few days off so soon into the new session. I stand ready to work with our Republican leadership and certainly with those in the committees as we begin to do our work.

Senator FRIST and I have had some conversations with regard to the organizing resolution. We are not yet able to say with any confidence when we may finish those discussions. It is fair to say, as everyone knows, we had exactly the mirror circumstances in the 107th Congress that we have today. In the 107th Congress, there were 51 Members in the majority and 49 Members in the minority. In the 108th Congress, there are 51 Members in the majority and 49 Members in the minority. It would seem to me given the fact that we have simply seen a reverse, the mirror image of the makeup of the 107th Congress, we ought to have exactly the same organizing resolution; the same funding, the same membership, the same space, the same circumstances. That really is as simply as I can describe what the Democratic position is. If it was good enough for Republicans and Democrats in the 107th Congress, you would think it would be good enough for Democrats and Republicans in the 108th Congress.

We are willing to settle for 49 percent of the resources, 49 percent of the space, and a one-vote Republican majority on committees in the 108th Congress. That is our position. It is the same position we held last time. Unfortunately, there are some who have argued that ratio is not satisfactory any longer. Since they are in the majority, they want more—more resources, more space. I hope, in the interests filling the committee positions and moving through the legislative agenda we have before us, that we can move as quickly as possible to a resolution of this matter.

Let's do in this Congress what we did in the last one. We all signed off on it. We all said it was the right thing to do. We all agreed, and the time has come for us to agree again.

I yield the floor.

Mr. REID. Will the Senator allow me to ask a question?

Mr. DASCHLE. I will be happy to.

Mr. REID. The leader has made it very clear, but I want to make sure again that everyone hears the fact the Democrats simply want to have the same exact program for committees that was here last year. The only thing is the Democrats are now in the minority and Republicans are now in the majority, but the funding and the staffing and the space would be exactly the same, is that right?

Mr. DASCHLE. Mr. President, that is exactly what I am proposing and what I assume would be the circumstance in the 108th Congress.

As I say, I did not have one chairman last year express a concern about the inadequacy of resources while we were in the majority. I can't imagine, with the cost-of-living adjustment, that anyone would have difficulty accepting those resources—as I say, with a cost-of-living adjustment—in this Congress.

Mr. REID. If there is a problem here and the organizational efforts are not going forward, it would not be anything the Democratic leader has done? You want exactly the same situation as last year, is that right?

Mr. DASCHLE. The Senator is absolutely correct. What we are simply saying is what we had agreed to with a 51–49 breakdown in the 107th Congress is what we ought to agree to with a 51–49 breakdown in the 108th Congress.

Mr. REID. If I could ask the Democratic leader one other series of questions based upon what I think was his very clear speech, the Wall Street Journal, which I understand has a circulation of about 2.5 million people, came out today with something you usually don't see in the Wall Street Journal, something supporting what we think is going wrong in the country. The headline in the Wall Street Journal:

U.S. Job-Market Slump Is Longest in Decades—Near-Term Prospects for Workers Remain Grim . . .

The leader is aware that even the Wall Street Journal is painting a very bleak picture about this economy, is that true?

Mr. DASCHLE. Mr. President, it is certainly true. I read that article this morning. I commend the distinguished Senator from Nevada for raising its content.

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

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

[From the Wall Street Journal, Jan. 13, 2003]

U.S. JOB-MARKET SLUMP IS LONGEST IN DECADES—NEAR TERM PROSPECTS FOR WORKERS REMAIN GRIM DESPITE HOPEFUL FORECASTS

(By Jon E. Hilsenrath)

The later market in the U.S. appears to be in the most protracted slump in decades, and the near-term prospect for workers isn't encouraging.

The Labor Department said payroll employment contracted by 101,000 in December, led by more hemorrhaging in the manufacturing sector, which eliminated jobs for the 29th straight month, and by struggling retailers that hired less than normally during the Christmas selling season. The unemployment rate was steady in December at 6%, mainly because workers are leaving the labor force, which contracted by 191,000 last month.

For more than a year, economists have said that the current economic recovery was too limp to spur hiring because corporate profits have been so weak. In recent weeks, however, economists have speculated that the jobs market would start to pick up later this year, in part because they expect business confidence to improve. Some recent reports support that argument. The Institute for Supply Management, for instance, said earlier this month that orders to manufacturers picked up in December.

But Friday's report suggested that, despite signs that the corporate sector is healing, cost cutting remains the order of the day for many companies. That could mean more setbacks for labor.

The surprising labor market weakness heightened attention on Wall Street and in Washington on the need for fiscal stimulus. President George W. Bush last week proposed $674 billion in tax cuts and spending increases to lift economic growth. Analysts said the weak job market probably softens opposition to some kind of action out of Congress in the months ahead, although the shape of that action remains to be hashed out by Washington partisans.

Bush administration officials seized on the report to make their case. ''The president views the latest report on unemployment as another reason why it's so important for Congress to pass the president's job-creating economic plan,'' said presidential spokesman Ari Fleischer. Democrats argue that the Bush plan doesn't provide enough short-term stimulus and costs too much in the long-term.

Even before Friday's report, economists were likening the U.S. economy's performance to the jobless recovery of the early 1990s. The latest data suggest it might be that and more. Few job-market downturns have been this protracted. The 29 straight declines in manufacturing employment is the longest stretch of manufacturing retrenchment in post World War II history. Overall in the 22 months since the recession began in March 2001, employers have eliminated 1.75 million jobs. By contrast, 22 months after the 1990 recession began, employment had already started to pick up, and fewer jobs—1.57 million—had been eliminated.

Executive caution about hiring has made it increasingly hard for unemployed workers to get back in the work force once they have lost jobs. The Labor Department said 22% of all unemployed workers have been out of work for more than half a year, the highest ratio of long-term unemployed workers since 1992. Also in December, 30% of workers said jobs were hard to get, the highest level since 1994, an earlier report by the Conference Board indicated.

Some economists said the weak job market puts the economy on more insecure footing

at the beginning of 2003. Business spending has been held back for months by uncertainties surrounding the possibility of war with Iraq. Economists are becoming concerned that the weak job market could pinch consumer spending.

But the job market news wasn't all bad last week. Several economists said they expect the employment statistics to look a bit better in January because of seasonal adjustment factors. And the U.S. government's measure of retail employment fell for December after seasonal adjustments, because retailers hired fewer workers than they normally do in the month. In January, they are conversely likely to lay off fewer seasonal workers, which should boost the retail employment statistics.

Mr. DASCHLE. Mr. President, simply to summarize the article, it says not only are we suffering month-to-month joblessness at levels we have not seen in 8 years, but if you look at the joblessness in the context of the economy over the last several decades, this is one of the most severe slumps we have seen in decades.

So we have both an immediate context and a long-term context. In both of those contexts, as the Wall Street Journal article points out, this matter is of great consequence. Mr. President, 2.3 million jobs, now, in the last 24 months have been lost. What the article simply states is that, while it is a serious immediate concern, we have to be very concerned about the long-term repercussions of this joblessness. I thought it was one of the better articles I had seen in recent times with regard to the economic dilemma we face as we deal with the stimulus package later this month.

Mr. REID. If I could ask one more question? The leader mentioned we were borrowing money. It is true, is it not, that when this administration took over there was a 10-year surplus, in the trillions of dollars? Whether it was $5 trillion or $6 trillion, it was trillions of dollars. In the last 2 years every penny of that is gone, and the leader is certainly aware of that, is that true?

Mr. DASCHLE. I would say to the Senator from Nevada, that is one of my greatest concerns. Obviously, the debt we were able to eliminate over the final years of the 1990s, thinking that somehow—I can recall having conversations that we may be spending down the debt too fast. People expressed the concern we might be eliminating the debt too fast.

I just now shake my head in disbelief we even had conversations like that. But, nonetheless, that was one of the concerns expressed by some during that period of time.

I can recall so vividly this question about what it is we were going to do with a $5.5 trillion projected surplus. We no longer have that surplus projection. We no longer have those year-to-year balanced budgets we were proud to report to the American people. We now have a deficit of $200 billion to $300 billion, depending on whether or not you consider the Social Security trust fund. We are expected now to see a deficit of $350 billion in the next fiscal year. So we will see debts of a magnitude we have not seen, deficits of a magnitude we have not experienced as a result of what has happened over the course of the last 24 months.

In spite of it, we are going to be actually borrowing to exacerbate that debt even more, borrowing to provide a tax cut to those at the very top of the income scale.

I have always been concerned about the relationship between the circumstances we face now in the war on terror and the circumstances we faced in World War II. President Roosevelt stood up and said: I want all Americans to sacrifice. In fact, he raised revenue, he did everything possible to ensure there was an adequate degree of sacrifice across the board. Now we are asking young men and women to sacrifice perhaps their lives at the very time we turn around and give a millionaire an $89,000 tax break. It turns logic on its head, but that is the concern I have.

I appreciate very much the Senator from Nevada raising the question.

Mr. REID. I know how busy the Democratic leader is, but I would ask one more question. The Democratic leader is going into his 9th year being leader of this caucus. Prior to that time Senator Mitchell of Maine was leader. I can remember the Democratic leader today and myself going into a meeting with Senator Mitchell. The problem there is the Republicans were having a mad rush to have a constitutional amendment to balance the budget, but they were going to use Social Security surpluses to offset that deficit. The Senator remembers that, does he not?

Mr. DASCHLE. I sure do.

Mr. REID. You remember at that time I agreed to sponsor an amendment to have a constitutional amendment to balance the budget but not using Social Security surpluses? That worked out well enough that we were able to stop that very mischievous amendment from passing. It would have wiped out Social Security. Social Security would be gone by now.

But I say to my friend, the Democratic leader, the money that is being borrowed now is coming from Social Security. Not only that, the deficit would even be more if they didn't use Social Security surpluses to hide it, isn't that also true?

Mr. DASCHLE. That's the concern we have about a $200 billion Social Security cushion that is all being drawn down; not only this year, but for every year in the foreseeable future, every year in the coming decade. Every dollar of Social Security revenue coming in will be used to offset the costs involved in running the Government and providing the resources for the tax cuts the President has either advocated or actually enacted.

There is no doubt that the fiscal irresponsibility and the recklessness that comes with the extraordinary reliance on Social Security trust funds at the very time the baby boomers are coming into retirement age is very troubling. I think it ought to be the subject of a lot more debate and scrutiny in the days and weeks ahead.

Mr. REID. Mr. President, as the leader is leaving the floor, I wish to recognize my friend from North Dakota who after I offered that amendment was on the forefront of the next Congress making sure that we continued our efforts to beat down that mischievous constitutional amendment to balance the budget which would have used the Social Security surplus to balance the budget. I applaud my friend from North Dakota for taking that tough stand which allowed us to move forward and help us defeat one of the most dangerous efforts in the guise of balancing the budget and destroying Social Security.

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

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

The Senator from South Dakota.

FUNDING FOR COMMITTEE STAFFING AND THE PRESIDENT'S TAX CUT PROPOSAL

Mr. JOHNSON. Mr. President, I rise today to make observations on two important points that have already been alluded to by my colleagues from South Dakota and Nevada during this session. One has to do with the need to resolve the issue of funding for committee staffing.

One ordinarily would think this would be an administrative decision that would not be of enormous consequence, but the fact is, until that is resolved, this Senate is not able to go forward with legislation of any kind, much less to resolving the fiscal year 2003 appropriations issue involving 11 of the 13 appropriations bills remaining incomplete and needing work. These are bills that should have been concluded prior to October 1 of last year, and yet here we are now well into January with that work incomplete.

I have some concerns about the size of the budget cuts—roughly $9 billion—that will be required, apparently, to come out of these 11 appropriations bills in order to accommodate President Bush and the Republican leadership budget baseline to which they have agreed. I look forward to offering amendments to moderate that for purposes of agriculture, veterans health care, and other areas. But we cannot go forward, in any way, until a resolution is reached.

Unfortunately, the majority leader, at this point, appears to have taken the position of the far right of his caucus in demanding that his party have

two-thirds of the funding versus one-third for the Democratic side. It does not take a rocket scientist to conclude that with a 51-to-49 division in the Senate—consistent with what we did in the most recent Congress—a funding division of two-thirds to one-third is not fair.

I appreciate that there is precedent going back a number of years for that kind of divide, but most recently, with the then-majority leader, Senator DASCHLE, in place, we accommodated our Republican colleagues with a much narrower divide of committee budgeting. That is the right way to proceed. It is the only way that will allow us to go forward with our work. It certainly is my hope that the majority leader will see the error of his ways and return to a more moderate, more responsible approach to the funding of these committees and concur with the recommendations of Senator DASCHLE, the Democratic leader, so we may get on with the work of the people.

Secondly, I have to share with my colleagues some thoughts on the budget tax proposal submitted by President Bush. I stand here as 1 of 12 Democrats who joined in an effort of moderating President Bush's initial $1.35 trillion tax cut. Our thought was that by participating in that effort, we could moderate its cost, make it more fiscally responsible, as well as redirect some of its benefits to middle-class and working families, to people who really make our economy go, and certainly in a way that is consistent with the interests of my home State of South Dakota.

We did that, but we did that at a time when the projections were that we were going to run up a $5.6 trillion budget surplus over the coming 10 years. We had just come from 4 consecutive years—the final 4 years of the Clinton administration—of budgets in the black, and we were paying down the national debt. There was concern about whether we would pay down the national debt too quickly. That, believe it or not, was the concern at the time. We had budget surpluses as far as the eye could see, and there was no war on the horizon. So the environment was considerably different.

Now we find ourselves, with the passage of that tax bill, with changes in the economy and with a war possibly imminent. We hope not, but we certainly are very cognizant of the fact that we may wind up in Iraq and expending literally hundreds of billions of dollars in that effort to make sure that our men and women in uniform have the resources they need if, in fact, we wind up in that kind of conflict.

So the environment is radically different. Now we find ourselves with deficits as far as the eye can see. Now we find ourselves utilizing Social Security trust fund dollars, according to the administration's Office of Management and Budget, for the remainder of this decade. Now we find ourselves not paying down the accumulated national debt at all, much less paying it down too quickly, as President Bush and his administration coached us to fear a short time ago.

So now we find ourselves with this radically different environment. Yet the President comes to us with a plan which would cost $675 billion over the coming 10 years. If you take into consideration the interest payments that would have to be made—because every dime of that will have to be borrowed; we will have to borrow that money out of the Social Security trust fund to pay for these tax cuts—if you take into consideration the interest costs, it comes to cost roughly $933 billion over the coming 10 years. We would be deep in the red as far as the eye could see. And this is before you take into consideration the added costs of war, before you take into consideration what else could happen to the economy.

This would involve about a $108 billion tax cut in the coming year, primarily for Wall Street and for the superwealthy, although there are a few grains of benefit for middle-class families. But, by and large, that is a very modest part of the overall plan we would borrow money to pay for.

Yet at the same time that we are considering this ill-considered, irresponsible plan, we are being told by the administration that we have to cut about $9 billion out of next year's budget. That comes out of veterans health care. That comes out of education; it comes out of economic development; it comes out of infrastructure; it comes out of highways and airports; it comes out of law enforcement; it comes out of so many areas that are fundamental and vital to America's national interests. That will have to come out this year alone. But that is just the beginning compared to where we would be in future years.

My constituents—Republicans and Democrats alike—in my home State, which is a very agricultural State, are asking me: Why has the President threatened to veto a $6 billion drought relief bill, for droughts in 2001 and 2002, that has the support of 32 agricultural organizations, from the Farm Bureau to the Farmers Union, liberal to conservative, because of the natural disasters they faced? Why is the President threatening to veto $6 billion of relief but talking simultaneously about $108 billion of economic stimulus this year that would go primarily to Wall Street?

What would be more stimulative of the economy than to provide that drought relief across the dozens of States that suffer badly this year? Because of the circumstances the States face, schools in my State are literally on the verge of closing their doors. My hospitals and my nursing homes—because we did not pass the Medicare reimbursement changes last year and seemed to be in no rush to get it done this year—are at risk of closing their doors as well.

Our veterans are standing in lines, 10 and 12 and 14 months long, in my home State, waiting to gain access to the health care benefits that they fought and struggled for in defending our Nation but for which we do not now have the money to provide.

The priorities laid on the table are astonishing, that the President would recommend $108 billion of tax cuts this year, to borrow the money to pay for that when we can't come up with the drought relief and the VA health care and can't keep our schools and nursing homes open. What sense does that make?

I am willing to consider some additional tax relief for middle-class families, but the environment has changed radically from what it was a couple years ago. Now we find ourselves in a situation where the most fundamental needs of our people are in jeopardy. We need to take that into consideration.

It is my hope that there will be strong bipartisan opposition to the plan as presented by the President, that we can in fact go forward, come to an equitable division of resources available for committees, promptly take up the 2003 budget, take up the 2004 budget, deal with the shortfalls that we have in rural America for our veterans, education, health care, seniors. And when we have done that, we will see what we can do relative to tax relief for our middle-class working families who struggle so hard every day to meet health care payments and house payments and to keep their kids in school. We will work with them as well, but we can't give away the store. We cannot, regardless of the libertarian political drive behind it, support a budget tax proposal as wildly out of keeping with where most South Dakotans and most Americans of either political persuasion want to go.

I express my frustration that this Nation needs to meet its commitments, it needs fiscal responsibility, and it can only do that by rejecting the President's enormous $933 billion, over 10-year proposal, and returning to taking care of the needs of our people, returning our budgets to the black and setting the stage for additional prosperity and making sure that we have the resources to deal with whatever military eventuality we may have to face very soon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. I rise to speak in morning business.

The PRESIDING OFFICER. We are in morning business.

FIGHTING THE WAR ON TERRORISM

Mr. THOMAS. Mr. President, I rise to talk about several issues. First, of

course, we all know so well that we are involved now in this war on terrorism, and I wanted to speak a moment about that, the fact that it affects us all. Since that terrible day on September 11, virtually none of us have been untouched by those acts of cowardice and the effort to break the American spirit. Fortunately, they did not succeed. We were shaken but probably strengthened from that. Our efforts to combat the production and proliferation of weapons require that we prepare forces in the Middle East, and everyone has a role in that.

I just learned that one of my staff members will be called in the Reserve to active duty tomorrow. Sgt John Travis Deti of the Marine Corps Reserve will be serving as an operations specialist with the Marine Corps combat engineers.

He was promoted from legislative correspondent to legislative aide just 1 day before learning of his orders to report to duty. As a fellow marine, I know that Travis is ready to do what he can, prepared to serve his country. I am very proud of what he is doing during this difficult time. Travis, semper fi.

SENATE ORGANIZATION

Mr. THOMAS. Mr. President, I wish to talk a little about the congressional session we are in now for our second week. We have lots of things to do. Certainly, the American people are anxious that we move on to do those things. Yet we find ourselves in sort of a stall on the floor, which is disappointing. We know we have actions to take. We know we have to be organized. Yet we are held up in being organized. That is discouraging to many of us.

The fact is that 2 years ago, when the Senate was 50–50, we had an agreement as to how to work and how to fund the committees. Now we find, particularly on the other side, that we can't come to agreement.

As I understand it, we had then a 50–50 arrangement with 10 percent going to the majority committee because there are lots of common costs. So it broke it down really into a 60–40 arrangement. That was satisfactory.

Now it seems that we can't find a satisfactory agreement. I urge the leadership to move forward so we can get on to do the things we are here to do. We have a lot of things to do, many of which are held over from the last session.

One of the most pressing is ready to be acted upon whenever we are ready to act on it, and that is 11 of the 13 appropriations which we did not even get to last year. The other is to begin on a budget of which we had none last year. A lot of people say it doesn't make much difference whether you have a budget anyway; You always break it. The fact is, it is important because it has a restriction in it. When a budget is set and the spending goes beyond that budget, you can raise a point of order, and it takes 60 votes instead of 50. That is a protection from overspending. We hear a lot about spending. I am one who wants to control spending.

So here we are with things to do in the new year. We are here with items left over from last year, and we are not able to get going with it.

Everyone, of course, has their own priorities, but there are some fairly commonly agreed upon. Certainly education is one. There is nothing more important. When I talk to people about Government programs and things they want to do more about, education is always among the top. It is true that the Federal contribution to the financing of education is only about 7 percent of the total. But nevertheless, it is an important part, particularly when Federal rules and regulations provide some unfunded mandates to the States to do the things they must do.

I am in favor of having some common methods of having an assessment of how schools are doing partly because now we move so freely in this Nation; if you are educated in Wyoming, you may end up working in New York. You need to know that your education is comparable so you will do as well there as you could anywhere else.

We are talking about funding. We are talking about IDEA, funding for special education, which is very important. I hear a great deal about that. My wife happens to be a special education teacher, and it is terribly important that we give everyone an opportunity. To do that, you have to have special education.

The Perkins Act, which funds vocational education, whether it be agriculture, business, whatever, is apparently in somewhat of a controversy at the moment. It is very important that we be able to provide vocational education and opportunities for young people to become trained in what they want to do.

Testing, of course, is very controversial, but I believe it is a test as to whether or not schools are keeping up with others. Some argue, well, you just teach to the test. I suppose there is some danger of that. If the tests are adequate, perhaps that is not a bad idea, but there has to be accountability. So that is where we are with education.

On energy policy, we spent a great deal of time with that last year, more probably than we should have had to spend because it was pulled out of committee and the committee did not make the decisions. We brought it to the floor. I believe we were here 7 weeks on energy policy. Then it went into committee to facilitate the differences between the House and Senate and, frankly, we never did come to a successful conclusion.

Energy policy is very important at any time because nothing touches more of us than does energy—whether it is light, heat, automobiles, whatever. Even more important now, as we deal with economic difficulties, is that we find the price of energy going up, partly because of the unrest in the Middle East. So energy policy, it seems to me, is very important, and we ought to get back on that.

We can have an energy policy. We have not had one for years. We need to have one that has to do with domestic production, so that we are not 60-percent dependent upon exports as we are now. We need a policy that provides for more research into new sources of energy, so that we have renewables, so that we have various other kinds of opportunities. We have to have research to make sure that what we use now—coal, for instance—is as clean as it can be for air quality. That is the kind of balanced policy we need. But here we are with that need to move forward and we are not able to do that.

Certainly, health care is one. In my State of Wyoming, health care has become particularly important over the last couple years, largely because of cost and accessibility. Often, when we talk about health care, we talk about Medicare, and certainly we should. Medicare is very important to a large number of people who have higher costs generally. Nevertheless, Medicare is there and we need to make some changes with it, particularly as we look forward to what we are going to do over the next few years—a program that gives some choices and hopefully brings in more private operations and a more private distribution of resources that will fund a program that is needed over a period of time. The one we have now isn't going to do that.

We have to make some changes. I suspect we will be looking at more short-term changes originally, as we first go about it. We need to look at the long term, what we want to have over time and what it takes to provide a health care distribution system that is useful. It is not all Medicare. For example, in our State the prices have gone up substantially. There are a number of reasons, of course. Part of it is liability insurance for physicians. Many have given up certain kinds of practices because the cost of liability insurance is out of sight. We can do something about that, and we can do something about it here as well as in our States.

We have a problem with the number of uninsured in this country. Of course, the notion of insurance, the concept of insurance is that you have a broad participation of people, some of whom are less likely to need services than others, so that it levels out the costs. But when you have a large segment of the most healthy people who do not carry insurance, then that concept is weakened. So those are broader issues that we need to have. We have a shortage of nurses. We need to do something about that. It has very little to do with Medicare.

The other one that is important, of course, and I suspect will be dealt with

more quickly, is pharmaceuticals. Some say we have an overutilization of pharmaceuticals. For many people, particularly the elderly, the cost is extremely high for pharmaceuticals and is unable to be handled by many people. We need to find a better way of distribution, find a better way of using generics, find a better way of examining the pharmaceutical requirements.

We had some meetings. In one case, we had a retired pharmacist take a look at the pharmaceutical needs of the people employed by his former company. He was able to reduce it substantially and still provide the same kind of health care. So there are a lot of things that we can do.

As to jobs and the economy, obviously, nobody is unaware of the fact that we need to do something there. We need to have a program. All we have heard in the last 2 weeks is criticism of the President's economic program. I believe the President has a very well-balanced effort at doing something about the economy. He does something initially with payments, such as child care, reduction of income tax withholding, which would put more dollars in right away. I suppose we can talk about the size of the package because of dividends on some of the payments that are made. But the fact is, it is a balanced program that has initial impact; it has long-term kinds of tax reductions that create jobs.

Now, it is one thing to just sling money out there, which some folks like to do. The real answer is to develop jobs so people have them long term, and that is what it is all about.

On judicial nominations, we are behind from last year. We still haven't organized a committee to do that.

We are faced with lots of opportunities to do some things that need to be done. Yet here we are waiting to begin to move. I think the pressure needs to be on the leadership to resolve this issue and get us into a position to move forward so we can deal—as we are here to do—with the issues before us and resolve many of the questions that are pending.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the time for morning business be extended until 4 p.m. and the time be equally divided in the usual form, with Senators allowed to speak for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FUNDING GOVERNMENT

Mr. REID. Mr. President, hopefully we will be able to move forward on the most important matter facing the country today, in my opinion, and that is getting something done to be able to fund Government.

As the Democratic leader said earlier today, we all recognize the country is in a deep economic decline. Last month alone we lost over 101,000 jobs as reported by the Department of Labor. As we talked earlier this morning, we need only look at the article in the Wall Street Journal today which is entitled, ''Slump in Job Market Is Longest in Decades. Near-term Prospects For Workers Remain Grim.''

This is Monday. Thursday is fast approaching, and that is when people are always saying they have to catch a plane. If we cannot complete our business this week and deal with the 11 appropriations bills, we should work next week. The majority leader should tell everybody right now that they should put on hold their business for next week, that this is an important time for the country. With the economy being in the recession and no prospects in the near future of getting out of it, and the only proposal we have coming from the White House is to give more tax cuts to the rich—and from the reports in the press today part of the tax dividends would go to both the President and Vice President in the sums of hundreds of thousands of dollars if this crazy dividend scheme goes through—hopefully we would work through next week, if necessary, to deal with the problems the country faces.

There is no plan for creating jobs. It seems the only answer that comes from the administration to every problem is more tax cuts for the wealthy.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I ask unanimous consent to speak as in morning business for up to 30 minutes.

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

Mr. HARKIN. I thank the Chair.

THE NATION'S ECONOMY

Mr. HARKIN. Mr. President, last Thursday I spoke at some length about the Nation's economy and pointed out what I thought at that time were some of the deficiencies in the President's plan for economic recovery.

In my remarks on Thursday, in reading them over in the RECORD, I thought maybe I might have been a little harsh; maybe my remarks were a little too pointed in that they referred to the President's economic plan as one that would unduly benefit the wealthiest in our country and that would not do much to really help working Americans.

After reading the newspapers over the weekend, I have come to the conclusion that what I said on Thursday was not nearly as harsh a judgment on the President's economic policy as that of some of our foremost economic thinkers and writers in America today.

So after reading these newspapers this weekend, I thought I would call the attention of my colleagues and others to several articles that appeared on this topic over the weekend, which I think are graphic in their detail and analysis of how awful the President's economic program is, and will be for this country if we enact his latest version.

The first thing I saw was, on Saturday morning, a front-page article that said the economy lost 100,000 jobs in December. The unemployment rate remains at an 8-year high. This was on the front page of the Washington Post on January 11:

> U.S. companies shed more than 100,000 jobs last month, reducing payrolls to their lowest level since the recession began in early 2001, while the unemployment rate remained at 6 percent, its eight-year high, the Labor Department reported yesterday.

Again, unemployment is high and continues to get worse. So clearly we have to do something in this country to stem the rising tide of people who are not working.

Looking back a couple of years ago to when the first economic downturn started, when the President put his recovery program into place, in 2001, it is clear it is not working. We are 18 months later and it is not working. It is going in the wrong direction. So do we keep going down that road or do we start to make some changes? That is what we have to do. We have to recognize we are going down the wrong road and we have to make some changes.

The President has now proclaimed his new economic program to build on the misguided one of 2001. This is a David Broder column from Sunday's Washington Post entitled: ''It Reeks of Politics.'' I wondered what he was talking about. I thought maybe he was talking about judicial appointments or something like that—''It Reeks of Politics.'' No. What Mr. Broder was talking about was the economic program. I will quote some parts of it.

Before the O'Neill talk—

He is talking about a phone call from Paul O'Neill—

I asked one of my favorite Republican economics guides what he thought of the new Bush tax plan. He did not mince words. This man—a veteran of the Nixon and Ford administrations and a friend and adviser to many officials in the Reagan and two Bush administrations—said, ''It may be the least defensible policy ever.'' I would amend that slightly. It is probably the most ill-considered since Treasury Secretary John Connally persuaded President Nixon to freeze wages and prices in 1971. Like that move—designed to help Nixon's reelection in 1972, whatever the damaging long-term consequences, this latest pack of proposals reeks of politics. The proposal to eliminate taxes on dividends—the centerpiece of the plan and the source of more than half of its staggering costs—looks like ''the wrong reform at the wrong time,'' my mentor said.

I ask unanimous consent to have Mr. Broder's column printed in the RECORD at this point.

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

[From the Washington Post, Jan. 12, 2003]

IT REEKS OF POLITICS

(By David S. Broder)

When Commerce Secretary Don Evans phoned me to praise the tax plan announced by President Bush last week—he must have drawn the short straw to have my name on his call list—he assured me that the ''bold package'' would boost ''the general well-being of the people.''

''Nobody wins unless we all win,'' the president's longtime friend said—a sentiment with which I assured him I concurred.

In his next breath, Evans derided the rival Democratic stimulus plan—which would cost one-fifth as much as the $674 billion, 10-year Bush package—because it relies mainly on a one-time rebate of $300 to every taxpayer. ''One-shot remedies don't work,'' Evans said. ''You have to create a feeling of certainty for at least the next 10 years, so businesses and families can plan.''

It was not that long ago that the White House was telling us that the 2001 tax rebate—$300 for individuals and $600 for families—had been instrumental in making the recession ''the shortest and shallowest in history.'' But now, as the president's re-election approaches and unemployment lingers at uncomfortably high levels, the ''certainty'' of 2001's 10-year Bush tax plan is being scrapped by the administration in hopes of pumping the economy before the voters get to the polls.

Is it needed? In his first public appearance since he was fired last month as Treasury secretary, Paul O'Neill told a Sulgrave Club audience the other night that, with the economy growing at a 3 percent annual rate in the first three quarters of 2002, ''it is hard to see a need for Keynesian remedies,'' i.e., further tax cuts and more stimulus.

Before the O'Neill talk, I asked one of my favorite Republican economics guides what he thought of the new Bush tax plan. He did not mince words. This man—a veteran of the Nixon and Ford administrations and a friend and adviser to many officials in the Reagan and two Bush administrations—said, ''it may be the least defensible policy ever.'' I would amend that slightly: It is probably the most ill-considered since Treasury Secretary John Connally persuaded President Nixon to freeze wages and prices in 1971.

Like that move—designed to help Nixon's reelection in 1972, whatever the damaging long-term consequences—this latest pack of proposals reeks of politics. The proposal to eliminate taxes on dividends—the centerpiece of the plan and the source of more than half its staggering cost—looks like ''the wrong reform at the wrong time,'' my mentor said.

Eliminating the double taxation of dividends—once on the profits of the corporation and again on the payout to the stockholder—has been discussed in every Republican administration, he said, and considered by some Democratic presidents. It has a sound foundation, because double taxation tilts corporate finance toward borrowing, rather than going into the equity markets. But, he said, business groups and almost all economists agree that the right way to remedy the situation is to make dividend payments deductible for the corporations, as interest payments already are.

Instead of that straightforward policy, the administration chose to lift the tax on dividend recipients—eliminating any direct benefit to the companies—so that Bush could claim, as he did, that this change ''is for the good of our senior citizens'' who count on dividends to supplement their Social Security.

That argument has gaping holes. As was quickly noted by the accounting industry, the Bush proposal entails complicated calculations for both business and individual taxpayers, adding further complexity to the tax code.

Moreover, it would not affect the mass of dividends that go into the 401(k) plans on which most working Americans depend for additional retirement income. Those dividends are not immediately taxed now, and the taxes due when the money is withdrawn would remain unchanged under the Bush proposal.

According to an analysis by the Urban Institute and the Brookings Institution, 64 percent of the $364 billion in benefits from dividend tax elimination would go to the top 5 percent of taxpayers, the same people who are the main beneficiaries of the Bush tax cuts of 2001.

Over time, eliminating this tax would likely deepen the growing budget deficits. The first round of Bush tax cuts will cost more than $1.3 trillion in revenue over 10 years. This package pushes the costs to the $2 trillion level—even as the demands of homeland defense, the war on terrorism and a possible attack on Iraq add to spending pressures.

But none of this is likely to deter Bush. His arguments are flexible, but the policy is constant: Keep cutting taxes from the top down.

Mr. HARKIN. Mr. Rove and the political advisers to the President may think it is good politics, but it is terribly damaging to our economy. Again, I refer to some Republicans in this Congress and in this administration who support this plan, and I said they should properly be called ''red ink Republicans'' because they seem to have absolutely no concern about pushing plans that will skyrocket the deficit and the national debt.

Mr. Broder goes on in the last couple of paragraphs to point out:

Over time, eliminating this tax—

The dividend tax—

would likely deepen the growing budget deficits. The first round of Bush tax cuts will cost more than $1.3 trillion in revenue over 10 years. This package—

This new package—

pushes the costs to the $2 trillion level—even as the demands of homeland defense, the war on terrorism and a possible attack on Iraq add to spending pressures. But none of this is likely to deter Bush. His arguments are flexible, but the policy is constant: Keep cutting taxes from the top down.

Now we are talking about more than $2 trillion in deficits. I guess the times have changed. Former Senator Everett Dirksen of Illinois once said: A billion here and a billion there, and pretty soon you are talking about real money. We have to revise that. Now it is a trillion here and a trillion there and pretty soon you are talking about real money. And, that is before we add huge additional sums in interest to be paid on the debt.

We have considerable needs that we have to meet domestically: Homeland defense, a possible war with Iraq—I hope not—a huge unfunded mandate on local schools called Leave No Child Behind, which is underfunded; special education, totally underfunded. These last two items, the cost of special education, the cost of all the testing and everything to leave no child behind, they mean higher property taxes at the local level, which is harder on the middle class than the tax on corporate dividends.

If we do not meet our obligations at the Federal level on special education and meet other education needs like the unfunded mandate of Leave No Child Behind, that means the States and local communities will have to do it. They will raise property taxes. That hits the middle class a lot harder than the tax on dividends.

Of course, towards the end of the decade we will have the retirement of the baby boomers coming. Then where will the money be to fix Social Security and Medicare? We will be so far in the hole at that time maybe then that dream will come true of those who want to privatize Social Security. Maybe that is what it is all about at the end of this decade.

So the reading this weekend was not too good, not promotive of the President's policies. There were a lot of warning shots heard. There was another article in the Sunday Washington Post, ''A Tax Plan That Will Pay Few Dividends.'' The article was written by Reuven S. Avi-Yonah, the Irwin I. Cohn Professor of Law at the University of Michigan, and David S. Miller who is a tax lawyer in Manhattan. I don't know either one of these individuals. Reading their article is a clear warning to those in Congress that if the President will not cease and desist from this ill-considered tax scheme of his to cut taxes on dividends, then we in the Senate must hold up the stop sign and say no. This article, ''A Tax Plan That Will Pay Few Dividends,'' is alarming in how it paints the future of what happens if we go down that path:

So the portrayal of the double tax on dividends as evil is more fiction than fact. Dividend exclusion is unlikely to have the desired effect of lifting the stock market, and the administration's proposal won't really cure the woes of our corporate tax system.

Instead, it raises serious issues. First, if the measure does encourage individuals to

shift investments from taxable bonds into more risky tax-free dividend-paying stocks, the investing public will be less diversified and less cushioned for the next stock market downturn. And if the proposal succeeds in increasing dividend rates, corporations might borrow more to pay higher yields, making balance sheets all the more shaky.

And fourth, the exclusion will benefit the wealthy. The Urban-Brookings Tax Policy Center estimates that the wealthiest 1 percent of all taxpayers could capture as much as 42 percent of the benefits of a dividend exclusion. This ''tax cut'' won't put any more money in the hands of working Americans.

But we are certain of one thing: Excluding dividends from taxation will create opportunities for new tax shelters. There will be tax shelters that permit corporations to artificially manufacture dividends for shareholders and shelters that permit shareholders to receive tax-exempt dividends without economically ''owning'' any of the underlying stock. Each of these shelters is easy to develop under current law.

If history is any guide, Congress will respond by enacting new rules to stop taxpayers from abusing the exclusion. Given the IRS's recent track record, these anti-abuse rules will run to hundreds of pages, few cheats will ever be caught, those cases will take years to litigate and ultimately the anti-abuse rules will prove ineffective.

Then this morning, I listened to NPR and I obtained a transcription. This was ''Morning Edition'' on National Public Radio. Bob Edwards was host in the first of a series of commentaries about the Bush economic plan. Commentator Kevin Phillips says:

The White House proposal to eliminate taxes on dividends will increase debate over class warfare in the U.S. economic policy.

Then Kevin Phillips came on, and he said:

Over the last two decades, the Republicans in Washington have been quick to charge class warfare when the Democrats complain that this or that tax or economic proposal gives too much to the American rich. By this the Democrats usually mean the top 1 percent income group. It's been a good GOP strategy, and sometimes it has worked when Democratic debaters have backed off. But this time, with the administration's proposal to allocate more than half of a $674 billion economic stimulus program to tax relief for stock dividends, the whole class warfare issue was riding a giant boomerang.

The Democrats say, and they're quite right, that what the administration is doing is in itself class warfare; high-income policy makeovers are short-changing the other income groups. The top 1 percent of Americans alone hold some 40 percent of the individually owned stock in the United States, and they also get about that same 40 percent ratio of dividends paid out. Given all the concern in the White House and elsewhere about pumping support into a weak economy, this proposal is really mind-blowing, not just for its contents, but for its lack of stimulus. Republican Senator John McCain had called for payroll tax relief.

Well, so have I. Last Thursday I said what we ought to be calling for is a payroll tax holiday with the trust funds fully reimbursed through the general fund for perhaps four months and put the money where it really needs to go.

But not George Bush. The congressional leadership in the White House are so wedded to an economic policy keyed to helping those at the top that they lined up behind what is really a program to make stock dividends into a 10-year, $300 billion individual income tax shelter. This isn't just trickle-down economics. The benefits to the rest of the economy, even to the stock market, are so conjectural that trickle-down looks to become misting down.

That is Kevin Phillips; with long Republican credentials.

I say to my friend from Nevada, after the trickle-down economics of the 1980s, one of my constituents came up to me in Iowa and said: I heard all about the trickle-down, I have not even had any drops on me. I would just settle for a heavy dew. That is what Kevin Philips said we might get out of this: Maybe a heavy dew.

I yield to the Senator from Nevada.

Mr. REID. I heard the Senator speaking and wanted to congratulate the Senator. I listened also to Kevin Phillips' presentation. By the way, Kevin Phillips is a Republican, not a Democrat. But he was fair in his analysis. Quite clearly, all economists that I know, unless they work at 1600 Pennsylvania Avenue, say this tax plan is bizarre. Crazy.

The Senator is aware, is he not, that not only do we have this tax plan that is floating around, that is going to be very harmful short term and disastrous long term, the Senator is aware that the Wall Street Journal, which is also not a piece put out by the Democratic Party, said today, on page 2: ''Slump in Job Market is Longest in Decades.'' And near-term prospects for workers remain grim?

Is the Senator aware that is in the Wall Street Journal today?

Mr. HARKIN. I was so depressed after reading the newspapers this weekend, I didn't pick up the Wall Street Journal this morning. I guess I could get depressed further reading that.

Mr. REID. This article points out, among other things, last month this economy lost over 101,000 jobs. I know this because I was on a television program with Tim Russert. He had a chart demonstrating all the Presidents of the United States going back to Truman. Every President created jobs—Nixon, Truman, Eisenhower, all of them except George W. Bush. That chart shows the only President that has not created jobs, George W. Bush, and, in fact, he has lost 2.5 million jobs.

Is the Senator aware of that?

Mr. HARKIN. I was not. I was aware of the fact we lost 100,000 jobs in December. It was Christmas. Imagine, at Christmas, to have 100,000 jobs lost. I also know we are at the highest unemployment level in over 8 years.

Mr. REID. The Senator is right. The Senator is absolutely right.

Also, this article in the Wall Street Journal has a number of graphs and charts, but one of the things that just jumped out at me is the levels of unemployment of certain segments of our economy, certain demographic segments. It just jumps out.

Teenagers, of course, a lot of them are unemployed, and they want to work. But for African-American teenagers the unemployment rate is over 33 percent. It has gone up. From last year to this year, it has gone up 3 percent. These are kids who want to work.

Mr. HARKIN. That is right.

Mr. REID. There are no jobs for them.

Mr. HARKIN. Then we wonder why kids in the cities are hanging around the streets and get into drug, joining gangs and things like that. They need jobs. They need to be put to work.

Mr. REID. I say to my friend, the distinguished Senator from Iowa, I was on a talk radio program this morning in Las Vegas—conservative. One of the things I have advocated is that the Federal Government should spend money creating jobs, infrastructure. I know in Iowa there are water systems that need to be worked on, sewer systems that need to be repaired and enlarged, highways, bridges, dams that need to be worked on.

Mr. HARKIN. Schools.

Mr. REID. And school repairs. This is a conservative program. They brought it up.

They said: I understand you want to have jobs and spend taxpayers' money on creating jobs.

I said: Yes, I do.

They said: Wouldn't the private sector be better off creating those jobs?

I said: Wait just a second. You understand the private sector is the one that is going to be conducting the work.

Mr. HARKIN. That is true.

Mr. REID. It is no Government giveaway. These are projects that need to be done, roads that need to be built, dams that need to be repaired.

Mr. HARKIN. That is right.

Mr. REID. I think we had a good discussion on this conservative radio program. I hope I educated them and their listeners because I said, among other things, that for every $1 billion we spend, we create 42,000 or 44,000 jobs. Think about that. These are good jobs, people who are paying taxes, they are buying refrigerators and cars.

We have this backwards. We are trying to help the wrong people, to create this windfall to the very wealthy in this scheme. There is no better place to start than the President and the Vice President. Is the Senator aware that the President of the United States and the Vice President of the United States would benefit significantly from this dividend scheme? In fact, between the two of them, the benefits would be over $400,000 a year.

Mr. HARKIN. A huge benefit.

Mr. REID. Don't we have this backwards? Wouldn't it be better if we were creating jobs rather than cutting taxes for the wealthy?

Mr. HARKIN. I say to my friend from Nevada, the assistant minority leader: You are thinking too rationally. You are just thinking too rationally. Evidently what is happening down there at the White House is they want to think irrationally. But we have to stand up and we have to think along the lines

the Senator is talking about here right now.

The Senator put his finger on it. I have been somewhat successful in the last few years, getting some money in my State for rebuilding and modernizing schools all over the State of Iowa. I visited—not all of them, I visited a number of them: new classrooms, getting new technology in.

I visited one school that just started up this fall, and one of the workers there, one of the brick masons, saw me outside. He said: I understand you helped get some Federal money to get this going, get this school improved.

I said yes.

He said: I want to thank you. It put food on my family's table for months, working on that school.

To answer this sort of statement the Senator made earlier about: Well, these are government jobs; wouldn't the private sector be better?—all the jobs done on that school were done in the private sector: private contractors, private electricians. They buy all the stuff from the private sector. So the ripple effect in the economy was tremendous.

That is why the Senator has put his finger on it. There are so many unmet needs in this country. I focus on schools a lot. I think the recent estimate is somewhere in the neighborhood of $189 billion, I believe—I could be off some—just to bring all our public schools up to modern-day standards; in other words, to give them the heating and the air-conditioning, the lighting, fire standards, the Internet hookups—just making them modern. What an unmet need out there.

What if we were to do that? Think of the jobs we would create. One thing I might also say to my friend from Nevada: Just think, not only do you get the jobs' ripple effect in the economy, but when it is over with, you have something that lasts a long time. You have new schools.

Mr. REID. I say to my friend, the distinguished Senator from Iowa, I traveled to one of Nevada's schools fairly recently, Boulder City High School. It is an old school now. It is an old high school. It is hard for me to comprehend Boulder City having an old high school, but they do. The average school in America is 45 years old. The average school—think of that—is 45 years old. Schools need to be refurbished and rebuilt. Boulder City is kind of unusual in Clark County, in Nevada, because most of our schools there are new. We hold the record. We dedicated 18 new schools in 1 year in the Clark County School District.

So certainly the Senator is right. But I wanted to say this about the thing the Senator mentioned, and Kevin Phillips was mentioned, and he talked about class warfare. They believe the best defense is a good offense. So they have been whacking away at us since they introduced this ridiculous tax plan. They have been whacking away at us saying: They, the Democrats, are trying to create class warfare. We are not doing it. They have been doing it with their ridiculous tax plan.

I have nothing against rich people. I wish them well if they can make a lot of money and be rich. But they have created that, that the very wealthy are going to get tax benefits from this plan and the middle class and the poor get nothing.

Mr. HARKIN. That is right.

Mr. REID. Almost literally nothing. We are only bringing out facts and talking about the reality of this tax plan. We are not trying to create class warfare.

That is why the Wall Street Journal writes about this:

Slump in Job Market Is Longest in Decades.

We are not doing that. That is a fact of life.

Mr. HARKIN. I say to my friend from Nevada, I got depressed reading the weekend newspapers. Here is one in the Business section of the Sunday Washington Post, apropos of what you are just talking about here, about whom this is benefitting. The headline:

Some CEOs Would See a Windfall.

They have a nice little 1040 Tax Code wrapped up as a nice package here.

It says here:

. . . some of the biggest potential winners under the Bush plan would be top executives at dividend-paying companies who own big blocks of their firm's shares.

Walt Disney Co.'s Michael D. Eisner, for instance, owns about 14 million company shares, a spokesman said. Disney announced an annual dividend of 21 cents this month, which adds up to about $2.9 million for Eisner. Under the current tax code, assuming Eisner is in the highest personal income tax bracket, the Disney chairman and CEO would pay about $1.3 million in state and federal taxes on that amount, according to a tax expert at a major accounting firm. Under the Bush plan, he might pay nothing on that portion of his income.

It went on. There were some other ones here that they mentioned. Sanford Weil, who owns 22.8 million shares, would save as much as $6.9 million in taxes.

Mr. REID. This is per year. This is not over a lifetime; this is per year.

Mr. HARKIN. This is for 1 year. I am sorry. I thank the Senator for pointing that out. It is not a lifetime sum. It might be repeated year after year.

Douglas Daft owns 2.5 million shares in Coca-Cola. He is chief executive. Coke paid 80 cents a share in dividends. Under the Bush plan, he would save about $875,000 in taxes.

These are all, I am sure, fine individuals. They have done a lot. They have invested in America, helped build big corporations. They are CEOs. I have nothing against them, as the Senator said. I have nothing against them. They are likely to be fine people. But does that mean what we are going to do now is take the Tax Code and give them even more wealth, as the Senator said, when we have 100,000 people in December out of work and we have so many unmet needs in this country? This is a cockamamie scheme.

My friend from South Carolina, who sits across the aisle from me, Senator HOLLINGS, once said this came about after Charles Schwab went down to the Texas ranch—I guess in December or sometime like that—and had a little bite to eat and a little refreshment with the President. And Schwab evidently said: This is a good idea. And the President said: It sounds good to me. Let's do it.

Mr. REID. Will the Senator yield?

Mr. HARKIN. I would be happy to yield.

Mr. REID. Last week I called someone the Senator from Iowa knows. He is a very strong businessman. I don't want to embarrass him. It was a private telephone call.

I said: Tell me what you think about this tax thing. He said: It is crazy. He would benefit from it. He said: It is crazy. There are too many things that need to be done.

I said: Would you come down and join with us and say something publicly about this? He said: I have a lot of government contracts, and I am afraid I would be punished if I did something like that.

He is not kidding. He has a lot of government contracts. The people from 16th and Pennsylvania Avenue and all people in the Cabinet have some influence over who gets contracts and how they keep them.

I would also say this is in support of and in commendation for rich people in America. I have, as does the Senator from Iowa, some rich friends. I have not had a single person from Nevada call me about this goofy scheme. I haven't had a single Nevadan call me. They know me well. If they liked this program, they would call me.

There have been other tax proposals from the White House—in the Clinton administration and in this administration—that I got calls on saying either do it or not do it. I haven't received a single call from my wealthy Nevada friends, or from wealthy Nevadans who may not be my friends, I haven't had anybody call me and say: Reid, I want you to support this. This is important to me.

I don't think they could do it with a straight face.

Could Michael Eisner support what is happening? Knowing all of the charitable things the Disney corporation is involved in, he couldn't possibly want more money for himself personally and another $2 million a year when he makes these multimillions. He knows this should go toward some of the public service things that need to be done and some of the health things that need to be done—the terrible battle we are fighting in the United States with AIDS and the like. I have to acknowledge and applaud wealthy Americans because they are not out clamoring for this to be done.

Mr. HARKIN. I agree with my friend. I have had not a single call either. I have often said there is nothing wrong with being rich in America. There is

nothing wrong with having a nicer home and a nicer car, or a nicer lifestyle, as long as you have done it honestly and forthrightly. And most wealthy people have done it that way. There is nothing wrong with that. But I think the obligation that we have in government is to make sure we leave the ladder down for others to climb.

What the Bush administration seems to be saying is: You have a lot of money, you have made all this money, and you can pull the ladder up behind you. And guess what. We are going to help you pull the ladder up behind you.

That is not my idea of what America is about. America is about fairness and equity and giving the kids from Searchlight, NV, or Cumming, IA, that same opportunity to get a great education, to be healthy, to have a piece of that American dream, and to have that opportunity. But the more we concentrate wealth in the hands of a few people and then use the Government to ensure that they not only keep it to get wealthy, the more we are taking that American dream from those kids in Searchlight, NV, and Cumming, IA.

Mr. REID. If the Senator will yield, I want to say a word, if I may, before the Senator from Rhode Island, who is the Presiding Officer, leaves the Chamber.

The junior Senator from Rhode Island I think set a mark for people on the other side of the aisle when he was the first to come out against this proposal. That is the way I heard it. I read in the paper that the Senator from Rhode Island opposes this, and as a result of his doing this, there have been several other Republican Senators who followed. Before he leaves the floor, I want to express my appreciation for the courage of the Senator from Rhode Island in coming out against this program.

Mr. HARKIN. I would add my commendations also to my good friend, the Senator from Rhode Island, for his forthrightness in coming out as he did. I appreciate that.

Mr. REID. I have taken so much of the Senator's time.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator's time has expired.

Mr. HARKIN. Mr. President, I ask unanimous consent for 15 additional minutes.

Mr. REID. Mr. President, I apologize for using so much of the Senator's time.

Mr. HARKIN. It is a good exchange. I appreciate it.

Mr. REID. I will say this last thing. I hope that we, the Democrats, and those courageous Republicans who oppose this don't fall for some compromise. I hope they don't come back and say: Well, we will not do away with all of that, but we will do such and such.

We have to recognize this for what it is. It is a bad program. We are broke as a country, and in the 2 years of this Bush administration they have ruined the economy. During the last 3 years of the Clinton administration we were taking in more money than we were spending.

Mr. HARKIN. There was a surplus.

Mr. REID. It is remarkable. We were paying down the surplus. They have wasted the largest surplus that we were able to acquire. It is a terrible shame. I hope we don't have some cockamamie compromise where people walk out here and say: Well, it is not as bad as it could have been. We should recognize this for what it is and not compromise. We don't want it.

That is how I think we should move forward.

Mr. HARKIN. Here is the chart that illustrates it. Here we are, starting in, in 1981, with the first Reagan tax program. Look at what happened to the deficit. It went down and down until finally we had the 1993 plan when we started to reinvest in America and get our economy back on track. Look at what happened. Look at this. It is a steady climb up for 8 straight years to one of the largest surpluses we have ever had in America.

Then, in 2001, the administration couldn't stand that we were getting out of debt. There were actually too much surplus for them. We were paying down national debt for future generations. This is the 2001 tax bill. Look at what happened—right back down where we started. Now we are back down in the hole again in the deficit. If that isn't enough, they want to add even more—taking more money out with this new cockamamie scheme of theirs to take it away with a tax dividend.

Mr. REID. I only point out one thing. In the Senator's last statement, he said it was one of the largest surpluses in the history of this country. It was the largest surplus in the history of this country.

Mr. HARKIN. This is the largest surplus on record. Exactly.

Mr. REID. I appreciate the Senator for allowing me to interrupt. I appreciate the Senator very much for allowing me to have a few words on the floor.

Mr. HARKIN. I thank my friend for his keen insight into the economics of this country and this tax bill and how bad it really is.

I close by saying again that we have to kind of look at the past and take some instruction from what happened. If you look at unemployment rates, when the 1981 tax bill was passed, the unemployment rate was 7.4 percent. Eighteen months later, it went from 7.4 to 10.3 percent. When the 2001 tax bill was passed, unemployment was 4.5 percent. Now it is 6 percent. Now we have this coming in. Now in 1993, the blue line shows what we did. The unemployment rate went down. When it passed in 1993, the unemployment rate was 6.8 percent, 18 months later it was down to 5.4 percent and eventually it dropped to 4 percent. All of the red ink Republicans said how it would be so terrible for the economy. But, after the 1993 tax bill where the wealthy did see some real tax increases, the economy boomed. The deficits turned into surpluses. And we created a huge number of jobs. Again, we ought to be instructed by that and know the fact that the President's tax cut will not only plunge us further into deficit spending but it will not help increase employment. It will provide for one of the unfairest distributions of income in our country.

For example, the 100-percent reduction in dividend rates provides, for those making more than $1 million a year, an $88,000 tax cut—an $88,000 tax cut. And the average Iowan, making between $20,000 and $30,000, would get $204 in 2003.

But that is just the beginning. When you look at the outyears, it gets worse. By 2010, for the average Iowan, making $20,000 to $30,000, they might get maybe $25. For those making $40,000 to $50,000, they would get about $84. But if you made over $1 million a year, you would get $27,000 in tax benefits in the year 2010.

I believe it was former OMB Director David Stockman back in 1981, who called the Reagan tax cut—the trickle-down tax cut—he called it a ''riverboat gamble.'' And that is exactly what it was: a riverboat gamble. And we lost in terms of deficits and unemployment. We got it back on track in the 1990s, but here we are back again.

Well, Mr. President, a ''riverboat gamble,'' ''trickle-down economics''—whatever you call it—I call it ''go-go economics'': Don't think about the future. Live for today. And, by all means, whatever may help you politically, whatever will help ensure your reelection, do that, and forget about what comes after.

That is what this program is. Because it is designed, basically, to help those who will give the most out of their pockets to reelect this Republican President: the richest people in this country. And, of course, we just had campaign finance reform, so to speak. And what did it do? It doubled the amount of money that a person can give to a Federal candidate—doubled it.

So I believe President Bush, when he was a candidate, if I am not mistaken, raised over $100 million—with those $1,000 contributions. Well, now that doubles and with a primary and general combined, it adds up to $4,000. So it just goes back to the same people. Plus they give more money in other ways. So I guess what this is: rewarding your friends. I understand that politically he rewards your friends. But in this case it is hurting our whole economy by him rewarding his few rich friends at the top.

As my friend from Nevada said—and I share this with him—I have not spoken with one wealthy person in Iowa or anywhere who called me saying this is the best thing to do. Not one. In fact, I think most of them are even embarrassed by President Bush's proposal.

So the best thing, I think, is for the President to recognize this was a bad

piece of advice he got. I think one of the marks of leadership is to recognize when you are wrong and to rectify it. If you want to give the economy a shot in the arm right now, and give our bond markets a shot in the arm, I think the best thing the President can do is say he is scrapping this whole deal.

Then what we need is a payroll tax holiday, paid through the general fund to put money in the hands of working people, many of whom do not even pay income taxes. But they are working, and they are raising families, and they are paying every last penny of payroll taxes. Many of these people did not get anything out of the 2001 tax plan. These are people who need some help. I will be talking more next week and in the days to come about my concept of a payroll tax holiday that would extend for a few months, and which could be adjusted after that depending upon what the economy is doing at that time.

It would be a lot cheaper than what the President is proposing, No. 1. No. 2, it would give an immediate stimulus to the economy. Third, it is fair because it puts the money down at the bottom where it is needed. As we know in Iowa, and as I am sure they know in Minnesota, you don't fertilize a tree from the top down. You have to put it in at the roots and let it grow. That is what a payroll tax holiday would do. That would give us our short-term stimulus.

Then—exactly what Senator REID was talking about—let's invest in rebuilding and modernizing schools. Drive the interstates someday and have your car beaten to death. That interstate highway system is now almost 50 years—a half a century—old. It needs to be rebuilt. These are things that need to be done in investment in the future of this country that puts people to work. That is the kind of job growth we need in this country. And all those jobs are not done by the Government. They will all be done by the private contractors.

So I hope the President will recognize the bad advice he got, will say he is scrapping this plan, and then come down and work with all of us. There are bipartisan things we can do here—I am convinced of it—bipartisan things we can do that will be both a short-term stimulus, that will not inure huge deficits in the outyears, and there are long-term things we can do to put people back to work that will benefit this country.

I call upon all my friends on the other side of the aisle who are not ''red ink'' Republicans to join in this effort and to recognize the future of this country is not more red ink and more red ink and more red ink, but it is getting this country out of the hole, paying off the deficits, and getting back to a surplus once again.

Mr. President, I look forward to working in a bipartisan fashion towards this end. But the lead has to come from the President. As long as he pushes that dividend tax scheme of his, well, then we are going to be kind of blocked from doing anything here. So I hope the President will scrap it, call us together, and let's work out a bipartisan plan to get this country moving again.

I thank the Presiding Officer for his indulgence. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

REORGANIZATION OF THE SENATE

Mrs. HUTCHISON. Mr. President, I am very pleased to see the person presiding in the chair and welcome him to the Senate.

I am looking at an empty Chamber except for Senator HARKIN, who is just leaving. It is incredible to understand that the Senate was sworn in on January 7, and yet today we sit in the Chamber having transacted no business except for the extension of unemployment benefits which was done by unanimous consent because it didn't have to go through a committee.

Why, one may ask, would something only be able to pass that didn't have to go through committee? Well, the answer is, because we don't have any committees. The Senate has not been able to reorganize since January 7 because we cannot get an agreement. We have not been able to organize our committees because the Democrats have been unwilling to come to an agreement that would be a fair allocation of resources and that would allow us to go forward.

A lot of people in the country don't realize that the Senate is in an absolute stalemate because we do not have Republican chairmen, even though the Republicans control the Senate. There are eight new Members of the Senate, and none of them have been appointed to a committee—not one—because we don't have an organization resolution.

I do not think that is what the people of America said last November when they went to the polls. They voted on Senators, and they voted to give Republicans a 51-to-49 vote count in the Senate.

Any person who follows this would imagine that everyone would understand that there has been a change of control, and they would have expected us to be up and open for business, with committees meeting and doing the business of the people. That is what was said by the people who went to the polls in November and made their decisions on who would represent them in the Senate.

I am very pleased that our new Members have been sworn in. It is little enough to ask, I would say. But to think that they have not been able to even go to a committee meeting yet is unconscionable. A lot of people have not realized that this is going on because we have tried to negotiate in good faith, and Senator FRIST is doing that as we speak. Hopefully Senator DASCHLE is doing the same.

I don't think we can wait another week before we start confirming some of these judges who have been sitting unconfirmed since May of 2001 or even unable to have their nominations acted on.

We were ready to hit the ground running. The Judiciary Committee chairman wanted to start the process so the President would have his constitutional right to appoint and have confirmed or turned down his nominees to the Federal bench. He has had neither. We were ready to go. What has happened? The Judiciary Committee cannot meet because Senator HATCH has not been installed as chairman because we don't have an organization resolution.

We had hoped to pass the appropriations bills that had been lingering since last Congress. We had only passed the Defense and military construction appropriations so all of the other Departments of Government have not yet been funded except in a continuing resolution, an omnibus bill that just says we will go on with 2002 levels of spending, but we don't have any allocations because the Appropriations Committee has not been able to meet. The appointments have not even been formalized yet.

I do not think that is what the people of America expected when they voted last November to put a Republican majority in the Senate. They expected us to start appropriations bills. They expected us to confirm the judges that had been sitting in the pipeline since 2001.

The President of the United States has a constitutional responsibility to appoint judges, and he has the constitutional right to have those judges acted on by the Senate. Yet we have people whose lives have been disrupted because they have been appointed to the Federal bench, sitting there for 1 year, 2 years with their lives interrupted. They are unable to have Senate confirmation or turndown.

The Senate has the absolute right to make the decision, but it has the responsibility to go forward and let these people know if the President is going to get his appointment through or if these people can go on with their lives.

I hope the President gets all of his appointments. He has been very careful in making his appointments. But all of them have a right to action, and the President, most of all, has a right for the Senate to take the very serious responsibility of confirming nominees.

We have appropriations bills. We have Departments of Government that have no specific authorizations because we have only acted in a general way, saying whatever you had in 2002, you may keep until we can exercise our responsibility to pass the appropriations bills, which we have not done since the end of the fiscal year October 1, 2002. These agencies deserve to know what Congress intends for them to do this year and how much money they have to spend.

This is not the way to run the Government. It is not responsible for us to

be talking to an empty Chamber since January 7 when the people have spoken and we are here to do business.

I do hope we will come to an agreement. It should be very simple. The elections were held. The majority has been elected. It is time to let the majority take control of the Senate, organize the Senate, have the committees appointed, and start to do business. I hope we will go forward and do that.

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

Mrs. HUTCHISON. Mr. President, I am happy to yield for a question.

Mr. REID. I was in my office and I listened to the distinguished Senator from Texas, the senior Senator from Texas. I agree with the Senator. I agree with what she said.

From our perspective, we realize we have lost the majority. It has gone from 51 Democrats to 51 Republicans and 49 Democrats. Last year at this time there were 49 Republicans.

But our suggestion is that the exact same organizational status that was in existence for the 51–49 Democratic majority should be in effect for the 51–49 Republican majority. That is what this is all about. We believe we should be working under the same organizational standards set when the majority was held by the Democrats. You would have the same staffing that we had as Democrats, the same funding that we had as Democrats, with the exception that both sides would have cost-of living increases given to them automatically.

I hope common sense and fairness will prevail and, in short, that we will have the same organizational standards as existed last time, except you would have what we had and we would have what you had.

Mrs. HUTCHISON. Mr. President, I appreciate so much the distinguished deputy leader of the Democrats coming down because there are a lot of different precedents in the Senate for all the years that the Senate has been in session. Last session was quite unusual in that we had a 50–50 Senate when we first came into office.

We made an agreement at that time that was based on 50–50, and the agreement was that it would stay in place regardless of what happened during that time.

We can argue about what the funding ratio is of committees, but I don't think that should hold us up from doing the business of the people.

The committee allocations have been determined by agreement. The numbers that serve on the committee have been set. So the committee appointments could be made, and we could open for business. What we are losing this week is the nomination hearing for the Secretary of Homeland Defense, because the Democratic chairman would not yield to the Republican chairman to chair such a hearing.

Now, Mr. President, there should not be a Democratic chairman in this Senate. The Republicans have control of the Senate. That is a fact. So I ask the distinguished deputy leader if we can open for business, hold hearings, appoint the committee so the Democrats and Republicans would have their committee assignments and be able to begin the work and let the negotiations go on for what the money allocation is for the committees. Let us do the business of Government and worry about whether we have 60 percent of the money for the majority or 50 percent of the money for the majority, or 55, or 57, or whatever it is. We don't have to decide that to do the business of Government.

Mr. MCCONNELL. Will the Senator yield?

Mrs. HUTCHISON. I am happy to yield to the deputy leader on the Republican side.

Mr. MCCONNELL. I wonder if my friend from Texas knew what our friends and colleagues on the other side of the aisle had in mind had they still been in the majority this year. I will read this to the Senator.

Mrs. HUTCHISON. I would not know that, so I am happy for the Senator to do that.

Mr. MCCONNELL. There was an article on October 31 of 2002, and I will quote a couple of them:

> Neither side particularly liked the resolutions that were struck, after two intense negotiations, over how to organize the Senate and its committees in the 107th Congress, establishing new rules and giving equal space and funding to the minority and majority parties.

Skipping over:

> A senior Democratic aide said that was an ''extraordinary circumstance''—

We will agree that the Senate ending up 50/50 was unusual. It hasn't happened since the 1880s.

> —that forced them to continue under an even funding deal for committees.
>
> ''If we pick up a seat or two, I think it's without a doubt we'd go back to the two-thirds/one-third,'' the aide said, using the in-house phrase to describe normal funding levels that gave the majority up to 67 percent of committee money.

My question to the Senator from Texas is this: I wonder what has changed between then and now. It appears that what our good friends and colleagues on the other side of the aisle had in mind, had they continued to be up 51–49, was to go back to the traditional split of two-thirds/one-third. There must have been some intervening thinking, I ask my friend from Texas, some new development here.

Mrs. HUTCHISON. I wonder if the Senator from Kentucky might have been referring to the election held in November just after that statement you have just read was made.

Mr. MCCONNELL. It is pretty clear, as the Senator from Texas pointed out, the American people are not in doubt as to who took control of the Senate. What is also not in doubt was that the previous Congress was an extraordinary circumstance, very unusual circumstance, in which we found ourselves in a 50/50 tie at the beginning of that Congress—and we are now at the beginning of a new Congress—and we produced a resolution that dealt not just with appointing of the committees but also funding and space. That was unusual. It had not been done before in a floor resolution, as the Senator from Texas pointed out. We switched in the middle because one Senator decided to go to the other side. It was not because the voters had voted out a Republican Senate, but a Senator decided to go over. In order to minimize the disruptions to staff who could have been laid off in the middle of a Congress after making plans and having families rely on employment at least for a 2-year period of time, to minimize the disruption, since we were in the middle of a Congress, we decided to leave it that way. I say my friend from Texas is absolutely on the mark.

There is no precedent for what is being suggested would be appropriate by the other side. It is clearly inconsistent with what they had in mind had they been up by a seat or two.

Mr. REID. Will the Senator allow me to answer the question she asked?

Mrs. HUTCHISON. I am happy to.

Mr. REID. I say through the Chair to the distinguished Senator from Texas, in response to my friend from Kentucky, that Roll Call is not Senate precedent. Roll Call is a fine newspaper that we have here on Capitol Hill, but you always have to question when someone is quoting a ''senior Democratic aide.'' Even if, in fact, that person were speaking with some authority—which that person, of course, was not—if you listen to what the person said, it said if we Democrats pick up a seat or two—in fact, if that happened, it would not have been 49–51, it would have been 47–53. With that, I think there might have been an opportunity to look at how the distribution should take place. But the fact is the American people understand that common sense still is part of what we need to deal with here in Washington, and that is that last year the Republicans were in the minority with 49 Senators. We are now in the minority with 49 Senators. Why don't we keep the same deal we had last year? That is what Senator DASCHLE, the Democratic leader, is pushing. That is what we Democrats want because it is fair.

I appreciate very much the Senator yielding and being as courteous as she always is.

Mrs. HUTCHISON. Mr. President, I will end by saying I really hope we can put aside the 57 percent, or the 60 percent, even though I think there is certainly the argument for precedent whenever there has been a clear majority at the beginning of a term to have a two-thirds/one-third split. In fact, I was told that in the really old days, the majority got 100 percent of the allocation of committee funds, and it was only to give the minority some ability to hire staff that it went from 100 percent to two-thirds/one-third. That has been the precedent ever since when there has been a clear majority at the beginning of a Congress.

I think it is also a fact when the change was made, it was then said there would be a hold-harmless from the change in staff allocations so that we actually added budget to allow all the staff to stay on from both parties. So I think now that we are at the beginning of a Congress, you can argue we have to have certain levels of funding on the majority side for the administrative functions of a committee. You have to put out the notices, you have to pay for certain witnesses to come to your committee, you have to do the printing of the bills and the printing of the statements. There are administrative costs.

So I think the majority has to have some lead to be able to function as a committee. I think that also is the precedent for the Senate. I do think we will be talking about this to determine what is fair. But even if you said there is a disagreement between two-thirds/one-third and 50/50, and maybe you go to 60/40, or maybe you don't, nevertheless, there is nothing that would not allow us in the next 30 minutes to have a unanimous consent resolution that would say the committees will be formed, the appointments will be made, they will be able to function, and we will fund them at a certain level until we have a final agreement.

The key is the people of America deserve the business of our country to go forward. We can offer them the excuse that we cannot decide between two-thirds/one-third and 50–50 and, therefore, we are holding everything up, but I do not think that excuse holds water.

I believe we ought to move forward. Let our committees convene. Let's work this out. This is a body of 100 intelligent people. We can work it out if we agree that we are going to all sit down and negotiate in good faith, but I do not think we ought to hold up the business of the people of this country for another week or a week after that. We were sworn in on January 7. We have been unable to have a committee hearing to confirm the Secretary of Homeland Defense so he can start the planning for his agency to protect this country.

We had to cancel a hearing for the Chairman of the Federal Reserve Board to speak to the Budget Committee because we cannot form our committees. That is not what the people of our country expect, it is not what they deserve, and I do hope we can, in a very short order—tonight or early in the morning—have the cooperation of the Democrats to go forward and do the business of the country.

Let our committees be appointed. Let our work begin. Let's have a hearing this week for the Secretary of Homeland Defense. Let's have the Federal Reserve Board Chairman come to the Senate and talk about the state of our economy. We need to hear from him. The least we can do is form our committees and allow the business to go forward. We can talk about 60–40 or 67–33 or 50–50 for the next month and not hold up the business of the people of our country.

I urge my colleagues to work with us to do that. I thank the Chair.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, I simply say in response to my friend from Texas that the hearing could have gone forward. There is no reason for the hearing not to go forward. Senator LIEBERMAN, or someone else, would have conducted the hearing. No one I know opposes the proposed nominee for this new Cabinet office. It would have been a very quick hearing. It is not as if a hearing could not have gone forward. The majority chose not to go forward with the hearing. That is a choice they made, not a choice we made.

I further say to the Senator from Texas, or those within the sound of my voice, once you turn over the chairmanship of these committees and have the committee people assigned to the committees, we simply lose any authority we had. Fairness dictates that if the Senate was divided last time 51–49 with the Democrats in the majority and it is divided 51–49 with the Republicans in the majority, the committee structure should be the same. That is what we are saying it should be, and we are going to hang tight until it is that way. That is the way we think it should be.

Other Congresses have joined together and worked out their differences. We have to do that. The only way we will do that is if we agree on 51–49 having the same value it did a few months ago.

The PRESIDING OFFICER. The assistant majority leader.

Mr. MCCONNELL. Mr. President, as the Senator from Texas pointed out, except for the extraordinary circumstance in which the Senate found itself—50–50—for the first time since the 1880s, the issue of committee funding was not dealt with by the full Senate. The only issue that was dealt with by the full Senate was the appointment of the committees. For 1 week now, the Senate has been in the majority of the Republicans, and yet there is not a single Republican committee chairman. New Members of the Senate, such as the occupant of the Chair, do not yet have committee assignments. He has been a Senator, I say to the Senator from Minnesota, for almost a week now, and he is not yet on a committee.

What the Senator from Texas has been saying—wholly aside from this debate over what the committee funding should be, which is typically not dealt with by the full Senate anyway—there is no rational basis, no equitable basis for not ratifying the results of the election last November by letting the new Members of the Senate and, for that matter, the old Members of the Senate who are going to new committees, have those committees ratified and the chairmen and ranking members selected. That is what I believe the Senator from Texas was saying.

I do not have the exact facts in front of me, but I understand this is the latest, certainly in recent Congresses, after the beginning of a Congress that we have, in effect, ratified the results of the election.

Last Tuesday, the Senator from Minnesota was sworn in. It has been almost a week; he is not on a committee yet. We do not have any committee chairmen. It is not enough to suggest that the minority ought to hold the hearings about which the Senator from Texas was talking. The minority does not hold hearings; the majority does. That is the tradition of the Senate. That tradition should be honored, and we should not delay passing the committee resolution pending the outcome of this ongoing discussion about what the committee funding ratio should be.

I think the Senator from Texas makes a compelling and irrefutable point about the need to start doing the people's business. We did not pass 11 of the 13 appropriations bills last year. They have not been done yet. We cannot have a meeting of the Appropriations Committee to get started on trying to pass those 11 bills because we do not have a chairman. The committees have not been organized. Let's at least get that job done, as the Senator from Texas points out, and we can continue—I assume at the rate we are going indefinitely—to discuss what the appropriate funding ratios should be.

We are holding up the people's business. We are not honoring the results of the election Tuesday, November 5. We need to get on with it, and tonight or tomorrow would be a good time. I yield the floor, and 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.

SENATE REORGANIZATION

Mr. REID. Mr. President, I know the majority leader is on the floor and I will be very brief.

A couple of times this afternoon people have talked about the 11 appropriations bills that did not pass last year, but the RECORD should be spread with the fact that the Senate completed its work on the appropriations bills. We reported every bill out of committee, but even before the summer hit the House closed down and would not send us any bills. So that is why the appropriations bills were not passed.

We did everything we could to try to get those bills passed and the Republicans in the House simply would send us no bills. We asked the White House, we asked the Republican leadership and they simply would not help us, so we were not to blame for the bills not passing. That was something that was

done by the Republicans in the House and in the White House.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will take a moment and update Members of the status of the committee resolution. I know we have had a discussion and some debate of this on the floor, both in the last hour and earlier today.

I will reassure my colleagues that we have been working in good faith to try to resolve the outstanding issues which would allow us to go forward and do something that is very fundamental to the operation of this body, in fact necessary for us to go forward with the nature of the business. It is what the Senate is all about.

We do have 11 new Senators who simply are not on committees, who do not have the opportunity to fully participate in that process as we look at the issues surrounding us, whether it is war, homeland security, or the funding of the appropriations bills that were just mentioned.

I remind my colleagues on both sides of the aisle that normally this so-called committee resolution is adopted in the first day or two of the session with very little fanfare. Again, we are talking about after an election, when there is a clear-cut majority based on that election, that we appoint the committees and their chairmen, which is really what we are talking about. That allows us to proceed with the important business before the Senate.

It was mentioned earlier in the day that the precedent has been set to go beyond what we would like to do and that is address committee membership so that we can begin with the hearings and the discussion. It was mentioned that the precedent has been set that we include a range of other issues, such as committee funding and space. I remind my colleagues—and I have had an opportunity to do that with a number of them today but not everybody—that the precedent in Congress after Congress, when we begin with a clear-cut majority based on elections, is the traditional practice of limiting these resolutions, usually carried out in the first couple of days, of naming committee members.

Some Members have mentioned the agreements of the 107th Congress as the precedent or the basis where we have to consider all of these other issues. Let's not forget that the 107th Congress was a unique Congress, unlike the Congresses before, in that in that Congress we had 50–50, something that neither side had fully addressed or thought about because it had not occurred in a generation or so of this body.

That being the case, and very appropriately, this committee resolution did address other issues such as space and the other issues that were mentioned today. But it is not 50–50 beginning this Congress. This is not the 107th Congress; it is the 108th Congress. The American people spoke very clearly in the most recent elections and provided for a majority—yes, in this case a Republican majority.

Again, I hope we can proceed. I think we have made real progress in all of our discussions, but now is the time we need to come together and get on with the Nation's business. Therefore, I hope we can proceed in the traditional manner that when we begin a Congress and there is a clear-cut majority based on the elections that we pass the committee resolution, establish the committee membership and their chairmanships and move towards working on the issues that are important to the American people: security of the homeland; we have important nominations that have to do with homeland security. Until we get the committees actually set up and established, Members, such as the Member occupying the Chair, do not sit on any committees and cannot fully participate. They cannot vote because they are not on that committee yet. That applies to the appropriations bills as well.

We are trying to finish the business from the last Congress, which because of the indecision and a whole range of issues we were not fully able to address in the 107th Congress. Now we are working very hard, in a bipartisan way, on these so-called appropriations bills or spending bills. The American people at this juncture really expect no less of us. If it is not confusing now, it is going to get very confusing as to why we cannot even name the committees and their chairmen.

The American people do not want a continuation of an inability of this body to function, to carefully consider the appropriations bills and the nominations through the committee structure.

I have been keeping an open mind and in truth have really encouraged Members on our side of the aisle to not come out and say we should move forward because we are in the majority. I have encouraged them to sit back and let the negotiations continue. Over the last 7 days, we have addressed this whole range of issues and have felt obligated to extend, at least in our discussions, beyond just naming the committee members and chairmanships and to talk about space. We talked at length about other committees and the way particular committees should be organized and the space both within the Capitol and among the committees.

We have worked in good faith and we have worked productively on a whole range of issues.

Having said that, we need to proceed with the business of the Senate, and what I have observed today is that we are unable to adequately address appropriations, the nominations for the Treasury which the President has addressed and the 31 nominations of the judiciary, with vacancies around the country, which we really cannot address until we do something very simple, and that is appoint who is on the committees, which we have already decided, by the way. The American people should know we have already decided who is going to be on these committees and who the chairmen are.

Having said this, I need to put everyone on notice that if an agreement is not reached shortly—and we will be working through this evening as we have throughout the course of today—if we do not reach an agreement shortly—and by that I mean very soon, very soon—I will be moving forward with the committee resolution. The resolution is simple: That is, who is on the committees, which has already been decided, who those chairmen are.

This may or may not delay the consideration of the appropriations package of fiscal year 2003. My goal had been that we do what is normally done in the Congress in the first several days: Appoint committee chairmen and systematically address the appropriations bills left over from last year. Now we are 1 day into this week and we have not made progress sufficiently in negotiations to be able to appoint those committees. I am beginning to think we are not going to be able to complete those appropriations bills this week—again, business left over from the last Congress.

In any event, the Senate will not adjourn for a recess next week unless and until the Senate completes these two items. The very basic one, appointing who is on committees, that has already been decided. Again, we need to come to that very quickly. The other item is the appropriations. Great progress has been made. But until we have the committee structure in place, we have a chairman at that juncture and we have 11 Senators, who have been duly elected, able to participate in that process, as I have said previously, we will remain in session to get our work done. What we will do if we do not make adequate progress is return next week, on Tuesday, after the holiday and remain in session each day and evening until we can complete both of these must-do items.

I yield to my colleague.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I appreciate the distinguished Republican leader, the majority leader's explanation to the Senate as to the current circumstances involving the organizing resolution. I have been through a number of these resolutions over the time that I have had the good fortune to be leader. I share his view that oftentimes these matters do not require a great deal of attention. I wish this would not require the time that it has. I am very hopeful we can resolve these matters. He and I have talked. Our staffs have talked. He has consulted with his chairs. I have consulted with 9 Democrat ranking members, currently the chairs, because they are the chairs until a new resolution has been incorporated. I have said on several occasions, to him personally as well as to my colleagues, that I will do all I can

to see if we can find a way to resolve the matter.

Let me respond to a couple of things on which the distinguished majority leader commented. First of all, while there have been occasions when a two-thirds/one-third funding breakdown has been the order of the organizing resolution, in the last Congress, in the 107th Congress, there were 51 Democrats and 49 Republicans. As he noted, it started at a point where there were 50 and 50. As we negotiated the resolution under a 50–50 Senate, we attempted to address what happens when you have membership in committees that is equal. We came to the conclusion that there is a significant budgetary, a significant practical space consideration to be given when you have membership on committees that close. There are times when, obviously, the disparity between the two parties and membership would reflect a need that also is commensurate budgetarily and in space, but with a 51–49 or a 50–50 Senate, clearly the budgetary, the staffing, the space questions become more relevant. That was really what our discussions were when we moved from 50–50 to 51–49 last spring. In fact, I would say as I negotiated with, I believe, five senior members of the Republican caucus, the issue of funding and the issue of space were not even at question. At that point, it was more a question of a blue slip and a number of other what I call extraneous matters that we attempted to resolve: How do we deal with judgeships? How do we deal with the question of a blue slip; that is, a Senator's prerogative to sign off on a nominee before it comes before the committee. That was the subject of discussion—not the funding, not the space.

So it was after several weeks of negotiation—and I emphasize weeks, not days—that we had to move back the time that officially we became the majority on committees by about 6 weeks. During that time, obviously, I would have preferred to have moved much more quickly, but we were unable to do that—again, not because of space and not because of budget but because of the question of blue slips.

When we did pass the resolution with a 51–49 breakdown in the Senate, we passed it with a recognition that those budgets and that space and those questions pertaining to membership on committees were as relevant with 51 Senators as they were when we had 50 Senators.

So the Senate established a precedent that was practical, that was in keeping with the functional responsibilities of the two parties and each committee. Again, I would emphasize, it passed unanimously, 51 to 49, virtually equal budgets, with an administrative bonus for the chairman to be allocated as that particular chair and ranking member saw fit. We lived under that resolution. It worked.

Now we have the reverse, the mirror image of that, 51–49, the same breakdown we had just a month ago. Yet some of our Republican colleagues are saying they want a budget that is dramatically different, a huge disparity, once again, between the Republican funding and the Democratic funding. If it was good for both parties in the last Congress with 51–49, we are simply saying it is good for this Congress. We are prepared to go to work tomorrow. We are prepared to move this legislation, and I want very much to work with my Republican colleagues and the majority leader to take up these priority matters. In fact, I said last week to the President, we do not need a new organizing resolution to do the work of the Senate. Sure, it would accommodate the new Senators, and we would like very much to get that done. But the Senators heard what I heard from the President just last week at our meeting. The President said it is urgent we move these nominations. It is urgent we take up some of these priorities. I indicated at that time we would be more than happy to move these nominations.

The Snow papers just arrived today, so it is not the fault of the Congress that we have not been able to hold hearings or confirm the Snow nomination. But with regard to all nominations, the Ridge nomination was supposed to be the subject of hearings tomorrow. I understand that was canceled. I am disappointed, in spite of the urgency expressed by the administration; their unwillingness to move ahead with the hearings sends a conflicting message with regard to just how urgent it is. We are prepared with whatever circumstances to deal with the nomination and to deal with these issues.

It is hard for me to understand the logic or the rationale for reversing what was done unanimously not once but twice in the 107th Congress, which was done in a way that reflected the balance in committees, reflected the functional and practical needs of the committees. That is all we are asking now. If it was good enough for a 51–49 Senate a month ago, it ought to be good enough for a 51–49 Senate today.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, I would say to my good friend, the Democratic leader, I was one of those five Republican Members who were appointed by Senator LOTT to discuss with you how we would go forward in the wake of Senator JEFFORDS' decision to leave us and to come over to your side. Your recollection is entirely correct. The reason for the delay was a discussion of how to handle the judges and the whole blue slip policy.

But on the issue of staffing, my recollection is the reason we had almost no discussion of that is that we didn't want to, in the middle of a Congress, disrupt the lives of a number of staff members on both sides who had signed on for 2 years. I think we all believed this was such an extraordinary circumstance, we didn't want to be sending out pink slips a mere 5 or 6 months into a new Congress since a lot of people had been hired for the Congress and were depending on this for a livelihood.

So my recollection of the reason we spent little or no time talking about changing the staffing was the compassionate decision, bipartisan compassionate decision, not to disrupt the lives of a great many members. I had no recollection that we discussed this to be sort of a permanent notion about how we would handle a 51–49 Senate at the beginning of a Congress. I have no recollection of that.

I just thought I would add my own thoughts to the Democratic leader's, having been a part of that discussion.

Mr. DASCHLE. Mr. President, if I could just respond quickly, and I don't want to belabor this, but I would say actually that was my belief, too—that we wanted to hold our Republican colleagues harmless, if you will, if that is the right phrase; in other words, to accommodate their staff.

But I think that the logic, again, ought to be extended. If that was the case, that we wanted to show some compassion for staff, we wanted to send a clear message about our intent to work in a meaningful and a bipartisan way, it would seem to me under a 51–49 Senate last time we made the decisions that the Senator from Kentucky has noted; we did so with an understanding about the disruption it would cause.

That isn't my first concern in this case, but it is a concern. I would think those staff would have every bit as much of an expectation now that they had a year ago—I guess it would be 2 years ago, in May—that certainly some continuity, some degree of certainty under these circumstances could be expected, given what we did before.

So I appreciate very much the Senator commenting. We will have more to say about it as time goes on.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I am ready to close. Let me yield 3 minutes to my colleague from Texas.

Mrs. HUTCHISON. Mr. President, I would just like to ask a question. We are sitting here talking about percentages and funding of committees. Why can't we just agree to set up the committees, appoint the chairmen, let them function, and decide on the percentages later? The people of America deserve for us to do their business. We have been organized for a week, but we don't have committees functioning and we don't have chairmen. The idea that we would sit here and hold the entire Senate, all the employees here, when we cannot have committee meetings and begin to do the work, just doesn't pass the smell test. I mean it is just ridiculous.

So I would ask the distinguished leaders on the Democratic side if they would allow us to draw up a resolution tonight—we could do it in 30 minutes—

organize the committees, let us appoint the chairmen, and we can talk about the funding later. We can agree that we will go forward. Since the appropriations bills have not been passed and the legislative branch is operating on the 2002 budget, let's go forward and organize, and we can deal with the money later. That is what I ask.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I just want to close and say that we have worked together, both sides of the aisle, aggressively over the last week. I do believe it is time for us to, as much as possible, bring this to a close, at least in terms of getting our committees set up and running.

I am ready to close unless my colleague has anything to add.

Mr. REID. I would just briefly say to the leader—I appreciate his courtesy in allowing me to speak—we waited 6 weeks last time. I was part of the wait. I understand how long it took. It may have been over blue slips or something else, but still the organizational resolution was held up for 6 weeks. I hope that isn't the case this time. I hope we can work it out more quickly. There has been a lot of debate on both sides. It has clearly been spread on the record of the Senate what the respective positions of both sides are.

Mr. FRIST. Mr. President, in closing, we have a lot of work to do. We got off to a good start last week with the unemployment insurance. We are making progress in terms of negotiations. But—and I mentioned this a few moments ago—the two issues that we have to address, as we look forward to this potential recess 8 or 9 days from now, are: The basic organization of the Senate, simply getting the committee assignments made; second, appropriations: And if we do not complete them, we will be back during the week, after the holiday.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 25, 2001 in Dumfries, VA. Two Afghan-American teenagers were beaten by a group of attackers. Police said that April Scruggs, 42, and her son, Jarvis Berkley Wilhoit, 19, had been taunting the victims for more than a month prior to the beating. Wilhoit and a group of friends approached the victims, who are brothers ages 16 and 17, and began hitting them. Scruggs joined the fight and hit the 17-year-old in the head with a wrench.

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 is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

INVESTORS ARE KEY TO ECONOMIC GROWTH

Mr. KYL. Mr. President, on January 7, I reintroduced the ''Contract with Investors,'' which proposes a number of changes to the tax code to spur investment and encourage economic growth and job creation.

Investment, especially by individuals, is the lifeblood of the U.S. economic system. They key to fostering robust economic growth, rather than the anemic growth we are seeing right now, is to eliminate the disincentives, the high tax rates, that discourage individuals from investing. Once individual investors return to the stock markets, or are encouraged to start up, or invest in existing, small businesses, we will get the growth that creates new, good jobs.

The first element of my proposal repeals from the 2001 tax-relief law the sunset provision that was required by arcane Senate budget rules. The prospect of taxes reverting back to their 2001 levels in 2011 sends a signal to businesses and investors that tax increases are in their future, and this dampens investment. Furthermore, a dramatic tax increase in 2011 will devastate our economy.

Next, I propose to accelerate the remaining marginal rate reductions from the 2001 law, moving the 2004 rate reductions to this year and the 2006 reductions to 2004. Lowering these rates benefits all taxpayers, and is the key to encouraging individuals to invest and take the economic risks that will create jobs. In our progressive income tax system, the marginal rate is the rate at which a person's last dollar of income is taxed. This means that a person who works harder and longer and earns more has those additional earnings taxed at the highest rate for which he or she qualifies. Reducing marginal rates encourages taxpayers to work harder and longer because they will not be taxed as much on that extra income. On the same principle, it makes sense to accelerate the planned tax-rate reductions. Phased-in reductions give taxpayers an incentive to put off income-producing activity into the future, when rates are scheduled to be lower. Accelerating the reductions gives taxpayers the incentive to engage in that income-producing activity immediately.

This also gives quicker relief to small businesses, which are typically taxed not at corporate, but at individual rates. Small businesses account for most new jobs and half of the output of our economy. Currently, the maximum income tax rate for C corporations is 35 percent; once the individual rate cuts are fully implemented, the top tax rate for individuals will also be 35 percent, instead of the current 38.6 percent. This will eliminate a penalty unfairly imposed on small businesses and enable them to expand and employ more workers.

The next element of my plan accelerates to 2005 repeal of the death tax, the estate and generation-skipping transfer taxes. The death tax is unfair and counterproductive and it must be permanently eliminated. A 1998 study by the Joint Economic Committee concluded that the existence of the death tax during the last century has reduced the amount of investors' capital in the economy by nearly half a trillion dollars. The same study estimates that, by repealing the death tax and putting those resources to better use, as many as 240,000 jobs could have been created over seven years and Americans would have had an additional $24.4 billion in disposable personal income.

In 2001 testimony before the Senate Finance Committee, Dr. Wilbur Steger, the president of Consad Research Corporation and a professor at Carnegie Mellon University, testified that immediate repeal of the death tax would provide a $40 billion automatic stimulus to the economy, based on estimates of the amount of net unrealized capital gains that would be ''unlocked.'' Many Americans choose to hold on to their assets until death in order to obtain for their heirs a ''step-up'' in basis. Getting rid of the death tax will encourage Americans to sell assets before death, hence my term ''unlocking.'' Repeal also removes the strongest disincentive to business investment and expansion that faces older business owners. After all, why would people in their golden years expand their businesses, when the federal government is poised to confiscate a large share upon their death?

Under current law, the death tax will go down to zero in 2010 but reappear thereafter, at exorbitant 2001 levels, thus adding significant complexity to future death tax planning, increasing costs that are a drag on economic activity, and retreating from a principled rejection of this unfair tax. This is unacceptable. Until the death tax is gone, family business, farms and ranches must still pay for expensive life insurance policies, death tax planners, and tax attorneys. These expenses, wasted resources that could be put to much more productive use, total more than $12 billion a year, according to Consad Research Corporation. My bill would, as I said, permanently repeal the death tax in 2005, thus allowing all Americans two years to plan for a future in which the federal government no longer taxes the death of its citizens.

The Contract with Investors also addresses capital gains. It provides for maximum taxation of individual capital gains at a rate of 10 percent, which is half the current rate. Ideally, this

tax should go the way of the death tax. The capital gains tax is a form of double taxation that penalizes risk-taking and entrepreneurship. Short of eliminating this tax, a solution endorsed by many economists, including Federal Reserve Chairman Alan Greenspan, Congress must enact a substantial and permanent reduction in the capital gains tax rate to stimulate new investment and more productive use of resources for both the short-term health of our economy.

According to a recent study by the American Council for Capital Formation, American taxpayers face capital gains tax rates that are 35 percent higher than those paid by average investors in other countries. Furthermore, the United States is one of a small number of countries that requires a holding period for an investment to qualify for preferential capital gains treatment. Reducing the capital gains rate will promote the type of productive business investment that fosters growth and creates high-paying jobs. Lowering rates will aid entrepreneurs in their effort to make advances in products, technologies, and services that people want and need.

The fifth component of the Contract with Investors modernizes the capital loss limitation of the tax code by increasing the amount of capital loss an individual may deduct against ordinary income from the current $3,000 to $10,000, and by indexing this amount for inflation. The capital loss limitation was set arbitrarily more than 25 years ago, and would have grown to $10,000 if it had been indexed for inflation when enacted. Modernizing this provision will allow investors to move out of unproductive assets or unfavorable investments, and use the profits to reinvest, save, or spend, as they choose.

My bill also encourages savings. It accelerates the increase in amounts that may be contributed to certain tax-qualified retirement savings plans, and raises the age at which mandatory distributions must begin. Increasing the annual, maximum individual retirement account, IRA, contribution to $5,000 and the annual, maximum 401(k) plan contribution to $15,000 will enable American workers to save more for the future by investing in businesses. Increasing from 70.5 to 75 the age at which seniors must begin making annual withdrawals from this tax-deferred retirement accounts will allow seniors who are approaching this arbitrary age to choose whether to maintain their investments, rather than being forced to divest.

Finally, the Contract with Investors eliminates the double taxation of dividends by excluding from gross income 100 percent of dividends received by individuals. Currently, corporations pay income taxes on their profits. Their investors are forced to pay income tax at the highest marginal rate applicable on amounts that corporations distribute to them in the form of dividends. The National Center for Policy Analysis has calculated that the combined tax rate on corporate profits is approximately 60 percent.

My bill will eliminate the tax imposed on individuals receiving dividends from domestic C corporations, which will produce higher returns on dividend-yielding equity investments. It will also remove the disincentive for corporations to pay dividends and put equity financing on the same tax-footing as debt financing. Eliminating the tax bias against equity will improve corporate governance at a time when the public is demanding better practices at American firms. It will reassure investors who may be concerned about companies taking on too much debt or making unwise or unnecessary investments with excess cash. Eliminating the double taxation of dividends will, like the other elements of my plan, encourage investment and foster economic expansion.

Finally, I have included five provisions under ''Sense of the Senate'' language. I believe that the Senate must act on these issues and I stand ready and willing to assist my colleagues in solving these problems.

First, Congress should pass legislation to safeguard American workers' pension and retirement accounts. Last Congress, the Finance Committee unanimously passed out of committee such a bill. The Senate and the House of Representatives should act quickly to pass similar legislation as soon as possible.

Second, Congress should modernize this country's international tax provisions to permit U.S. companies to better compete internationally. Our tax code places U.S. companies and the investors who own them at a distinct competitive disadvantage. Congress must modernize these provisions and move towards ending the current practice of taxing profits earned outside the boundaries of the United States.

Third, Congress must take the trouble to purge redundant, outdated, and unscientific regulatory burdens on investors and U.S. companies. Congress is quick to pass onerous new laws but slow to repeal them. This is an abdication of our responsibility as legislators. Before placing new burdens on investors and businesses, Congress should be required to perform a cost-benefit analysis and institute performance criteria to evaluate these new burdens on U.S. businesses and investors.

Fourth, Congress should enact meaningful tort reform as soon as possible.

Finally, Congress should enact meaning tax reform that simplifies the Internal Revenue Code and reduces the depreciation recovery periods that businesses are forced to use to recover the cost of capital investments.

Now is the time for bold action. A ''Contract with Investors'' is long overdue. I have laid out my principles. I look forward to future hearings and discussions with my colleagues. It's time to get working.

ADDITIONAL STATEMENTS

RETIREMENT OF GUY COATES

• Ms. LANDRIEU. Mr. President, I rise today on behalf of myself, Senator BREAUX, and the entire State of Louisiana to pay tribute to a real Louisiana legend, Guy Coates.

For the better part of 40 years, Guy Coates has reported on all aspects of Louisiana politics and State news. Guy Coates started his journalistic career as a reporter for KNOE–TV in Monroe and KSLA–TV in Shreveport. He joined the AP in 1968 in the New Orleans Bureau and moved to Baton Rouge in 1973. Guy became the bureau chief in Baton Rouge in 1991. He is currently the dean of Baton Rouge Press Corps.

Mr. Coates has a long and distinguished career as one of Louisiana's finest reporters. Guy covered his first governor, Jimmie Davis, in 1962 at a ground-breaking for Toledo Bend Lake. He covered his first legislative session in 1965 when John McKeithen was governor. For the AP, Coates has been involved in coverage of the New Orleans sniper; the 1973 constitutional convention; the Luling ferry disaster; various racial demonstrations; the big '73 flood; every statewide political campaign and election since 1968; GOP and Democratic National Conventions; Apollo 14; the Louisiana visit of Poe John Paul II; executions at Angola; the Oakdale prison riots; and he was the only reporter invited to the marriage of Edwin Edwards and Candy Picou. Guy served as a witness to history for all of us when he was the only AP reporter on the Gulf Coast during the landfall of Hurricane Camille in 1969.

Guy was perhaps best known for his alter ego, Jethro. As one reporter and colleague of Guy put it, Guy ''was unique among AP writers for his political column, which included the homespun, irreverent observation of his fictional friend, Jethro.'' In Guy's final column, today, he writes, ''So, it's time to join my old column soul mate, Jethro Rotheschild, who retired to our make believe world in the garage a few years ago.'' The entire State of Louisiana is going to miss the poignant insights into the political arena that made his opinion invaluable in any Louisiana political discourse.

I know that my colleague, Senator BREAUX joins me in wishing Guy and his wife Jonica McDaniel many happy years together in whatever endeavors they choose to pursue. Louisiana is losing one of our finest reporters, and we are better off having had him report on our State, Nation and the world.•

HONORING DON COOK

• Mr. JOHNSON. Mr. President, I am saddened to report the passing of one of South Dakota's most exceptional public leaders, Don Cook.

Don Cook was a widely respected representative, political strategist, and long time leader in the South Dakota

Democratic Party. He was greatly admired by his peers for his dedication to his community and local concerns. A principle figure in the State party, Don served as State Central Committeeman and Vice Chairman, as well as a delegate to the Democratic National Conventions in 1992 and 2000. His tremendous contributions to the community and public leadership set him apart from other outstanding South Dakotans.

Born in 1920, Don joined the U.S. Army in 1942 and served with General George Patton's Army in Europe where he was awarded the Bronze Star and five Battle Stars. A native of Missouri, Don moved to South Dakota 40 years ago, where he and his wife Maxie ran a very successful feed and seed business in Huron. They had two children, a daughter Connie and son Sid, who recently preceeded his father in death. An active member of the community, Don was a participating member of the First Presbyterian Church, the Huron Country Club, Yel Daz Shrine, American Legion, VFW, and the Huron Chamber of Commerce.

Like fellow Missouri native, President Harry Truman, Don was described as a regular guy who did not mince words. He was a staunch and determined political fighter, who unselfishly lent his support to many local politicians. A man of action and passion, Don made things happen and those around him proud to know him. His influence on South Dakota's political development is extraordinary, and extends here to our Nation's capital. He was a friend and supporter of both Senator DASCHLE and myself, both as State legislators and as representatives in Washington, D.C.

Through his outstanding community involvement and political activism the lives of countless South Dakotans were enormously enhanced. His work continues to inspire all those who knew him. I am proud to have been a friend of Don Cook. Our Nation and South Dakota are far better places because of his life, and while we miss him very much, the best way to honor his life is to emulate his commitment to public service and to his community.●

IN MEMORY OF EDWARD PIOTROWSKI

● Mr. KOHL. Mr. President, over the weekend one of my constituents, Edward J. Piotrowski, passed away. This eulogy was written by his son, Steve, a long time and greatly valued member of my State staff. Steve's words speak for themselves, but I would just add that Steve and his father are not at all average, but extraordinary citizens and contributors to the State of Wisconsin and the Nation.

The eulogy follows:

AN AVERAGE AMERICAN

An average American died today. His death did not make the evening news. Only his friends and family noticed his death. His death was unremarkable as was his life. Yet, his passing lessens us all a little bit.

He was the son of Polish immigrants. He grew up on a farm in Central Wisconsin. He attended a school that was taught in Polish, and he only had an eight-grade education. Yet, he was a smart man, and he was a kind and gentle man. He cared about other people and knew that part of his obligation in life was to help make his community a better place. He cared deeply about his family, his community, his church and his country. He never aspired to greatness, he only wanted to work hard and make life better for his family and community.

His was a simple life. He worked hard from the time he was young as one of thirteen children helping his family on the farm. He came of age during WWII, and in spite of the fact that he had and could have maintained a farm deferment, he volunteered to serve his country during the War. He was initially trained as an infantryman, but was then transferred to the Army Air Corps where he became a nose gunner on a B–24. He was scheduled to ship to the European theater of operations when one of his crewmembers was killed in a training accident. The Army broke up the crew and reassigned and retrained them. He was on his way to the Pacific when the war ended. I believe that he always regretted that he never got the opportunity to test his courage in combat but was also grateful that he along with his brothers made it home alive and well.

Shortly after the war, he met my mother and they married and began the process of raising their family. Eventually they had six children, and suffered through the loss of their first daughter at the age of two. He drove a semi-truck for nearly 20 years after the war. It was a good way to earn a living, but caused him to have to spend a great deal of time away from his home and family. He eventually decided to run his own business, a small service station in his small hometown. He loved to build and fix things, and this business, while trying at times, allowed him many opportunities to do that. After a while the changes in the service station business convinced him to look for work that better suited his skills and abilities.

He found a job as a carpenter; his life-long hobby was now also his occupation. He had a talent and dedication for wood working that was amazing. His ability to turn raw lumber into beautiful furniture and useful items was inspiring. He loved to spend his time in his workshop building furniture for his family and friends. He usually made his furniture only for friends and family, and he never charged anywhere near what his skills and labor could have demanded. He just wanted to create useful and beautiful things for others to enjoy. He donated his creations to his church and the community for their use and as items in various fundraisers.

He was not a man that showed his emotions easily. Like most men of his generation, he was taught to be stoic and composed in all situations. Yet, he showed his love for his family in so many ways every day. When his boys were young, go-carts were all the craze. He found an old Nash Rambler and using parts from the body and frame of the car, his own ingenuity, and his skills with wood working and welding, he built the boys a go-cart with a hood and seat and working lights. It was a rather funny looking little vehicle, but it gave the boys hours and hours of pleasure racing around the farm fields and yards.

When we moved off the farm and into town, there wasn't a place for us to play baseball. The only ballpark in town was set up for softball, and the river ran right behind the short left field fence causing us to loose many baseballs. He, along with a number of other fathers, talked to a man who owned an unused farm field on the edge of town and got permission for us to build a ball field. Using only their garden roto-tillers and hand tools, he led the fathers and boys in building, seeding and leveling a very useable ballpark for us kids. It was maintained and used for years by the kids in Amherst as a ballpark.

He also worked to fulfill the dreams of his daughters. He spent many hours building a dollhouse for his second daughter. It challenged his skills to work in such a small scale. Because she wanted it, he built it for her using left over materials from his home remodeling projects. She has that dollhouse in her home today. His last daughter wanted a playhouse. He built her one that many would have considered a starter home in early days. She still has the miniature cupboards and kitchen cabinets from that treasured play area.

For many years he was a member of the volunteer fire department. He regularly volunteered to help out with community improvement projects bringing his skills and work dedication to help make his hometown a better place. He always was willing to help his church, friends and family. He was a member of the local American Legion for many, many years. He always marched in the Memorial Day parade, and was especially proud when he was selected to be the flag bearer for the parade. Last year, in spite of the cancer that was slowly destroying him, he again was in the parade. He did make the concession to ride in the pick-up truck rather than march because of his loss of strength. He epitomized the dedication of a citizen that is necessary to make a city a true community.

Our father was never recognized as a celebrity. In fact, if you met him on the street, he would have appeared to be just an average American. In all so many ways he was just an average American, but he was the type of everyday American we need. He worked hard. He cared about his family and community. He gave of himself to help others and to make his small part of the world better. Most of all he set an example for his children, an example of what it takes to be a good person and to succeed in life by taking care of those things that really matter. As we got older we tried to let him know how well he had done in raising us and how much he meant to us. I don't think I could ever truly express to him how much he taught me by his example and his everyday kindness.

Edward J. Piotrowski, known to your family as Pops from the time we boys felt too old to call you daddy, you will be deeply missed. I hope that when you died you understood that we were proud to call you ''Pops''. I also hope that I can someday be considered as good a citizen of our great country as you were.

With love and respect, your children.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

Under the authority of the order of January 7, 2003, the Secretary of the Senate, on January 10, 2003, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 11. An act to extend the national flood insurance program.

Under the authority of the order of January 7, 2003, the enrolled bill was signed by the President pro tempore (Mr. STEVENS) on January 10, 2003.

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–271. A communication from the Assistant Secretary, Bureau of Indian Affairs, transmitting, pursuant to law, the report of a rule entitled ''Arrangement with States, Territories, or Other Agencies for Relief of Distress and Social Welfare of Indians'' received on December 16, 2002; to the Committee on Indian Affairs.

EC–272. A communication from the Acting Director, Office of Regulatory Law, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Vocational Training for Certain Children of Veterans—Covered Birth Defects and Spina Bifida'' received on December 12, 2002; to the Committee on Veterans' Affairs.

EC–273. A communication from the Chairman, Federal Election Committee, transmitting, pursuant to law, the report entitled ''FEC Policy Statement: Interim Reporting Procedures'' received on November 25, 2002; to the Committee on Rules and Administration.

EC–274. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Dental Devices; Classification for Intraoral Devices for Snoring and/or Obstructive Sleep Apnea'' received on December 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–275. A communication from the Director, White House Liaison, Office of Educational Research and Improvement, Department of Education, transmitting, the report of the elimination of the position of Assistant Secretary, received on December 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–276. A communication from the Director, White House Liaison, Office of Educational Research and Improvement, Department of Education, transmitting, the report of the creation of the position of Director, Institute of Education Sciences, received on December 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–277. A communication from the Director, White House Liaison, Office of Educational Research and Improvement, Department of Education, transmitting, pursuant to law, the report of nomination confirmed for the position of Assistant Inspector General, Department of Education, received on December 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–278. A communication from the Acting Assistant General Counsel, Division of Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Title I—Improving the Academic Achievement of the Disadvantaged'' received on December 2, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–279. A communication from the Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Prohibited Transaction Exemption 97–11'' received on December 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–280. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Possession, Use, and Transfer at Select Agents and Toxins'' received on December 9, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–281. A communication from the White Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Inspector General, received on October 9, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–282. A communication from the White House Liaison, Office of the Inspector General, Department of Education, transmitting, pursuant to law, the report of the designation of acting officer for the position of Inspector General, received on October 9, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–283. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Ear, Nose, and Throat Devices; Classification of the Transcutaneous Air Conduction Hearing Aid System'' received on December 1, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–284. A communication from the Regulations Coordinator, Center for Medicare Management, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2003 and Inclusion of Registered Nurses in the Personnel Provisions of the Critical Access Hospital Emergency Services Requirement for Frontier Areas and Remote Locations (RIN0938–AL21)'' received on January 2, 2003; to the Committee on Finance.

EC–285. A communication from the Secretary of Education, transmitting, pursuant to law, the report relative to the follow-up, required by Section 6(b) of the Federal Advisory Committee Act, on the report entitled ''The Power of the Internet for learning: Moving from Promise to Practice'' received on December 1, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–286. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–287. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Advance Reimbursement of Medical Expenses (Rev. Ruling 2002–80)'' received on December 2, 2002; to the Committee on Finance.

EC–288. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–83—Related Party Like-Kind Exchanges'' received on December 2, 2002; to the Committee on Finance.

EC–289. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Overpayments from a qualified plan'' received on December 2, 2002; to the Committee on Finance.

EC–290. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''RAP & RENT/SUPP PAYMENTS (Rev Ruling 2002–65)'' received on November 7, 2002; to the Committee on Finance.

EC–291. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–77—Bureau of Labor Statistics Price Indexes for Department Stores—September 2002'' received on November 7, 2002; to the Committee on Finance.

EC–292. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Biodiesel ((RR–136293–02) (Rev. Rul. 2002–76))'' received on November 25, 2002; to the Committee on Finance.

EC–293. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Taxpayer Identification Number Rule where Taxpayer Claims Treaty Rate and is Entitled to an Unexpected Payment'' received on November 25, 2002; to the Committee on Finance.

EC–294. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Information Reporting Relating to Taxable Stock Transactions ((RIN1545–BB40)(TD 9022))'' received on November 18, 2002; to the Committee on Finance.

EC–295. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2002–76—Disaster Relief Payments by lower Manhattan Development Corporation (Notice 2002–76)'' received on November 18, 2002; to the Committee on Finance.

EC–296. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Statement of Procedural Rules—Freedom of Information Act (RIN1545–AR99)'' received on November 21, 2002; to the Committee on Finance.

EC–297. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—December 2002 (Revenue Ruling 2002–81)'' received on November 21, 2002; to the Committee on Finance.

EC–298. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''CPI Adjustment for Section 7872(g) for 2003 (Rev. Rul, 2002–78)'' received on November 21, 2002; to the Committee on Finance.

EC–299. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''CPI Adjustment for Section 1274A for 2003 (Rev. Rul. 2002–79)'' received on November 21, 2002; to the Committee on Finance.

EC–300. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2003 annual covered compensation tables (Rev. Rul. 2002–63)'' received on November 14, 2002; to the Committee on Finance.

EC–301. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2002 Base Period T-Bill Rate (Rev. Rul. 2002–68)'' received on November 14, 2002; to the Committee on Finance.

EC–302. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Substantiation of Incidental Expenses (RIN1545–BB19)'' received on November 14, 2002; to the Committee on Finance.

EC–303. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Aggregation of Annuity Contracts (Rev. Rul. 2002–75)'' received on November 14, 2002; to the Committee on Finance.

EC–304. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Annual pension plan, etc., cost-of-living adjustments for 2003 (Notice 2002–71)'' received on November 14, 2002; to the Committee on Finance.

EC–305. A communication from the Regulations Coordinator, Center for Medicare Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Fee Schedule for Payment of Ambulance Services—Update for C42003 ((CMS–1220–N) (RIN0938–AL97))'' received on December 2, 2002; to the Committee on Finance.

EC–306. A communication from the Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Extension of Expiration Date for the Respiratory System Listings (RIN0960–AF76)'' received on November 25, 2002; to the Committee on Finance.

EC–307. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the report relative to state advisory committee being rechartered by the U.S. Commission on Civil Rights (Commission); to the Committee on the Judiciary.

EC–308. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the report relative to the rechartering of the Washington State Advisory committee by the Commission on Civil Rights; to the Committee on the Judiciary.

EC–309. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Retention and Reporting of Information for F, J, and M Nonimmigrants; Student and Exchange Visitor Information System 9(SEVIS)(RIN1115–AF55)''; to the Committee on the Judiciary.

EC–310. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Requirements for Biometric Border Crossing Identification Cards (BCC's) and Elimination of Non-Biometric BCCs on Mexican and Canadian Borders (RIN1115–AF24)'' received on November 25, 2002; to the Committee on the Judiciary.

EC–311. A communication from the Administrator, Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Pacific Northwest Marketing Area—Interim Order—Implementing the amendments to the Pacific Northwest milk order. Has received producer approval. (DA–01–06; AO–368–A29)'' received on November 19, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–312. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Apples; Grade Standards (Doc. Number: FV–98–303)'' received on November 19, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–313. A communication from the Administrator, Tobacco Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tobacco Inspection; Mandatory Grading (RIN0581–AC20)'' received on November 19, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–314. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit (Doc. No. FV02–905–5 FIR)'' received on November 19, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–315. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Walnuts Grown in California; Decreased Assessment Rate (Doc. No. FV02–984–1 FR)'' received on November 19, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–316. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Reduction in Membership on the Area No. 3 Colorado Potato Administration Committee (Doc. No. FV02–948–2 FR)'' received on November 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–317. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Decreased Assessment Rate (Doc. No. FV02–993–4FIR)'' received on November 19, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–318. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit Grown in California; Relaxation of Pack and Container Requirements (Doc. No. FV02–920–3 FIR)'' received on November 19, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–319. A communication from the Chief, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a final interim rule entitled ''Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts to Facilitate Urgent Removal From Other Lands'' received on December 10, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–320. A communication from then Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''7 CFR Part 1710, Demand Side Management and Renewable Energy Systems (RIN0572–AB65)'' received on December 2, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–321. A communication from then Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''7 CFR Part 1710 and 1717, Exceptions of RUS Operational Controls Under Section 306E of the RE Act (RIN0572–AB68)'' received on December 2, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–322. A communication from the Chairman and Chief Executive Officer, Farm Credit Union, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation (RIN3052–AC12)'' received on December 1, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–323. A communication from the Acting Principle Deputy Associate Administration, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyromazine; Pesticide Tolerance (FRL7274–8)'' received on December 2, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–324. A communication from the Acting Principle Deputy Associate Administration, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus Cereus Strain BPO1; exemption from the Requirement of a Tolerance (FRL7277–3)'' received on November 18, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–325. A communication from the Acting Principle Deputy Associate Administration, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticides; Tolerance Exemptions for Active and Inert Ingredients for Use in Antimicrobial Formulations (Food-Contact Surface Sanitizing Solutions)(FRL6824–2)'' received on December 2, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–326. A communication from the Acting Principle Deputy Associate Administration, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyriproxyfen; Pesticide Tolerance for Emergency Exemption (FRL 7281–2)'' received on December 2, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–327. A communication from the Acting Principle Deputy Associate Administration, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyrithiobac Sodium (sodium 2-chloro-6[(4, 6-dimethoxyprimidim-2-yl)thio]benzoate); Pesticide Tolerance (FRL 7279–5)'' received on December 2, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–328. A communication from the Acting Principle Deputy Associate Administration, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Carboxin. Pesticide Tolerance (FRL7282–1)'' received on December 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–329. A communication from the Acting Principle Deputy Associate Administration, Office of the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Perfluoroalkyl Sulfonates; Significant New Use Rule (FRL7279–1)'' received on December

4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–330. A communication from the President of the United States, transmitting, pursuant to law, the report relative to militarily significant benchmarks for conditions that would achieve a sustainable peace in Kosovo and ultimately allow for the withdrawal of the United States military presence in Kosovo, received on December 1, 2002; to the Committee on Foreign Relations.

EC–331. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992, received on December 4, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–332. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the national emergency with the respect to Burma that was declared in Executive Order 13047 of May 20, 1997, received on December 1, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–333. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the national emergency declared by Executive Order 13222 of August 17, 2001, to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, received on December 2, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–334. A communication from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report for a rule entitled ''Housing Choice Voucher Program Homeownership Option; Eligibility of Units Owned or Controlled by a Public Housing Agency (RIN2577–AC39)'' received on November 25, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–335. A communication from the Assistant General Counsel for Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report for a rule entitled ''Housing Choice Voucher Program Homeownership Option: Eligibility of Units Owned or Controlled by a Public Housing Agency; Correction (RIN2577–AC39)'' received on November 25, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–336. A communication from the General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report for a rule entitled ''Final Flood Elevation Determinations 67 FR 67125 (44 CFR Part 67)'' received on December 4, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–337. A communication from the General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report for a rule entitled ''Changes in Flood Elevation Determinations 67 FR 67123 (44 CFR Part 65)'' received on December 4, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–338. A communication from the General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report for a rule entitled ''Changes in Final Flood Elevation Determination 67 FR 65718 (Doc. No. FEMA–B–7431)'' received on December 4, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–339. A communication from the General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report for a rule entitled ''Change in Flood Elevation Determinations 67 FR 67119 (Doc. No. FEMA–D–7531)'' received on December 4, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–340. A communication from the General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report for a rule entitled ''Suspension of Community Eligibility 67 FR 67117 (Doc. No. FEMA–7795)'' received on December 4, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–341. A communication from the General Counsel, Office of the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report for a rule entitled ''Final Flood Elevation Determination 67 FR 67126 (44 CFR Part 67)'' received on December 4, 2002; to the Committee on Banking, Housing, and Urban Affairs.

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. DAYTON:

S. 142. A bill to amend the Internal Revenue Code of 1986 to allow medicare beneficiaries an advanced refundable credit against income tax for the purchase of outpatient prescription drugs; to the Committee on Finance.

By Mr. INOUYE:

S. 143. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself, Mr. HAGEL, Mr. DASCHLE, Mr. CRAPO, Mr. BAUCUS, Mr. BURNS, Mr. DORGAN, Mr. SMITH, Mr. JOHNSON, and Mr. ENSIGN):

S. 144. A bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; to the Committee on Energy and Natural Resources.

By Mr. KYL (for himself, Mr. MCCAIN, Mr. SESSIONS, and Mr. BAYH):

S. 145. A bill to prohibit assistance to North Korea or the Korean Peninsula Development Organization, and for other purposes; to the Committee on Foreign Relations.

By Mr. DEWINE (for himself, Mr. GRAHAM of South Carolina, Mr. VOINOVICH, Mr. BROWNBACK, Mr. ENSIGN, Mr. ENZI, Mr. INHOFE, Mr. NICKLES, Mr. SANTORUM, and Mr. FITZGERALD):

S. 146. A bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 147. A bill to amend title 18 of the United States Code to add a general provision for criminal attempt; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 148. A bill to provide for the Secretary of Homeland Security to be included in the line of Presidential succession; to the Committee on Rules and Administration.

By Mr. DEWINE (for himself and Mr. CRAPO):

S. 149. A bill to improve investigation and prosecution of sexual assault cases with DNA evidence, and for other purposes; to the Committee on the Judiciary.

By Mr. ALLEN:

S. 150. A bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. LEAHY, and Mr. BENNETT):

S. 151. A bill to amend title 18, United States Code, with respect to the sexual exploitation of children; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 6, a bill to enhance homeland security and for other purposes.

S. 16

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 16, a bill to protect the civil rights of all Americans, and for other purposes.

S. 17

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 17, a bill to initiate responsible Federal actions that will reduce the risks from global warming and climate change to the economy, the environment, and quality of life, and for other purposes.

S. 99

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 99, a bill for the relief of Jaya Gulab Tolani and Hitesh Gulab Tolani.

S. 101

At the request of Mr. HATCH, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 101, a bill to authorize salary adjustments for Justices and judges of the United States for fiscal year 2003.

S. 119

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 119, a bill to provide special minimum funding requirements for certain pension plans maintained pursuant to collective bargaining agreements.

S. 120

At the request of Mrs. HUTCHISON, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 120, a bill to eliminate the marriage tax penalty permanently in 2003.

S. 125

At the request of Mr. ROBERTS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 125, a bill to provide emergency disaster assistance to agricultural producers.

S. 138

At the request of Mr. ROCKEFELLER, the name of the Senator from New

York (Mr. SCHUMER) was added as a cosponsor of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. CON. RES. 1

At the request of Mr. SARBANES, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from South Dakota (Mr. DASCHLE), the Senator from North Dakota (Mr. DORGAN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Con. Res. 1, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself, Mr. HAGEL, Mr. DASCHLE, Mr. CRAPO, Mr. BAUCUS, Mr. BURNS, Mr. DORGAN, Mr. SMITH, Mr. JOHNSON, and Mr. ENSIGN):

S. 144. A bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I would like to address an issue of enormous economic magnitude, but one that many are only vaguely familiar with. This issue is extremely important to those of us in the West and around the country because it affects countless farmers, ranchers, public land managers and private landowners, and it literally knows no boundaries.

Noxious weeds threaten fully two-thirds of all endangered species and are now considered by some experts to be the second most important threat to bio-diversity. In some areas in the West, spotted knapweed and thistle grows so dense that big game wildlife are forced to move out of the area to find edible plants. Noxious weeds also increase soil erosion, and prevent recreationists from accessing land that is infested with poisonous plants.

I believe stopping the spread of noxious weeds requires a two pronged effort. First, we must prevent new nonnative weed species from becoming established in the United States, and second, we must stop or slow the spread of the noxious weeds currently present in our country.

I have stood before Congress for a number of years pushing legislation and speaking on the issue of noxious weeds. I know some in the Senate tire of hearing me bring up this issue, but growing up on a farm and ranch in western Idaho, I have experienced the destruction caused when noxious weeds are not treated and are left to overtake native species. Two-thirds of our land in Idaho is owned by the Federal Government. Our Montana, Washington, and Oregon neighbors all have comparable Federal ownership. State and private land borders much of these Federal lands. I have seen the devastation noxious weeds can have when unchecked and not effectively treated or managed largely due to lack of resources.

Because of these problems, during the 106th Congress I introduced and worked to pass the Plant Protection Act. That bill primarily dealt with the Animal Plant Health Inspection Service's, APHIS, authority to block or regulate the importation or movement of a noxious weed and plant pest, and it also provides authority for inspection and enforcement of the regulations. Basically the bill focused on stopping the weeds at our borders.

Last Congress, along with 16 of my colleagues, I introduced S. 198, the ''Noxious Weed Control Act.'' We held two Committee hearings on the bill, and it passed the Senate in November. Unfortunately there was not time to reconcile the bill with the other body, so we are introducing the legislation again.

To develop the Noxious Weed Control Act, I worked tirelessly with the National Cattlemen's Beef Association, Public Lands Council, and The Nature Conservancy. This legislation will provide a mechanism to get funding to the local level where weeds can be fought in a collaborative way. Working together is what this entire initiative is all about.

Specifically, this bill establishes, in the Office of the Secretary of the Interior, a program to provide assistance through States to eligible weed management entities. The Secretary of the Interior would appoint an Advisory Committee of ten individuals to make recommendations to the Secretary regarding the annual allocation of funds. The Secretary, in consultation with the Advisory Committee, would allocate funds to States to provide funding to eligible weed management entities to carry out projects approved by States to control or eradicate harmful, non-native weeds on public and private lands. Funds would be allocated based on several factors, including but not limited to: the seriousness of the problem in the State; the extent to which the Federal funds will be used to leverage non-Federal funds to address the problem; and the extent to which the State has already made progress in addressing the problems.

The bill directs that the States may use 8 percent of their allocation to fund applied research to solve locally significant weed management problems and solutions. States may also allocate 25 percent of available funding to encourage the formation of weed management areas and to carry out projects relating to the control and eradication of noxious weeds, and 75 percent for financial awards to eligible weed management entities. To be eligible for funding, a weed management entity must be established by local stakeholders for weed management or public education purposes, provide the State a description of its purpose and proposed projects, and fulfill any other requirements set by the State. Projects would be evaluated, giving equal consideration to economic and natural values, and selected for funding based on factors such as the seriousness of the problem, the likelihood that the project will address the problem, and the comprehensiveness of the project's approach to the noxious weed problem within the State. A 50 percent of non-Federal match is required to receive the funds.

The Department of Agriculture in Idaho, ISDA, has developed a ''Strategic Plan for Managing Noxious Weeds'' through a collaborative effort involving private landowners, State and Federal land managers, State and local governmental entities, and other interested parties. Cooperative Weed Management Areas, CWMAs, are the centerpiece of the strategic plan. CWMAs cross jurisdictional boundaries to bring together all landowners, land managers, and interested parties to identify and prioritize noxious weed strategies within the CWMA in a collaborative manner. The primary responsibilities of the ISDA are to provide coordination, administrative support, facilitation, and project cost-share funding for this collaborative effort. Idaho already has a record of working in a collaborative way on this issue, my legislation will build on the progress we have had, and establish the same formula for success in other States.

As I have said before, noxious weeds are a serious problem on both public and private lands across the Nation. Like a ''slow burning wildfire,'' noxious weeds take land out of production, force native species off the land, and interrupt the commerce and activities of all those who rely on the land for their livelihoods, including farmers, ranchers, recreationists, and others.

I believe we must focus our efforts to rid our lands of this devastating invader. Noxious weeds are not only a problem for farmers and ranchers, but a hazard to our environment, economy, and communities in Idaho, the West, and for the country as a whole. We must reclaim the rangeland for natural species. Noxious weeds do not recognize property boundaries, so if we want to win this war on weeds, we must integrate all stakeholders at the Federal, State, local, and individual levels. The Noxious Weed Control Act is an important step to ensure we are diligent in stopping the spread of these weeds. I am confident that if we work together at all levels of government and throughout our communities, we can protect our land, livelihood, and environment.

I urge my colleagues to support this effort.

By Mr. KYL (for himself, Mr. MCCAIN, Mr. SESSIONS, and Mr. BAYH):

S. 145. A bill to prohibit assistance to North Korea or the Korean Peninsula Development Organization, and for other purposes; to the Committee on Foreign Relations.

Mr. KYL. Mr. President, I ask unanimous consent that the text of the North Korea Democracy Act of 2003 be printed in the RECORD.

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

S. 145

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 ''North Korea Democracy Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Under the Agreed Framework of October 21, 1994, North Korea committed to—

(A) freeze and eventually dismantle its graphite-moderated reactors and related facilities;

(B) implement the North-South Joint Declaration on the Denuclearization of the Korean Peninsula, which prohibits the production, testing, or possession of nuclear weapons; and

(C) allow implementation of its IAEA safeguards agreement under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) for nuclear facilities designated under the Agreed Framework and any other North Korean nuclear facilities.

(2) The General Accounting Office has reported that North Korea has diverted heavy oil received from the United States-led Korean Peninsula Energy Development Organization for unauthorized purposes in violation of the Agreed Framework.

(3) On April 1, 2002, President George W. Bush stated that he would not certify North Korea's compliance with all provisions of the Agreed Framework.

(4) North Korea has violated the basic terms of the Agreed Framework and the North-South Joint Declaration on the Denuclearlization of the Korean Peninsula by pursuing the enrichment of uranium for the purpose of building a nuclear weapon and by ''nuclearizing'' the Korean peninsula.

(5) North Korea has admitted to having a covert nuclear weapons program and declared the Agreed Framework nullified.

(6) North Korea has announced its intention to restart the 5-megawatt reactor and related reprocessing facility at Yongbyon, which were frozen under the Agreed Framework, and has expelled the IAEA personnel monitoring the freeze.

(7) North Korea has announced its intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968 (21 UST 483).

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREED FRAMEWORK.—The term ''Agreed Framework'' means the Agreed Framework Between the United States of America and the Democratic People's Republic of Korea, signed in Geneva on October 21, 1994, and the Confidential Minute to that agreement.

(2) IAEA.—The term ''IAEA'' means the International Atomic Energy Agency.

(3) KEDO.—The term ''KEDO'' means the Korean Peninsula Energy Development Organization.

(4) NORTH KOREA.—The term ''North Korea'' means the Democratic People's Republic of Korea.

(5) NPT.—The term ''NPT'' means the Treaty on the Non-Proliferation of Nuclear Weapons done at Washington, London, and Moscow, July 1, 1968 (22 UST 483).

SEC. 4. SENSE OF CONGRESS REGARDING THE AGREED FRAMEWORK AND THE NORTH KOREAN NUCLEAR WEAPONS PROGRAM.

It is the sense of Congress that—

(1) the Agreed Framework is, as a result of North Korea's own illicit and deceitful actions over several years and recent declaration, null and void;

(2) North Korea's pursuit and development of nuclear weapons—

(A) is of grave concern and represents a serious threat to the security of the United States, its regional allies, and friends;

(B) is a clear and present danger to United States forces and personnel in the region and the United States homeland; and

(C) seriously undermines the security and stability of Northeast Asia; and

(3) North Korea must immediately come into compliance with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and other commitments to the international community by—

(A) renouncing its nuclear weapons and materials production ambitions;

(B) dismantling its nuclear infrastructure and facilities;

(C) transferring all sensitive nuclear materials, technologies, and equipment (including nuclear devices in any stage of development) to the IAEA forthwith; and

(D) allowing immediate, full, and unfettered access by IAEA inspectors to ensure that subparagraphs (A), (B), and (C) have been fully and verifiably achieved; and

(4) any diplomatic solution to the North Korean crisis—

(A) should take into account that North Korea is not a trustworthy negotiating partner;

(B) must achieve the total dismantlement of North Korea's nuclear weapons and nuclear production capability; and

(C) must include highly intrusive verification requirements, including on-site monitoring and free access for the investigation of all sites of concern, that are no less stringent than those imposed on Iraq pursuant to United Nations Security Council Resolution 1441 (2002) and previous corresponding resolutions.

SEC. 5. PROHIBITION ON UNITED STATES ASSISTANCE UNDER THE AGREED FRAMEWORK.

No department, agency, or entity of the United States Government may provide assistance to North Korea or the Korean Peninsula Energy Development Organization under the Agreed Framework.

SEC. 6. LIMITATIONS ON NUCLEAR COOPERATION.

(a) RESTRICTION ON ENTRY INTO FORCE OF NUCLEAR COOPERATION AGREEMENT AND IMPLEMENTATION OF THE AGREEMENT.—Section 822(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(b)(7) of Public Law 106–113; 113 Stat. 1501A–472) is amended to read as follows:

''(a) IN GENERAL.—

''(1) RESTRICTIONS.—Notwithstanding any other provision of law or any international agreement, unless or until the conditions described in paragraph (2) are satisfied—

''(A) no agreement for cooperation (as defined in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014 b.)) between the United States and North Korea may become effective;

''(B) no license may be issued for export directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement;

''(C) no approval may be given for the transfer or retransfer directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement;

''(D) no license may be issued under the Export Administration Act of 1979 for the export to North Korea of any item or related technical data which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978, could be of significance for nuclear explosive purposes or the production of nuclear materials;

''(E) no license may be issued under section 109 b. of the Atomic Energy Act of 1954 for the export to North Korea of any component, substance, or item that is subject to a license requirement under such section;

''(F) no approval may be granted, under the Export Administration Act of 1979 or section 109 b.(3) of the Atomic Energy Act of 1954, for the retransfer to North Korea of any item, technical data, component, or substance described in subparagraph (D) or (E); and

''(G) no authorization may be granted under section 57 b.(2) of the Atomic Energy Act of 1954 for any person to engage, directly or indirectly, in the production of special nuclear material (as defined in section 11 aa. of the Atomic Energy Act of 1954) in North Korea.

''(2) CONDITIONS.—The conditions referred to in paragraph (1) are that—

''(A) the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that—

''(i) North Korea has come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), and has taken all steps that have been deemed necessary by the IAEA in this regard;

''(ii) North Korea has permitted the IAEA full access to—

''(I) all additional sites and all information (including historical records) deemed necessary by the IAEA to verify the accuracy and completeness of North Korea's initial report of May 4, 1992, to the IAEA on all nuclear sites and material in North Korea; and

''(II) all nuclear sites deemed to be of concern to the IAEA subsequent to that report;

''(iii) North Korea has consistently and verifiably taken steps to implement the Joint Declaration on Denuclearization, and is in full compliance with its obligations under numbered paragraphs 1, 2, and 3 of the Joint Declaration on Denuclearization;

''(iv) North Korea does not have uranium enrichment or nuclear reprocessing facilities, and is making no progress toward acquiring or developing such facilities;

''(v) North Korea does not have nuclear materials or nuclear weapons and is making no effort to acquire, develop, test, produce, or deploy such weapons; and

''(vi) the transfer, approval, licensing, or authorization of any of such materials, components, facilities, goods, services, technologies, data, substances or production to, for or in North Korea is in the national interest of the United States; and

''(B) there is enacted into law a joint resolution stating in substance the approval of Congress of such action.''.

(b) CONFORMING AMENDMENT.—Section 822(b) of such Act is amended by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

SEC. 7. APPLICATION OF UNITED STATES SANCTIONS.

(a) AUTHORITY TO IMPOSE ADDITIONAL UNITED STATES SANCTIONS AGAINST NORTH KOREA.—The President is authorized to exercise any of his authorities under the Foreign Assistance Act of 1961, the Arms Export Control Act, the International Emergency Economic Powers Act, or any other provision of law to impose full economic sanctions against North Korea, or to take any other appropriate action against North Korea, including the interdiction of shipments of weapons, weapons-related components, materials, or technologies, or dual-use items traveling to or from North Korea, in response to the activities of North Korea to develop nuclear weapons in violation of North Korea's international obligations.

(b) PROHIBITION ON AVAILABILITY OF FUNDS FOR EASING OF SANCTIONS AGAINST NORTH KOREA.—None of the funds appropriated under any provision of law may be made available to carry out any sanctions regime against North Korea that is less restrictive than the sanctions regime in effect against North Korea immediately prior to the September 17, 1999, announcement by the President of an easing of sanctions against North Korea.

SEC. 8. PURSUIT OF MULTILATERAL MEASURES.

The President should take all necessary and appropriate actions to obtain—

(1) international condemnation of North Korea for its pursuit of nuclear weapons and serious breach of the Treaty on the Non-Proliferation of Nuclear Weapons and other international obligations, and

(2) multilateral diplomatic and economic sanctions against North Korea that are at least as restrictive as United Nations Security Council Resolution 661 concerning Iraq.

SEC. 9. TREATMENT OF REFUGEES FROM NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should begin immediately to work with other countries in the region to adopt a policy with respect to refugees from North Korea that would—

(1) guarantee all such refugees safe arrival in a country of first asylum in which the refugees would stay on a temporary basis; and

(2) promote burden-sharing of refugee costs between countries by providing for the resettlement of the refugees from the country of first asylum to a third country.

(b) ELIGIBILITY FOR REFUGEE STATUS.—

(1) IN GENERAL.—In the case of an alien who is a national of North Korea, the alien may establish, for purposes of admission as a refugee under section 207 of the Immigration and Nationality Act, that the alien has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution.

(2) NOT TREATED AS NATIONAL OF SOUTH KOREA.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of North Korea shall not be considered a national of the Republic of Korea.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 10. INCREASED BROADCASTING BY RADIO FREE ASIA.

(a) IN GENERAL.—In making grants to Radio Free Asia, the Broadcasting Board of Governors shall ensure that Radio Free Asia increases its broadcasting with respect to North Korea to 24 hours each day.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 11. SENSE OF CONGRESS.

It is the sense of Congress that the United States, in conjunction with the Republic of Korea and other allies in the Pacific region, should take measures, including military reinforcements, enhanced defense exercises and other steps as appropriate, to ensure—

(1) the highest possible level of deterrence against the multiple threats that North Korea poses; and

(2) the highest level of readiness of United States and allied forces should military action become necessary.

SEC. 12. PRESIDENTIAL REPORT.

Not later than 180 days after the date of enactment of this Act, the President shall submit a report to Congress regarding his actions to implement the provisions of this Act.

By Mr. DEWINE (for himself, Mr. GRAHAM of South Carolina, Mr. VOINOVICH, Mr. ENSIGN, Mr. BROWNBACK, Mr. ENZI, Mr. INHOFE, Mr. NICKLES, Mr. SANTORUM, and Mr. FITZGERALD):

S. 146. A bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence; to the Committee on the Judiciary.

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

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

S. 146

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 ''Unborn Victims of Violence Act of 2003''.

SEC. 2. PROTECTION OF UNBORN CHILDREN.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 90 the following:

''CHAPTER 90A—PROTECTION OF UNBORN CHILDREN

''§ 1841. Causing death of or bodily injury to unborn child

''(a)(1) Any person who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

''(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided for that conduct under Federal law had that injury or death occurred to the unborn child's mother.

''(B) An offense under this section does not require proof that—

''(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

''(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

''(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall be punished as provided under section 1111, 1112, or 1113, as applicable, for intentionally killing or attempting to kill a human being, instead of the penalties that would otherwise apply under subparagraph (A).

''(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

''(b) The provisions referred to in subsection (a) are the following:

''(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), 844(f), 844(h)(1), 844(i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952(a)(1)(B), 1952(a)(2)(B), 1952(a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

''(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

''(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

''(c) Subsection (a) does not permit prosecution—

''(1) for conduct relating to an abortion for which the consent of the pregnant woman has been obtained or for which such consent is implied by law in a medical emergency;

''(2) for conduct relating to any medical treatment of the pregnant woman or her unborn child; or

''(3) of any woman with respect to her unborn child.

''(d) In this section—

''(1) the terms 'child in utero' and 'child, who is in utero' mean a member of the species homo sapiens, at any stage of development, who is carried in the womb; and

''(2) the term 'unborn child' means a child in utero.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following:

SEC. 3. MILITARY JUSTICE SYSTEM.

(a) PROTECTION OF UNBORN CHILDREN.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following:

''§ 919a. Art. 119a. Causing death of or bodily injury to unborn child

''(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

''(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment for that conduct under this chapter had that injury or death occurred to the unborn child's mother.

''(B) An offense under this section does not require proof that—

''(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

''(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

''(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall be punished as provided under section 918, 919, or 880 of this title (article 118, 119, or 80), as applicable, for intentionally killing or attempting to kill a human being, instead of

the penalties that would otherwise apply under subparagraph (A).

''(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

''(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 111, 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

''(c) Subsection (a) does not permit prosecution—

''(1) for conduct relating to an abortion for which the consent of the pregnant woman has been obtained or for which such consent is implied by law in a medical emergency;

''(2) for conduct relating to any medical treatment of the pregnant woman or her unborn child; or

''(3) of any woman with respect to her unborn child.

''(d) In this section—

''(1) the terms 'child in utero' and 'child, who is in utero' mean a member of the species homo sapiens, at any stage of development, who is carried in the womb; and

''(2) the term 'unborn child' means a child in utero.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after the item relating to section 919 the following:

''919a. 119a. Causing death of or bodily injury to unborn child.''.

By Mr. DEWINE:

S. 147. A bill to amend title 18 of the United States Code to add a general provision for criminal attempt; to the Committee on the Judiciary.

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

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

S. 147

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 ''General Attempt Provision Act''.

SEC. 2. ESTABLISHMENT OF GENERAL ATTEMPT OFFENSE.

(a) Chapter 19 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking ''Conspiracy'' and inserting ''Inchoate offenses''; and

(2) by adding at the end the following:

''§ 374. Attempt to commit offense

''(a) IN GENERAL.—Whoever, acting with the state of mind otherwise required for the commission of an offense described in this title, intentionally engages in conduct that, in fact, constitutes a substantial step toward the commission of the offense, is guilty of an attempt and is subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt, except that the penalty of death shall not be imposed.

''(b) INABILITY TO COMMIT OFFENSE; COMPLETION OF OFFENSE.—It is not a defense to a prosecution under this section—

''(1) that it was factually impossible for the actor to commit the offense, if the offense could have been committed had the circumstances been as the actor believed them to be; or

''(2) that the offense attempted was completed.

''(c) EXCEPTIONS.—This section does not apply—

''(1) to an offense consisting of conspiracy, attempt, endeavor, or solicitation;

''(2) to an offense consisting of an omission, refusal, failure of refraining to act;

''(3) to an offense involving negligent conduct; or

''(4) to an offense described in section 1118, 1120, 1121, or 1153.

''(d) AFFIRMATIVE DEFENSE.—

''(1) IN GENERAL.—It is an affirmative defense to a prosecution under this section, on which the defendant bears the burden of persuasion by a preponderance of the evidence, that, under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant prevented the commission of the offense.

''(2) DEFINITION.—For purposes of this subsection, a renunciation is not 'voluntary and complete' if it is motivated in whole or in part by circumstances that increase the probability of detection or apprehension or that make it more difficult to accomplish the offense, or by a decision to postpone the offense until a more advantageous time or to transfer the criminal effort to a similar objective or victim.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 19 of title 18, United States Code, is amended by adding at the end the following:

''374. Attempt to commit offense.''.

SEC. 3. RATIONALIZATION OF CONSPIRACY PENALTY AND CREATION OF RENUNCIATION DEFENSE.

Section 371 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking ''If two or more'' and inserting the following:

''(a) IN GENERAL.—If 2 or more''; and

(B) by striking ''either to commit any offense against the United States, or'';

(2) by striking the second undesignated paragraph; and

(3) by adding at the end the following:

''(b) CONSPIRACY.—If 2 or more persons conspire to commit any offense against the United States, and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be subject to the same penalties as those prescribed for the most serious offense, the commission of which was the object of the conspiracy, except that the penalty of death shall not be imposed.''.

By Mr. DEWINE:

S. 148. A bill to provide for the Secretary of Homeland Security to be included in the line of Presidential succession; to the Committee on Rules and Administration.

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

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

S. 148

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

SECTION 1. SECRETARY OF HOMELAND SECURITY IN PRESIDENTIAL LINE OF SUCCESSION.

Section 19(d)(1) of title 3, United States Code, is amended by inserting ''Secretary of Homeland Security,'' after ''Attorney General,''.

By Mr. DEWINE (for himself and Mr. CRAPO):

S. 149. A bill to improve investigation and prosecution of sexual assault cases with DNA evidence, and for other purposes; to the Committee on the Judiciary.

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

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

S. 149

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 ''Rape Kits and DNA Evidence Backlog Elimination Act of 2003''.

SEC. 2. REAUTHORIZATION OF DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000.

Section 2(j) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) $25,000,000 for fiscal year 2004;

''(E) $25,000,000 for fiscal year 2005;

''(F) $25,000,000 for fiscal year 2006; and

''(G) $25,000,000 for fiscal year 2007.''; and

(2) in paragraph (2)—

(A) in subparagraph (C), by striking ''and''; and

(B) by striking subparagraph (D), and inserting the following:

''(D) $75,000,000 for fiscal year 2004;

''(E) $75,000,000 for fiscal year 2005;

''(F) $25,000,000 for fiscal year 2006; and

''(G) $25,000,000 for fiscal year 2007.''.

SEC. 3. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes; and

''(B) other persons, as authorized under the laws of the jurisdiction that generates the records;''; and

(2) by striking subsection (d).

(b) FELONS CONVICTED OF FEDERAL CRIMES.—

Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses under paragraphs (1) through (3).''.

(c) UNIFORM CODE OF MILITARY JUSTICE.—Section 1565 of title 10, United States Code, is amended—

(1) by amending subsection (d) to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which the authorized

penalties include confinement for more than 1 year.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000).'';

(2) by striking subsection (e); and

(3) by redesignating subsection (f) as subsection (e).

(d) TECHNICAL AMENDMENTS.—Section 811(a)(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 531 note) is amended—

(1) in subparagraph (A), by striking ''[42 U.S.C.A. 14132a(d)]'' and inserting ''(42 U.S.C. 14135a(d))''; and

(2) in subparagraph (B), by striking ''[42 U.S.C.A. §14132b(d)]'' and inserting ''(42 U.S.C. 14135b(d))''.

SEC. 4. FORENSIC LABORATORY GRANTS.

(a) GRANTS AUTHORIZED.—The Attorney General is authorized to award grants to not more than 15 State or local forensic laboratories to implement innovative plans to encourage law enforcement, judicial, and corrections personnel to increase the submission of rape evidence kits and other biological evidence from crime scenes.

(b) APPLICATION.—Not later than December 31, 2004, each laboratory desiring a grant under this section shall submit an application containing a proposed plan to encourage law enforcement officials in localities with a DNA backlog to increase the submission of rape evidence kits and other biological evidence from crime scenes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 2004 through 2006 to carry out the provisions of this section.

SEC. 5. ELIGIBILITY OF LOCAL GOVERNMENTS OR INDIAN TRIBES TO APPLY FOR AND RECEIVE DNA BACKLOG ELIMINATION GRANTS.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting '', units of local government, or Indian tribes'' after ''eligible States''; and

(ii) by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(B) in paragraph (3), by striking ''or by units of local government'' and inserting '', units of local government, or Indian tribes'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State'' each place that term appears;

(B) in paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(C) in paragraph (3), by inserting '', unit of local government, or Indian tribe'' after ''State'' the first time that term appears;

(D) in paragraph (4), by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(E) in paragraph (5), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(3) in subsection (c), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''or a unit of local government'' and inserting '', a unit of local government, or an Indian tribe''; and

(ii) in subparagraph (B), by striking ''or a unit of local government'' and inserting '', a unit of local government, or an Indian tribe''; and

(B) in paragraph (2)(A), by inserting '', units of local government, and Indian tribes,'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' each place that term appears; and

(B) in paragraph (2), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting '', unit of local government, or Indian tribe'' after ''State''; and

(B) in paragraph (2), by inserting '', units of local government, or Indian tribes'' after ''States''; and

(8) in subsection (h), by inserting '', unit of local government, or Indian tribe'' after ''State'' each place that term appears.

SEC. 6. SAFE PROGRAM.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Attorney General shall establish a program to award and disburse annual grants to SAFE programs.

(b) COMPLIANCE WITH NATIONAL PROTOCOL.—To receive a grant under this section, a proposed or existing SAFE program shall be in compliance with the standards and recommended national protocol developed by the Attorney General pursuant to section 1405 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note).

(c) APPLICATION.—

(1) IN GENERAL.—Each proposed or existing SAFE program that desires a grant under this section shall submit an application to the Attorney General at such time, and in such manner, as the Attorney General shall reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall include information regarding—

(A) the size of the population or estimated population to be served by the proposed or existing SAFE program; and

(B) if the SAFE program exists at the time the applicant submits its application, the effectiveness of that SAFE program.

(d) PRIORITY GIVEN TO PROGRAMS IN UNDERSERVED AREAS.—In awarding grants under this section, the Attorney General shall give priority to proposed or existing SAFE programs that are serving, or will serve, populations currently underserved by existing SAFE programs.

(e) NONEXCLUSIVITY.—Nothing in this Act shall be construed to limit or restrict the ability of proposed or existing SAFE programs to apply for and obtain Federal funding from any other agency or department, or under any other Federal grant program.

(f) AUDITS.—The Attorney General shall audit recipients of grants awarded and disbursed under this section to ensure—

(1) compliance with the standards and recommended national protocol developed by the Attorney General pursuant to section 1405 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 3796gg note);

(2) compliance with other applicable Federal laws; and

(3) overall program effectiveness.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice $10,000,000 for each of fiscal years 2004 through 2008 for grants under this section.

SEC. 7. DNA EVIDENCE TRAINING GRANTS.

(a) GRANTS AUTHORIZED.—The Attorney General is authorized to award grants to prosecutor's offices, associations, or organizations to train local prosecutors in the use of DNA evidence in a criminal investigation or a trial.

(b) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 2004 through 2006 to carry out the provisions of this section.

SEC. 8. NO STATUTE OF LIMITATIONS FOR CHILD ABDUCTION AND SEX CRIMES.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Child abduction and sex offenses

''Notwithstanding any other provision of law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110, or 117, or section 1591.''.

(2) AMENDMENT TO CHAPTER ANALYSIS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''3297. Child abduction and sex offenses.''.

(b) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section.

SEC. 9. TOLLING OF LIMITATION PERIOD FOR PROSECUTION IN CASES INVOLVING DNA IDENTIFICATION.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, as amended by section 8, is further amended by adding at the end the following:

''§ 3298. Cases involving DNA evidence

''In a case in which DNA testing implicates a person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the DNA testing that implicates the person has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3298. Cases involving DNA evidence.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section.

SEC. 10. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by inserting before paragraph (1) the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person—

''(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

''(B) where the existence of such a relationship shall be determined based on a consideration of—

''(i) the length of the relationship;

''(ii) the type of relationship; and

''(iii) the frequency of interaction between the persons involved in the relationship.'';

(B) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4) respectively; and

(C) in paragraph (3), as redesignated by subparagraph (B) of this paragraph, by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting—

(i) '', dating violence,'' after ''between domestic violence''; and

(ii) ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 11. SENSE OF CONGRESS.

It is the sense of Congress that the Paul Coverdell National Forensic Science Improvement Act (Public Law 106–561) should be funded in order to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes.

By Mr. ALLEN:

S. 150. A bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; to the Committee on Commerce, Science, and Transportation.

Mr. ALLEN. Mr. President, today I rise to introduce the Internet Tax Nondiscrimination Act of 2003, to permanently extend the moratorium on Internet access taxes, as well as prevent multiple and discriminatory taxes on the Internet. There are two postulates in life that guide me today: first, always stand strong for freedom and opportunity for all people; and second, always keep your word and keep your promises.

As many in this chamber know, I have made permanently extending the moratorium on new taxes that discriminate against the Internet one of my top priorities since coming to the Senate. Looking back two years ago, as a rookie, I was pleased to work in the successful effort, with Senator MCCAIN and others, to extend the moratorium on new Internet taxes for two years. Of course, I would have preferred to have a permanent moratorium and introduced S. 777 to do so back in 2001.

I cannot ever envision a time when it will be desirable policy for any government to tax access to the Internet. I cannot ever conceive of any instance or event that will precipitate justification for multiple or discriminatory taxes on the Internet by any government, large or small, national, State or local.

This has been a position I have held from 1997 during my days as Governor or Virginia when I was one of only four Governors with this position. I have promised the first bill I'd introduce in the 108th Congress would be a permanent ban on discriminatory taxes and Internet access taxes. I am one who stands on the side of freedom of the Internet, trusting free people and entrepreneurs, not on the side of making this advancement in technology easier to tax for the tax collectors. My legislation will permanently ban taxes on Internet access, as well as taxes on Internet transactions by multiple jurisdictions, and discriminatory taxes that unfairly target Internet transactions.

The current moratorium on Internet tax is set to expire in November of this year. I want the members of this body to understand that the moratorium on Internet tax is completely unrelated to issues surrounding sales tax simplification. I was here for the previous debate when legislation extending this moratorium was bogged down and held hostage on the extremely complicated and cumbersome issue of sales tax collection.

Since that time, I know State tax administrators have been working to simplify their sales tax system. However, I encourage my colleagues in the Senate that when considering the issue of sales tax simplification and business activity tax nexus that they do so separately from legislation that deals with the Internet tax moratorium.

I understand most of the States are looking for more tax revenue, but the Internet Tax Nondiscrimination Act will not, and does not, prohibit States from collecting sales and use tax on electronic commerce. Rather, this legislation will permanently ban taxes placed on consumers to access the Internet, like the Spanish American War Tax on telephone service, and prohibits multiple and discriminatory taxes on Internet purchases, which are taxes that would apply more than once on the same product or taxes that are higher because of the method by which a product is purchased.

The moratorium on Internet access taxes prohibits governments from placing taxes on top of the monthly rates Americans already pay to connect to the Internet. I am concerned that if this Congress were to allow new, discriminatory taxes on Internet access it would be allowing States and localities to contribute to the economic ''digital divide.'' For every dollar added to the cost of Internet access, we can expect to see lost utilization of the Internet by thousands of lower income American families nationwide.

Now, more than ever, with our Nation's economy emerging from a recession and the Congress working with the President on an economic stimulus package, the people of this country need security with regard to their financial future. Any additional tax burdens on the Internet, will mean additional costs that many Americans cannot afford, forcing the poorest in our society to reduce or even forgo their use of the Internet as a tool for education, exploration and individual opportunity.

The more expensive the government makes Internet access, the less likely people will be to buy advanced services, such as high-speed broadband connections, Internet protocol software, wireless WiFi devices and many other multimedia applications. In a time when technology and the Internet have grown into every aspect of our daily lives and where access to the Internet has become a necessity for Americans, will imposing taxes to access the Internet or levying taxes that discriminate against the Internet as a form of commerce ever be fair? The answer is that there will never be a time to tax access to the Internet nor impose discriminatory taxes on Internet commerce.

The goal of the Internet Tax Nondiscrimination Act is simple and clear: the Internet should remain as accessible as possible to all people in all parts of our country, forever.

I call on my colleagues to join me and cosponsor the Internet Tax Nondiscrimination Act of 2003, permanently extending the Internet moratorium on access, multiple and discriminatory taxes.

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

S. 150

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 ''Internet Tax Non-discrimination Act of 2003''.

SEC. 2. AMENDMENT OF INTERNET TAX FREEDOM ACT.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 nt.) is amended—

(1) by striking ''taxes during the period beginning on October 1, 1998, and ending on November 1, 2003—'' and inserting ''taxes:'';

(2) by striking paragraph (1) and inserting the following:

''(1) Taxes on Internet access.''; and

(3) by striking ''multiple'' in paragraph (2) and inserting ''Multiple''.

SEC. 3. REPEAL OF EXCEPTION.

Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 nt.) is amended by striking paragraph (10).

By Mr. HATCH (for himself, Mr. LEAHY, and Mr. BENNETT):

S. 151. A bill to amend title 18, United States Code, with respect to the sexual exploitation of children; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce a critically important piece of legislation, the PROTECT Act of 2003. As its name makes clear, this bill will help to protect our children from the horrors of child pornography. Disgusting as child pornography is, the growth of technology and the rise of the internet have flooded our Nation with it. This is one area where we cannot afford to simply look the other way. Child pornography is routinely used by perverts and pedophiles

not only to whet their sick desires, but also to lure our defenseless children into unspeakable acts of sexual exploitation. In sum, child pornography is a root from which more evils grow. It creates a measurable harm to children in our society. On this record, we must act.

I am proud to have Senator LEAHY as the leading co-sponsor of the PROTECT Act. We jointly introduced an earlier version of this bill last year in the wake of the Supreme Court's decision in Ashcroft v. Free Speech Coalition. That decision greatly weakened the laws pertaining to child pornography and left some gaping holes in our Nation's ability to effectively prosecute child pornography offenses. We must now act quickly to repair our child pornography laws to provide for effective law enforcement in a manner that accords with the Court's ruling.

The PROTECT Act strikes a necessary balance between the First Amendment and our Nation's critically important interest in protecting children. This Act does many things to aid the prosecution of child PROTECT Act, and I highlight some of its most significant provisions here.

First, the Act plugs the loophole that exists today where child pornographers can escape prosecution by claiming that their sexually explicit material did not actually involve real children. Technology has advanced so far that even experts often cannot say with absolute certainty that an image is real or a ''virtual'' computer creation. For this reason, the Act permits a prosecution to proceed when the child pornography includes persons who appear virtually indistinguishable from actual minors. And even when this occurs, the accused is afforded a complete affirmative defense by showing that the child pornography did not involve a minor.

Second, the Act prohibits the pandering or solicitation of anything represented to be obscene child pornography. The Supreme Court has ruled that this type of conduct does not constitute protected speech. Congress, moreover, should severely punish those who would try to profit or satisfy their depraved desires by dealing in such filth.

Third, the Act prohibits any depictions of minors, or apparent minors, in actual, not simulated, acts of bestiality, sadistic or masochistic abuse, or sexual intercourse, when such depictions lack literary, artistic, political or scientific value. This type of hardcore sexually explicit material merits our highest form of disdain and disgust and is something that our society ought to try hard to eradicate. Nor does the First Amendment bar us from banning the depictions of children actually engaging in the most explicit and disturbing forms of sexual activity.

Fourth, the Act beefs up existing record keeping requirements for those who chose to produce sexually explicit materials. These record keeping requirements are unobjectionable since they do not ban anything. Rather, the Act simply requires such producers to keep records confirming that no actual minors were involved in the making of the sexually explicit materials. In light of the difficulty experts face in determining an actor's true age and identity just by viewing the material itself, increasing the criminal penalties for failing to maintain these records are vital to ensuring that only adults appear in such productions.

Finally, the Act creates a new civil action for those aggrieved by the depraved acts of those who violate our child pornography laws. This is one area of the law where society as a whole can benefit from more vigorous enforcement, both on the criminal and civil fronts.

I was disappointed that the PROTECT Act did not pass into law last year, although it unanimously cleared the Senate in the final days of the 107th Congress. As incoming Chairman of the Judiciary Committee, passing this important bill will be one of my very top priorities. I remain open to hearing suggestions from all interested parties on how to improve the bill or make it even tougher against child pornographers. I strongly urge my colleagues to work with me and join with me in promptly passing this important legislation.

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

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

S. 151

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 ''Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2003'' or ''PROTECT Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Obscenity and child pornography are not entitled to protection under the First Amendment under Miller v. California, 413 U.S. 15 (1973) (obscenity), or New York v. Ferber, 458 U.S. 747 (1982) (child pornography) and thus may be prohibited.

(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. ''The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance,'' New York v. Ferber, 458 U.S. 747, 757 (1982) (emphasis added), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. Osborne v. Ohio, 495 U.S. 103, 110 (1990).

(3) The Government thus has a compelling interest in ensuring that the criminal prohibitions against child pornography remain enforceable and effective. ''[T]he most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product.'' Ferber, 458 U.S. at 760.

(4) In 1982, when the Supreme Court decided Ferber, the technology did not exist to: (A) create depictions of virtual children that are indistinguishable from depictions of real children; (B) create depictions of virtual children using compositions of real children to create an unidentifiable child; or (C) disguise pictures of real children being abused by making the image look computer generated.

(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer generated. The technology will soon exist, if it does not already, to make depictions of virtual children look real.

(6) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and/or related media.

(7) There is no substantial evidence that any of the child pornography images being trafficked today were made other than by the abuse of real children. Nevertheless, technological advances since Ferber have led many criminal defendants to suggest that the images of child pornography they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. Such challenges will likely increase after the Ashcroft v. Free Speech Coalition decision.

(8) Child pornography circulating on the Internet has, by definition, been digitally uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic delineation may depend on the quality of the image scanned and the tools used to scan it.

(9) The impact on the government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in Free Speech Coalition. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

(10) In the absence of congressional action, this problem will continue to grow increasingly worse. The mere prospect that the technology exists to create computer or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution, for it threatens to create a reasonable doubt in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable.

(11) To avoid this grave threat to the Government's unquestioned compelling interest

in effective enforcement of the child pornography laws that protect real children, a statute must be adopted that prohibits a narrowly-defined subcategory of images.

(12) The Supreme Court's 1982 Ferber v. New York decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary to ensure that open and notorious trafficking in such materials does not reappear.

SEC. 3. CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.

Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following:

''(3) knowingly—

''(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

''(B) advertises, promotes, presents, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that conveys the impression that the material or purported material is, or contains, an obscene visual depiction of a minor engaging in sexually explicit conduct;'';

(B) in paragraph (4), by striking ''or'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

''(A) that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;

''(B) that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or

''(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer,

for purposes of inducing or persuading a minor to participate in any activity that is illegal.'';

(2) in subsection (b)(1), by striking ''(1), (2), (3), or (4)'' and inserting ''(1), (2), (3), (4), or (6)''; and

(3) by striking subsection (c) and inserting the following:

''(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) that—

''(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

''(B) each such person was an adult at the time the material was produced; or

''(2) the alleged child pornography was not produced using any actual minor or minors. No affirmative defense shall be available in any prosecution that involves obscene child pornography or child pornography as described in section 2256(8)(D). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 10 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting such defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.''.

SEC. 4. ADMISSIBILITY OF EVIDENCE.

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

''(e) ADMISSIBILITY OF EVIDENCE.—On motion of the government, in any prosecution under this chapter, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor .''.

SEC. 5. DEFINITIONS.

Section 2256 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: ''and shall not be construed to require proof of the actual identity of the person'';

(2) in paragraph (8)—

(A) in subparagraph (B), by inserting ''is obscene and'' before ''is'';

(B) in subparagraph (C), by striking ''or'' at the end; and

(C) by striking subparagraph (D) and inserting the following:

''(D) such visual depiction—

''(i) is, or appears to be, of a minor actually engaging in bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

''(ii) lacks serious literary, artistic, political, or scientific value; or

''(E) the production of such visual depiction involves the use of an identifiable minor engaging in sexually explicit conduct;''; and

(3) by striking paragraph (9), and inserting the following:

''(9) 'identifiable minor'—

''(A)(i) means a person—

''(I)(aa) who was a minor at the time the visual depiction was created, adapted, or modified; or

''(bb) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

''(II) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

''(ii) shall not be construed to require proof of the actual identity of the identifiable minor; or

''(B) means a computer or computer generated image that is virtually indistinguishable from an actual minor; and

''(10) 'virtually indistinguishable' means that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor.''.

SEC. 6. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by striking ''of this section'' and inserting ''of this chapter or chapter 71,'';

(2) in subsection (h)(3), by inserting '', computer generated image or picture,'' after ''video tape''; and

(3) in subsection (i)—

(A) by striking ''not more than 2 years'' and inserting ''not more than 5 years''; and

(B) by striking ''5 years'' and inserting ''10 years''.

SEC. 7. SERVICE PROVIDER REPORTING OF CHILD PORNOGRAPHY AND RELATED INFORMATION.

Section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032) is amended—

(1) in subsection (c), by inserting ''or pursuant to'' after ''to comply with'';

(2) by amending subsection (f)(1)(D) to read as follows:

''(D) where the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.'';

(3) by redesignating paragraph (3) of subsection (b) as paragraph (4); and

(4) by inserting after paragraph (2) of subsection (b) the following new paragraph:

''(3) In addition to forwarding such reports to those agencies designated in subsection (b)(2), the National Center for Missing and Exploited Children is authorized to forward any such report to an appropriate official of a state or subdivision of a state for the purpose of enforcing state criminal law.''.

SEC. 8. CONTENTS DISCLOSURE OF STORED COMMUNICATIONS.

Section 2702 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in paragraph (6)—

(i) in subparagraph (A)(ii), by inserting ''or'' at the end;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(C) by redesignating paragraph (6) as paragraph (7); and

(D) by inserting after paragraph (5) the following:

''(6) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''; and

(2) in subsection (c)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

''(5) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or''.

SEC. 9. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

Section 2251 of title 18, United States Code, is amended—

(1) by striking ''subsection (d)'' each place that term appears and inserting ''subsection (e)'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

''(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the

purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

''(2) The circumstance referred to in paragraph (1) is that—

''(A) the person intends such visual depiction to be transported to the United States, its territories or possessions, by any means, including by computer or mail; or

''(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.''.

SEC. 10. CIVIL REMEDIES.

Section 2252A of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''(f) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) may commence a civil action for the relief set forth in paragraph (2).

''(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

''(A) temporary, preliminary, or permanent injunctive relief;

''(B) compensatory and punitive damages; and

''(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.''.

SEC. 11. ENHANCED PENALTIES FOR RECIDIVISTS.

Sections 2251(d), 2252(b), and 2252A(b) of title 18, United States Code, are amended by inserting ''chapter 71,'' before ''chapter 109A,'' each place it appears.

SEC. 12. SENTENCING ENHANCEMENTS FOR INTERSTATE TRAVEL TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.

Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that guideline penalties are adequate in cases that involve interstate travel with the intent to engage in a sexual act with a juvenile in violation of section 2423 of title 18, United States Code, to deter and punish such conduct.

SEC. 13. MISCELLANEOUS PROVISIONS.

(a) APPOINTMENT OF TRIAL ATTORNEYS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall appoint 25 additional trial attorneys to the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice or to appropriate U.S. Attorney's Offices, and those trial attorneys shall have as their primary focus, the investigation and prosecution of Federal child pornography laws.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out this subsection.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General shall report to the Chairpersons and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives on the Federal enforcement actions under chapter 110 of title 18, United States Code.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of the prosecutions brought under chapter 110 of title 18, United States Code;

(B) an outcome-based measurement of performance; and

(C) an analysis of the technology being used by the child pornography industry.

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines are adequate to deter and punish conduct that involves a violation of paragraph (3)(B) or (6) of section 2252A(a) of title 18, United States Code, as created by this Act. With respect to the guidelines for section 2252A(a)(3)(B), the Commission shall consider the relative culpability of promoting, presenting, describing, or distributing material in violation of that section as compared with solicitation of such material.

SEC. 14. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. LEAHY. Mr. President, I rise today to join my good friend, the senior Senator from Utah, in introducing the PROTECT Act, a bill providing important new tools to fight child pornography. This bill is identical to the measure that Senator HATCH and I worked so hard on in the last Congress. The bill passed the Senate by unanimous consent in the 107th Congress and I am proud to be the lead cosponsor of this legislation for the 108th Congress as well, but unfortunately, it did not become law last year because, even though the Senate was still meeting, considering and passing legislation, the House of Representatives had adjourned. The House would not return to take action on this measure that had passed the Senate unanimously or to work out our differences.

I hope that the full Senate will quickly pass this bill again, and I strongly urge the Republican leadership in the House of Representatives to take this second opportunity to pass this important legislation. I also urge the Administration to support this bipartisan measure, instead of using this debate as an opportunity to push for legislation that strives to make an ideological statement, but which may not withstand Constitutional scrutiny.

I want to take a moment to speak about the history of this important bill and the effort that it took to get to this point. In May of 2002, I came to the Senate floor and joined Senator HATCH in introducing S. 2520, the PROTECT Act, after the Supreme Court's decision in Ashcroft v. Free Speech Coalition, (''Free Speech''). Although there were some others who raised constitutional concerns about specific provisions in that bill, I believed that unlike legislative language proposed by the Administration in the last Congress, it was a good faith effort to work within the First Amendment.

Everyone in the Senate agrees that we should do all we can to protect our children from being victimized by child pornography. That would be an easy debate and vote. The more difficult thing is to write a law that will both do that and will stick. In 1996, when we passed the Child Pornography Prevention Act, (''CPPA''), many warned us that certain provisions of that Act violated the First Amendment. The Supreme Court's recent decision in Free Speech has proven them correct.

We should not sit by and do nothing. It is important that we respond to the Supreme Court decision. It is just as important, however, that we avoid repeating our past mistakes. Unlike the 1996 CPPA, this time we should respond with a law that passes constitutional muster. Our children deserve more than a press conference on this issue. They deserve a law that will last.

It is important that we do all we can to end the victimization of real children by child pornographers, but it is also important that we pass a law that will withstand First Amendment scrutiny. We need a law with real teeth, not one with false teeth.

After joining Senator HATCH in introducing the PROTECT Act in the 107th Congress, as Chairman of the Judiciary Committee I convened a hearing on October 2, 2002 on the legislation. We heard from the Administration, from the National Center for Missing and Exploited Children, (''NCMEC''), and from experts who came and told us that our bill, as introduced, would pass constitutional muster, but the House-passed bill supported by the Administration would not.

I then placed S. 2520 on the Judiciary Committee's calendar for the October 8, 2002, business meeting. I continued to work with Senator HATCH to improve the bill so that it could be quickly enacted. Senator HATCH circulated a Hatch-Leahy proposed Judiciary Committee substitute that improved the bill before our October 8 business meeting. Unfortunately the Judiciary Committee was unable to consider it because of procedural maneuvering by my colleagues that had nothing to do with this important legislation, including the refusal of Committee members on the other side of the aisle to consider any pending legislation on the Committee's agenda.

I still wanted to get this bill done. That is why, for a full week in October, I worked to clear and have the full Senate pass a substitute to S. 2520 that tracked the Hatch-Leahy proposed committee substitute in nearly every area. Indeed, the substitute I offered even adopted parts of the House bill which would help the NCMEC work with local and state law enforcement on these cases. Twice, I spoke on the Senate floor imploring that we approve such legislation. As I stated then, every single Democratic Senator cleared that measure. I then urged Republicans to work on their side of the aisle to clear this measure—so similar to the joint Hatch-Leahy substitute—so that we could swiftly enact a law that would pass constitutional muster. Unfortunately, they did not. Facing

the recess before the mid-term elections, we were stymied again.

Even after the last election, however, during our lame duck session, I continued to work with Senator HATCH to pass this legislation through the Senate. As I had stated I would do prior to the election, I called a meeting of the Judiciary Committee on November 14, 2002. In the last meeting of the Judiciary Committee under my Chairmanship in the 107th Congress, I placed S. 2520, the Hatch-Leahy PROTECT Act, on the agenda yet again. At that meeting the Judiciary Committee amended and approved this legislation. We agreed on a substitute and to improvements in the victim shield provision that I authored.

Although I did not agree with two of Senator HATCH's amendments, because I thought that they risked having the bill declared unconstitutional, I nevertheless called both for the Committee to approve the bill and voted for the bill in its amended form. I will discuss these provisions later.

I then sought, that same day, to gain the unanimous consent of the full Senate to pass S. 2520 as reported by the Judiciary Committee, and I worked with Senator HATCH to clear the bill on both sides of the aisle. I am pleased that the Senate did pass S. 2520 by unanimous consent. I want to thank Senator HATCH for all he did to help clear the bill for passage in the 107th Congress.

Unfortunately, the House failed to act on this measure last year and the Administration decided not to push for passage. If they had, we could have passed a bill, sent it to the President, and already had a new law on the books.

Instead, I am here again with Senator HATCH asking yet again that this bill be enacted. I am glad to have been able to work hand in hand with Senator HATCH on the PROTECT Act because it is a bill that gives prosecutors and investigators the tools they need to combat child pornography. The Hatch-Leahy PROTECT Act strives to be a serious response to a serious problem.

The provisions of the Hatch-Leahy bill, as we introduce it, are bipartisan and good faith efforts to protect both our children and to honor the Constitution. At our hearing last October, Constitutional and criminal law scholars—one of whom was the same person who warned us last time that the CPPA would be struck down—stated that the PROTECT Act as introduced in the last Congress could withstand Constitutional scrutiny, although there were parts that were very close to the line. Let me outline some of the bill's important provisions:

I would like to emphasize some key provisions of the PROTECT Act. Section 3 of the bill creates two new crimes aimed at people who distribute child pornography and those who use such material to entice children to do illegal acts. Each of these new crimes carry a 15 year maximum prison sentence for a first offense and double that term for repeat offenders. First, the bill criminalizes the pandering of child pornography, creating a new crime to respond to the Supreme Court's recent ruling striking down the CPPA's definition of pandering. This provision is narrower than the old ''pandering'' definition for two reasons, both of which respond to specific Court criticisms: First, the new crime only applies to the people who actually pander the child pornography or solicit it, not to all those who possess the material ''downstream.''

The bill also contains a directive to the Sentencing Commission which asks them to distinguish between those who pander or distribute such material who are more culpable than those who solicit the material. Second, the pandering in this provision must be linked to ''obscene'' material, which is totally unprotected speech under Miller. Thus, while I would have liked for the provision to be crafted more narrowly so that ''purported'' material was not included, and I acknowledge that this provision may well be challenged on some of the same grounds as the prior CPPA provision, it responds to some specific concerns raised by the Supreme Court and is significantly narrower than the CPPA's definition of pandering.

Second, the bill creates a new crime to take direct aim at one of the chief evils of child pornography: namely, its use by sexual predators to entice minors either to engage in sexual activity or the production of more child pornography. This was one of the compelling arguments made by the government before the Supreme Court in support of the CPPA, but the Court rejected that argument as an insufficient basis to ban the production, distribution or possession of ''virtual'' child pornography. This bill addresses that same harm in a more targeted manner. It creates a new felony, which applies to both actual and virtual child pornography, for people who use such material to entice minors to participate in illegal activity. This will provide prosecutors a potent new tool to put away those who prey upon children using such pornography—whether the child pornography is virtual or not.

Next, this bill attempts to revamp the existing affirmative defense in child pornography cases both in response to criticisms of the Supreme Court and so that the defense does not erect unfair hurdles to the prosecution of cases involving real children. Responding directly to criticisms of the Court, the new affirmative defense applies equally to those who are charged with possessing child pornography and to those who actually produce it, a change from current law. It also allows, again responding to specific Supreme Court criticisms, for a defense that no actual children were used in the production of the child pornography—i.e. that it was made using computers. At the same time, this provision protects prosecutors from unfair surprise in the use of this affirmative defense by requiring that a defendant give advance notice of his intent to assert it, just as defendants are currently required to give if they plan to assert an alibi or insanity defense. As a former prosecutor I suggested this provision because it effects the real way that these important trials are conducted. With the provision, the government can marshal the expert testimony that may be needed to rebut this ''virtual porn'' defense in cases where real children were victimized.

This improved affirmative defense provides important support for the constitutionality of much of this bill after the Free Speech decision. Even Justice Thomas specifically wrote that it would be a key factor for him. This is one reason for making the defense applicable to all non-obscene, child pornography, as defined in 18 U.S.C. §2256. In the bill's current form, however, the affirmative defense is not available in one of the new proposed classes of virtual child pornography, which would be found at 18 U.S.C. §2256(8)(D). This omission may render that provision unconstitutional under the First Amendment, and I hope that, as the legislative process continues, we can work with constitutional experts to improve the bill in this and other ways. I do not want to be here again in five years, after yet another Supreme Court decision striking this law down.

The bill also provides needed assistance to prosecutors in rebutting the virtual porn defense by removing a restriction on the use of records of performers portrayed in certain sexually explicit conduct that are required to be maintained under 18 U.S.C. §2257, and expanding such records to cover computer images. These records, which will be helpful in proving that the material in question is not ''virtual'' child pornography, may be used in federal child pornography and obscenity prosecutions under this Act. The purpose of this provision is to protect real children from exploitation. It is important that prosecutors have access to this information in both child pornography and obscenity prosecutions, since the Supreme Court's recent decision has had the effect of narrowing the child pornography laws, making more likely that the general obscenity statutes will be important tools in protecting children from exploitation. In addition, the Act raises the penalties for not keeping accurate records, further deterring the exploitation of minors and enhancing the reliability of the records.

Next, this bill contains several provisions altering the definition of ''child pornography'' in response to the Free Speech case. One approach would have been simply to add an ''obscenity'' requirement to the child pornography definitions. Outlawing all obscene child pornography real and virtual; minor and 'youthful-adult;' simulated and

real—would clearly pass a constitutional challenge because obscene speech enjoys no protection at all. Under the Miller obscenity test, such material (1) ''appeals to the prurient interest,'' (2) is utterly ''offensive'' in any ''community,'' and (3) has absolutely no ''literary, artistic or scientific value.''

Some new provisions of this bill do take this ''obscenity'' approach, like the new § 2256(8)(B). Other provisions, however, take a different approach. Specifically, the CPPA's definition of ''identifiable minor'' has been modified in the bill to include a prong for persons who are ''virtually indistinguishable from an actual minor.'' This adopts language from Justice O'Connor's concurrence in the Free Speech case. Thus, while this language is defensible, I predict that this provision will be the center of much constitutional debate. Although I will explain in more detail later, these new definitional provisions risk crossing the constitutional line.

It does not do America's children any good to write a law that might get struck down by our courts in order to prove an ideological point. These provisions should be fully debated and examined during the legislative process, and I will speak about them in more detail later.

The bill also contains a variety of other measures designed to increase jail sentences in cases where children are victimized by sexual predators. First, it enhances penalties for repeat offenders of child sex offenses by expanding the predicate crimes which trigger tough, mandatory minimum sentences. Second, the bill requires the U.S. Sentencing Commission to address a disturbing disparity in the current Sentencing Guidelines. The current sentences for a person who actually travels across state lines to have sex with a child are not as high as for child pornography. The Commission needs to correct this oversight immediately, so that prosecutors can take these dangerous sexual predators off the street. These are all strong measures designed to protect children and increase prison sentences for child molesters and those who otherwise exploit children.

The Act also has several provisions designed to protect the children who are victims in these horrible cases. Privacy of the children must be paramount. It is important that they not be victimized yet again in the criminal process. This bill provides for the first time ever an explicit shield law that prohibits the name or other non physical identifying information of the child victim, other than the age or approximate age, from being admitted at any child pornography trial. It is also intended that judges will take appropriate steps to ensure that such information as the child's name, address or other identifying information not be publicly disclosed during the pretrial phase of the case or at sentencing. The bill also contains a provision requiring the judge to instruct the jury, upon request of the government, that no inference should be drawn against the United States because of information inadmissible under the new shield law.

The Hatch-Leahy PROTECT Act also amends certain reporting provisions governing child pornography. Specifically, it allows federal authorities to report information they receive from the Center from Missing and Exploited Children, CMEC, to state and local police without a court order. In addition, the bill removes the restrictions under the Electronic Communications Privacy Act, ECPA, for reporting the contents of, and information pertaining to, a subscriber of stored electronic communications to the CMEC when a mandatory child porn report is filed with the CMEC pursuant to 42 U.S.C. §13032. This change may invite federal, state or local authorities to circumvent all subpoena and court order requirements under ECPA and allow them to obtain subscriber emails and information by triggering the initial report to the CMEC themselves. To the extent that these changes in ECPA may have that unintended effect, as this bill is considered in the Judiciary Committee and on the floor, we should consider mechanisms to guard against subverting the safeguards in ECPA from government officials going on fishing expeditions for stored electronic communications under the rubric of child porn investigations.

I also must express my disappointment in a recent Government Accounting Office, GAO, report that criticizes the Department of Justice information sharing regulations related to the CMEC tip line. Evidently, due to outdated turf mentalities, the Attorney General's regulations exclude both the United States Secret Service and the U.S. Postal Inspection Service from direct access to important tip line information. That is totally unacceptable, especially in the post 9–11 world where the importance of information sharing is greater than ever. How can the Administration justify support of this bill, which allows state and local law enforcement officers such access, when they are simultaneously refusing to allow other federal law enforcement agencies access to the same information? I urge the Attorney General to end this unseemly turf battle and to issue regulations allowing both the Secret Service and the Postal Inspection Service, who both perform valuable work in investigating these cases, to have access to this important information so that they can better protect our nation's children.

This bill also provides for extraterritorial jurisdiction where a defendant induces a child to engage in sexually explicit conduct outside the United States for the purposes of producing child pornography which they intend to transport to the United States. The provision is crafted to require the intent of actual transport of the material into the United States, unlike the House bill from the last Congress, which criminalized even an intent to make such material ''accessible.'' Under that overly broad wording, any material posted on a web site internationally could be covered, whether or not it was ever intended that the material be downloaded in the United States.

Finally, the bill provides also a new private right of action for the victims of child pornography. This provision has teeth, including injunctive relief and punitive damages that will help to put those who produce child pornography out of business for good. I commend Senator HATCH for his leadership on this provision.

These provisions are important, practical tools to put child pornographers out of business for good and in jail where they belong.

As to the administration proposal, unfortunately legal experts could not also vouch for the constitutionality of the bill supported by the Administration in the last Congress, which seemed to challenge the Supreme Court's decision, rather than accommodate the restraints spelled out by the Supreme Court. That proposal and the associated House bill from the 107th Congress simply ignored the Supreme Court's decision, reflecting an ideological response rather than a carefully drawn bill that would stand up to scrutiny. Last year, I received letters from other Constitutional scholars and practitioners expressing the same conclusion, which I will place in the record with unanimous consent.

With regard to the potential constitutional issues and suggested improvements, as I mentioned previously, the PROTECT Act is a good faith effort to tackle this problem, but it is not perfect and I would like to see some additional changes to the bill. I hope that we can consider these as the process moves forward.

First, regarding the tip line, I would like to clarify that law enforcement agents cannot ''tickle the tip line'' to avoid the key protections of the Electronic Communications Privacy Act. This may include clarifying 42 U.S.C. §13032 that the initial tip triggering the report may not be generated by the government's investigative agents themselves. A tip line to the CMEC is just that—a way for outsiders to report wrongdoing to the CMEC and the government, not for the government to generate a report to itself without following otherwise required lawful process.

Second, regarding the affirmative defense, I would like to ensure that there is an affirmative defense for the new category of child pornography and for all cases where a defendant can prove in court that a specific, non-obscene image was made using not any child but only actual, identifiable adults.

As a general matter, it is worth repeating that we could be avoiding all these problems were we to take the simple approach of outlawing ''obscene'' child pornography of all types,

which we do in one new provision that I suggested. That approach would produce a law beyond any possible challenge. This approach is also supported by the National Center for Missing and Exploited Children, which we all respect as the true expert in this field.

Following is an excerpt from the Center's answer to written questions submitted after our hearing, which I will place in the RECORD in its entirety:

Our view is that the vast majority (99–100%) of all child pornography would be found to be obscene by most judges and juries, even under a standard of beyond a reasonable doubt in criminal cases. Even within the reasonable person under community standards model, it is highly unlikely that any community would not find child pornography obscene. . . .

In the post Free Speech decision legal climate, the prosecution of child pornography under an obscenity approach is a reasonable strategy and sound policy.

Thus, according to the National Center for Missing and Exploited Children, the approach that is least likely to raise constitutional questions—using established obscenity law—is also an effective one. Because that is not the approach we have decided to use, I recognize that the PROTECT Act contains provisions about which some may have legitimate Constitutional questions.

Specifically, in addition to the provisions that I have already discussed, there were two amendments adopted in the Judiciary Committee in the last Congress to which I objected that are included in the bill as we introduce it today. I felt and still feel that these provisions needlessly risked a serious constitutional challenge to a bill that provided prosecutors the tools they needed to do their jobs. Let me discuss my opposition to these two amendments offered by my good friend Senator HATCH last Congress.

As to the expansion of the pandering provision, although I worked with Senator HATCH to write the new pandering provision in the PROTECT Act, I did not support Senator HATCH's amendment extending the provision to cover ''purported'' material, which criminalizes speech even when there is no underlying material at all—whether obscene or non-obscene, virtual or real, child or adult.

The pandering provision is an important tool for prosecutors to punish true child pornographers who for some technical reason are beyond the reach of the normal child porn distribution or production statutes. It is not meant to federally criminalize talking dirty over the internet or the telephone when the person never possesses any material at all. That is speech, and that goes too far.

The original pandering provision in S. 2520 was quite broad, and some argued that it presented constitutional problems as written, but I thought that prosecutors needed a strong tool, so I supported Senator HATCH on that current provision.

I was heartened that Professor Schauer of Harvard, a noted First Amendment expert, testified at our hearing that he thought that the original provision was Constitutional, barely. Unfortunately, Professor Schauer has since written to me stating that this new amendment to include ''purported'' material ''would push well over the constitutional edge a provision that is now up against the edge, but probably barely on the constitutional side of it.'' I will place that letter and other materials in the record with unanimous consent of the Senate.

Because this change endangers the entire pandering provision, because it is unwise, and because that section is already strong enough to prosecute those who peddle child pornography, I hope that we can debate the merits of that provision as the legislative process continues.

And as to the inclusion of 100 percent virtual child pornography in ''Identifiable Minor'' provision, a change to the definition of ''identifiable minor'' would expand the bill to cover ''virtual'' child pornography that is, 100 percent computer generated pictures not involving any real children. For that reason, it also presents constitutional problems. I objected to this amendment when it was added to the bill in the last Congress in Committee and I continue to have serious concerns with it now.

Senator HATCH and I agree that legislation in this area is important. But regardless of our personal views, any law must be within constitutional limits or it does no good at all. This change which would include all ''virtual child pornography'' in the definition of child pornography, in my view, crosses the constitutional line, however, and needlessly risks protracted litigation that could assist child pornographers in escaping punishment. I hope we can work to narrow this provision.

Although I joined Senator HATCH in introducing this bill, even when it was introduced last year I expressed concern over certain provisions. One such provision was the new definition of ''identifiable minor.'' When the bill was introduced, I noted that this provision might ''both confuse the statute unnecessarily and endanger the already upheld 'morphing' section of the CPPA.'' I said I was concerned that it ''could present both overbreadth and vagueness problems in a later constitutional challenge.''

The Supreme Court made it clear that we can only outlaw child pornography in two situations: No. 1, it is obscene, or No. 2, it involves real kids. That is the law as stated by the Supreme Court, whether or not we agree with it.

The original ''identifiable minor'' provision in the PROTECT Act may be used without any link to obscenity doctrine. Therefore, what saved the original version as introduced in the 107th Congress was that it applied to child porn made with real ''persons.'' The provision was designed to cover all sorts of images of real kids that are morphed or altered, but not something entirely made by computer, with no child involved. That is the provision as Senator HATCH and I introduced this bill last year.

The change adopted in the Judiciary Committee last year, however, redefined ''identifiable minor'' by creating a new category of pornography for any ''computer generated image that is virtually indistinguishable from an actual minor'' dislodged, in my view, that sole constitutional anchor. The new provision could be read to include images that never involved real children at all but were 100 percent computer generated.

That was never the goal of this provision and that was the reason it was constitutional. There are other provisions in the bill that deal with obscene virtual child pornography that I support. This provision was intended to ease the prosecutor's burden in cases where images of real children were cleverly altered to avoid prosecution.

I support the definition of ''identifiable minor'' as we originally wrote and introduced it last Congress. Because this new change seriously weakens the constitutional argument supporting this entire provision, I oppose it and I hope that we can work to further narrow this provision.

These provisions raise legitimate concerns, but in the interest of making progress I support consideration of the measure as introduced. I hope that we can work to debate these issues and improve it and produce a bill with the best chance of withstanding a constitutional challenge.

That is not everyone's view. Others evidently think it is more important to make an ideological statement than to write a law. A media report on this legislation at the end of the last Congress reported the wide consensus that the Hatch-Leahy bill was more likely than the House bill to withstand scrutiny, but quoted a Republican House member as stating: ''Even if it comes back to Congress three times we will have created better legislation.''

To me, that makes no sense. Why not create the ''better legislation'' right now for today's children, instead of inviting more years of litigation and putting at risk any convictions obtained in the interim period before the Supreme Court again reviews the constitutionality of Congress' effort to address this serious problem? That is what the PROTECT Act seeks to accomplish.

Even though this bill is not perfect, I am glad to stand with Senator HATCH to secure its approval by the Senate as I did in the last Congress.

As I have explained, I believe that this issue is so important that I have been willing to compromise and to support a measure even though I do not agree with each and every provision that it contains. That is how legislation is normally passed. I hope that the Administration and the House do not decide to play politics with this issue

this year as I fear they did at the close of the last Congress. I urge swift consideration and passage of this important bill aimed at protecting our nation's children.

Mr. President, I ask unanimous consent that the letters and materials to which I referred be printed in the RECORD.

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

OCTOBER 17, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: Thank you for the opportunity to express the views of the National Center for Missing and Exploited Children on these critically important issues for our nation's children. Your stewardship of the Committee's tireless efforts to craft a statute that will withstand constitutional scrutiny is wise and in the long-term best interest of the nation. The National Center for Missing and Exploited Children is grateful for your leadership on this issue.

Please find below my response to your written questions submitted on October 9, 2002, regarding the ''Stopping Child Pornography: Protecting our Children and the Constitution.''

1. Our view is that the vast majority (99–100%) of all child pornography would be found to be obscene by most judges and juries, even under the standard of beyond a reasonable doubt in criminal cases. Even within the reasonable person under community standards model, it is highly unlikely that any community would not find child pornography obscene.

There is a legitimate concern that the obscenity standard does not fully recognize, and therefore punish the exceptional harm to children inherent in child pornography. This issue can be addressed by the enactment of tougher sentencing provisions if the obscenity standard is implemented in the law regarding child pornography. Moreover, mere possession of obscene materials under current law in most jurisdictions is not a criminal violation. If the obscenity standard were implemented for child pornography the legislative intent should be clear concerning punishment for possession of child obscene pornography.

In the post—Free Speech decision legal climate the prosecution of child pornography cases under an obscenity approach is a reasonable strategy and sound policy.

2. Based on my experience all the images in actual criminal cases meet the lawful definition of obscenity, irrespective of what community you litigate the case. In my experience there has never been a visual depiction of child pornography that did not meet the constitutional requirements for obscenity.

3. The National Center for Missing and Exploited Children fully supports the correction of this sentencing disparity and welcomes the provision of additional tools for federal judges to remove these predators from our communities. These types of offenders belong to a demographic that is the highest percentile in terms of recidivism than any other single offender category.

4. The National Center for Missing and Exploited Children fully supports language that allows only ''non-government sources'' to provide tips to the CyberTipline. The role of the CyberTipline at the National Center for Missing and Exploited Children is to provide tips received from the public and Electronic Communication Services communities and make them available to appropriate law enforcement agencies. Due in part to the overwhelming success of the system and in part to the tragedies of September 11, 2001, federal law enforcement resources cannot address all of the legitimate tips and leads received by the CyberTipline. Allowing the National Center for Missing and Exploited Children and appropriate federal agencies to forward this information to state and local law enforcement while at the same time addressing legitimate privacy concerns is fully supported.

5. The victim shield provision is an excellent and timely policy initiative and one that is fully supported by the National Center for Missing and Exploited Children. This provision should allow the narrow exception to a general non-disclosure clause that anticipates the need for law enforcement and prosecutors to use the victim's photography and other relevant information for the sole purpose of verification and authentication of an actual child victim in future cases. This exception would allow the successful prosecution of other cases that may involve a particular victim and still provide the protection against the revictimization by the criminal justice system.

6. The National Center for Missing and Exploited Children fully supports extending the terms of authorized supervised release in federal cases involving the exploitation of minors. The evidence for extended supervision in such cases is overwhelming. Without adequate treatment and continued supervision, there is a significantly higher risk for re-offending by this type of offender. Moreover, there is a significant link between those offenders who possess child pornography and those who sexually assault children. Please see the attached studies that the National Center for Missing and Exploited Children has produced on these issues.

Thank you again for the opportunity to address these important issues. Should you need further input or assistance please contact us at your convenience.

Sincerely,

DANIEL ARMAGH,
Director, Legal Resource Division,
National Center for Missing and Exploited Children.

UNIVERSITY OF VIRGINIA
SCHOOL OF LAW
Charlottesville, VA, Nov. 28, 2002.

SENATOR PATRICK J. LEAHY,
Chairman, U.S. Senate Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN LEAHY: On October 2, 2002, I testified before the Senate Judiciary Committee concerning S. 2520 and H.R. 4623. Each of these bills was drafted in response to Ashcroft v. Free Speech Coalition, 122 S.Ct. 1389 (2002), in which the Supreme Court threw out key provisions of the federal child pornography laws. As I stated in my testimony, the new sections contained in S. 2520 have been carefully tailored with an eye towards satisfying the precise concerns identified by the Supreme Court. Recently, Senator Hatch offered an amendment in the nature of a substitute to S. 2520 (hereinafter ''the Hatch Substitute''). I have examined the Hatch Substitute, and I believe that it contains a definition of child pornography that is nearly identical to the definition rejected by Free Speech Coalition. Therefore, the Hatch Substitute is unlikely to survive constitutional challenge in the federal courts, and the Committee should decline to adopt it.

As you know, each of these bills contains some complicated provisions, including especially their definition sections. As you also know, this complexity is unavoidable, for the Congress aims to intervene in and eliminate some of the complex law enforcement problems created by the phenomenon of virtual pornography. In the following comments, I will try to state my concerns about the Hatch Substitute as concisely as possible, while identifying the statutory nuances that are likely to generate significant constitutional questions in the event that the Hatch Substitute is enacted.

In Free Speech Coalition, the Supreme Court scrutinized provisions of the Child Pornography Prevention Act of 1996 (''CPPA'') that were designed to eliminate obstacles to law enforcement created by virtual child pornography. The proliferation of virtual pornography has enabled child pornographers to escape conviction by arguing that it is so difficult to distinguish the virtual child from the real one that (1) the government cannot carry its burden of proving that the pornography was made using real children and/or (2) the government cannot carry its burden of proving scienter because the defenders believed that the images in their possession depicted virtual children, rather than real ones. In order to foreclose these arguments, the CPPA defined ''child pornography'' broadly so that it extended not only to a sexually-explicit image that had been produced using a real minor, but also to an image that ''appears to be of a minor'' engaging in sexually-explicit conduct. Free Speech Coalition rejected this definition on First Amendment grounds. The Court reaffirmed the holding of New York v. Ferber, 458 U.S. 747 (1982), under which the government is free to regulate sexually-explicit materials produced using real minors without regard to the value of those materials. However, the Court refused to extend the Ferber analysis to sexually-explicit materials that only appear to depict minors. The Court noticed that many mainstream movies, as well as works of great artistic, literary, and scientific significance, explore the sexuality of adolescents and children. Such works, including ones that are sexually explicit, are valuable in the eyes of the community, and, as long as their production involves no real children, such works are protected by the First Amendment against governmental regulation.

In Free Speech Coalition, the Supreme Court expressly considered and rejected a number of arguments made by the Solicitor General on behalf of the CPPA definition. One of these arguments was that the ''speech prohibited by the CPPA is virtually indistinguishable from child pornography, which may be banned without regard to whether it depicts works of value.'' In his opinion for the Court, Justice Kennedy explained that this argument fundamentally misconceived the nature of the First Amendment inquiry. Materials that satisfy the Ferber definition are regulable not because they are necessarily without value; to the contrary, Ferber itself recognized that some child pornography might have significant value. Indeed, the Court there reasoned that the ban on the use of actual children was permissible in part because virtual images—by definition, images ''virtually indistinguishable'' from child pornography—were an available and lawful alternative. Hence, as Justice Kennedy put it: ''Ferber, then, not only referred to the distinction between actual and virtual child pornography, it relied on [the distinction] as a reason supporting its holding. Ferber provides no support for a statute that eliminates the distinction and makes the alternative mode criminal as well.''

S. 2520 aims to reform the CPPA in ways that are sensitive to these First Amendment value judgments. By contrast, the Hatch Substitute proposes that the Congress should reenact a definition that is almost identical to the one that the Supreme Court just rejected. In the Hatch Substitute, the definition of child pornography would cover,

among other things, sexually-explicit materials whose production involved the use of an ''identifiable minor.'' The Hatch Substitute defines ''identifiable minor'' as including a ''computer or computer generated image that is virtually indistinguishable from an actual minor.'' As I explained above, the Solicitor General suggested in Free Speech Coalition that the First Amendment would be satisfied if the Supreme Court limited the CPPA to depictions that are ''virtually indistinguishable'' from child pornography, and the Court rejected that interpretation. To put it mildly, it is hard to imagine that the Supreme Court would be inclined to view the Hatch Substitute as a good-faith legislative response to Free Speech Coalition when all it does is reenact a definition that the Court there expressly considered and disapproved. You will notice that I here am paraphrasing the definition provisions in the Hatch Substitute and omitting some of their complexity. In particular, the Hatch Substitute provides a further definition of the phrase ''virtually indistinguishable,'' requiring that the quality of the depiction be determined from the viewpoint of an ''ordinary person'' and providing an exception for ''drawings, cartoons, sculptures, or paintings.'' But neither the definition of ''identifiable minor'' nor these refinements of ''virtually indistinguishable'' are calculated to satisfy the concerns raised in Free Speech Coalition. As Justice Kennedy explained for the Court, an absolute ban on pornography made with real children is compatible with First Amendment rights precisely because computer-generated images are an available alternative, and, yet, the Hatch Substitute proposes to forbid the computer-generated alternative as well. Likewise, an exception for cartoons and so forth is insensitive to the Supreme Court's commitment to protect realistic portrayals of child sexuality, a commitment that is clearly expressed in the Court's recognition of the value of (among other things) mainstream movies such as Traffic and American Beauty.

In this regard, you will notice that the Hatch Substitute closely resembles some of the defective provisions of H.R. 4623, which would prohibit virtual child porn that is ''indistinguishable'' from porn produced with real minors. Unlike S. 2520, both H.R. 4623 and the Hatch Substitute seem to embody a decision merely to endorse the unconstitutional portions of the CPPA all over again. The Committee should refuse to engage in such a futile and disrespectful exercise. The law enforcement problems posed by virtual pornography are not symbolic but real, and the Congress should make a real effort to solve them. In my judgment, S. 2520 is a real effort to solve them, and the Committee should use S. 2520 as the basis for correcting the CPPA.

The Hatch Substitute contains additional innovations that the Committee should study carefully. Because this letter already is too long, I will allude to only one of them here. The ''pandering'' provision set forth in the Hatch Substitute contains some language that strikes me as being both vague and unnecessarily broad, and the provision therefore is likely to attract unfavorable attention in the federal courts. The Hatch pandering provision would punish anyone who ''advertises, promotes, presents, distributes, or solicits . . . any material or purported material in a manner that conveys the impression that the material or purported material'' is child pornography. To be completely candid, I am not sure that I understand what problems would be solved by defining the items that may not be pandered so that they include not only actual ''material,'' but also ''purported material.'' I suppose that there might be cases where a person offers to sell pornographic materials that do not actually exist and that the person might make the offer in a manner that violates the pandering prohibition. If that is the problem that the drafters of the Hatch Substitute have in mind, it seems that they might solve that problem more cleanly by adding the word ''offers'' to the list of forbidden conduct and deleting the reference to ''purported material.'' (In other words, the provision would punish anyone who ''advertises, offers, promotes, presents, distributes, or solicits through the mails . . . any material on a manner that conveys the impression that the material'' is child pornography.) If that is not the problem that the Hatch Substitute has in mind, I would suggest that the drafters identify the problem precisely and develop language that is clearer and narrower than the phrase ''purported material,'' for that ambiguous term is likely to generate First Amendment concerns that otherwise could and should be avoided.

Respectfully yours,

ANNE M. COUGHLIN,
Class of 1948 Research Professor of Law.

Washington, DC, Oct. 11, 2002.

HON. PATRICK J. LEAHY,
Chairman, U.S. Senate Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN LEAHY: I want to thank you for your efforts to protect American children by filling the gap left by the Supreme Court's decision to strike down the Child Pornography Prevention Act. Ashcroft v. Free Speech Coalition dealt a blow to those who appreciate the important role the federal government must ply in protecting young people from those who would exploit them. Your efforts to craft a bill, the PROTECT Act, that will withstand Constitutional scrutiny deserves the public's applause.

I would like to draw your attention to a similar, but separate, matter that also reflects on the health and security of our children in regards to pornography. Like the Child Pornography Prevention Act, the Child Internet Protection Act (CIPA), which was passed by the 106th Congress, has been struck down by the federal judiciary. In American Library Association, et al. v. United States of America, et al, a District Court in Pennsylvania threw CIPA out, arguing that its efforts to prevent children from exposure to harmful material on school and library computers amounted to a violation of the First Amendment. The Justice Department has appealed that case to the Supreme Court, where the lower court's decision will very likely be upheld. Unfortunately, as Harvard Law School professor Frederick Schauer testified at the hearing you recently held on CPPA, ''constitutionally suspect legislation under existing Supreme Court interpretation of the First Amendment, whatever we may think of the wisdom and accuracy of those interpretations, puts the process of [prosecution] . . . on hold while the . . . courts proceed at their own pace.

I think we ought not wait for what will likely be a disappointing conclusion. Rather, I hope you will lead an effort to craft new legislation which (1) passes Constitutional muster, and (2) better enables schools and libraries to protect children from harmful images and websites. Let me take a moment to delimit how exactly a new, improved Children's Internet Protection Act would differ from the bill passed by the 106th Congress.

First, a new bill should distinguish clearly between measures affecting adults and minors. Though the title of the legislation is the Children's Internet Protection Act, it requires technology protection measures on all computers with Internet access, regardless of the age of the patron using each computer. If the aim is to protect minors, it is unnecessary to put filters on every computer in a library. This, of course, was one of the District Court's primary concerns. I hope you will draft legislation requiring separate computers for adults and minors. All those under 18 should be required to use filtered computers, unless accompanied by a parent or teacher. Those over 18 should have access to un-filtered computers in a separate area. I smaller facilities, where only one computer is available, special adult hours could be set during which the filter is disabled and only adults may use the computer. The rest of the time a filter would be in place.

Second, I would encourage you to incorporate language that distinguishes children 12 and under from teenagers 13–18. Teenagers have greater capacities to process information than children, as well as different needs for information. In recognition of this, I would hope that your new bill would require different policies for children and teenagers, such as providing different filter settings.

Third, I hope you will consider expanding the scope of your bill to include provisions that protect minors from violent images as well as sexual ones. I realize that limiting the access of children to violent content poses a potentially more difficult constitutional question, but based on the weight of social science evidence showing the harm caused to children by violence in the media, I believe that violence must be included in any definition of content that is ''harmful to children.''

To further explain the reasoning behind these recommendations, I am enclosing a law review article, ''On Protecting Children from Speech,'' which will be published next fall in the Chicago-Kent Law Review. I would welcome the opportunity to discuss our position with you further. In the meantime, please feel free to contact Marc Dunkelman, Assistant Director of the Communitarian Network, with any questions. Thank you for your consideration.

Sincerely,

AMITAI ETZIONI,
Founder & Director.

MAY 13, 2002.

Chairman PATRICK J. LEAHY,
U.S. Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN LEAHY: We write to express our grave concern with the legislation recently proposed by the Department of Justice in response to the Supreme Court's decision in Ashcroft, et al. v. The Free Speech Coalition, et al., No. 00–795 (Apr. 16, 2002). In particular, the proposed legislation purports to ban speech that is neither obscene nor unprotected child pornography (indeed, the bill expressly targets images that do not involve real human beings at all). Accordingly, in our view, it suffers from the same infirmities that led the Court to invalidate the statute at issue in Ashcroft.

We emphasize that we share the revulsion all Americans feel toward those who harm children, and fully support legitimate efforts to eradicate child pornography. As the Court in Ashcroft emphasized, however, in doing so Congress must act within the limits of the First Amendment. In our view, the bill proposed by the Department of Justice fails to do so.

Respectfully submitted,

JODIE L. KELLEY,
Partner, Jenner & Block, LLC, Washington, DC.

ERWIN CHEMERINSKY,
Sydney M. Irmas Professor of Public Interest Law, Legal Ethics and Political

Science, University of Southern California Law School, Los Angeles, CA.

PAUL HOFFMAN,
Partner, Schonbrun, DeSimone, Seplow, Harris & Hoffman, LLP, Venice, CA.
Adjunct Professor, University of Southern California Law School, Los Angeles, CA.

GREGORY P. MAGARIAN,
Assistant Professor of Law, Villanova University School of Law, Villanova, PA.

JAMIN RASKIN,
Professor of Law, American University, Washington College of Law, Washington, DC.

DONALD B. VERRILLI, Jr.,
Partner, Jenner & Block, LLC, Washington, DC.

HARVARD UNIVERSITY,JOHN F. KENNEDY SCHOOL OF GOVERNMENT,
Cambridge, MA, October 3, 2002.

Re S. 2520.

Hon. PATRICK LEAHY,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR LEAHY: Following up on my written statement and on my oral testimony before the Committee on Wednesday, October 2, 2002, the staff of the Committee has asked me to comment on the constitutional implications of changing the current version of S. 2520 to change the word ''material'' in Section 2 of the bill (page 2, lines 17 and 19) to ''purported material.''

In my opinion the change would push well over the constitutional edge a provision that is now right up against that edge, but probably barely on the constitutional side of it.

As I explained in my statement and orally, the Supreme Court has from the Ginzburg decision in 1966 to the Hamling decision in 1973 to the Free Speech Coalition decision in 2002 consistently refused to accept that ''pandering'' may be an independent offense, as opposed to being evidence of the offense of obscenity (and, by implication, child pornography). The basic premise of the pandering prohibition in S. 2520 is thus in some tension with more than thirty-five years of Supreme Court doctrine. What may save the provision, however, is the fact that pandering may also be seen as commercial advertisement, and the commercial advertisement of an unlawful product or service is not protected by the Supreme Court's commercial speech doctrine, as the Court made clear in both Virginia Pharmacy and also in Pittsburgh Press v. Human Relations Commission, 413 U.S. 376 (1973). It is important to recognize, however, that this feature of commercial speech doctrine does not apply to non-commercial speech, where the description on advocacy of illegal acts is fully protected unless under the narrow circumstances, not applicable here, of immediate incitement.

The implication of this is that moving away from communication that could be described as an actual commercial advertisement decreases the availability of this approach to defending Section 2 of S. 2520. Although it may appear as if advertising ''material'' that does not exist at all (''purported material'') makes little difference, there is a substantial risk that the change moves the entire section away from the straight commercial speech category into more general description, conversation, and perhaps even advocacy. Because the existing arguments for the constitutionality of this provision are already difficult ones after Free Speech Coalition, anything that makes this provision less like a straight offer to engage in a commercial transaction increases the degree of constitutional jeopardy. By including ''purported'' in the relevant section, the pandering looks less commercial, and thus less like commercial speech, and thus less open to constitutional defense I outlined in my written statement and oral testimony.

I hope that this is helpful.

Yours sincerely,

FREDERICK SCHAUER,
Frank Stanton Professor of the First Amendment.

ORDERS FOR TUESDAY, JANUARY 14, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, January 14. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 12:30 p.m., with the time equally divided and Senators permitted to speak for up to 10 minutes each.

I ask unanimous consent that the Senate recess from the hour of 12:30 p.m. to 2:15 p.m. for the weekly party caucuses.

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

PROGRAM

Mr. FRIST. As I mentioned earlier, we hope to have the committee resolution agreed to. Members should be on notice that rollcall votes are therefore possible beginning tomorrow morning.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. 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 7:07 p.m., adjourned until Tuesday, January 14, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 13, 2003:

DEPARTMENT OF THE TREASURY

JOHN W. SNOW, OF VIRGINIA, TO BE SECRETARY OF THE TREASURY, VICE PAUL HENRY O'NEILL, RESIGNED.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EDWIN H. ROBERTS JR., 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

FRANK W. * ALLARA JR., 0000
PAUL J. * ANDREWS, 0000
JEFFREY L. * ANDRUS, 0000
KENNETH J. * BOONE, 0000
ROBERT R. * COOPE, 0000
GARY J. * GERACCI, 0000
DARLENE R. * HACHMEISTER, 0000
ALLEN J. * HEBERT JR., 0000
MICHELE M. * JOINES, 0000
LARA INGA * LARSON, 0000
ROSE MARIE * LEARY, 0000
STEVEN C. * MALLER, 0000
ROY C. * MARLOW, 0000
COLIN A. * MIHALIK, 0000
MARIA * SANTOS, 0000
CHARLES J. * SNYDER, 0000
JESUS L. * SOJO, 0000
CRAIG S. * STEWART, 0000
LUKE UNDERHILL, 0000
MICHAEL N. * WAJDOWICZ, 0000
GLYNIS D. * WALLACE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

NANCY M. ACAMPADO, 0000
FEDERICO C. AQUINO JR., 0000
MEDHAT G. BADER, 0000
ROBERT K. BOGART, 0000
ALVIS D. BURRIS, 0000
MARJORIE M. CABELL, 0000
JEFFERY A. CASEY, 0000
ANGELA L. DELGADO, 0000
JASON C. DORMINEY, 0000
NEIL E. DUNLOW, 0000
JOHN C. DUNNING, 0000
THOMAS P. EDMONSON, 0000
STEPHANIE A. FAGEN, 0000
AGUSTIN L. FARIAS, 0000
DOUGLAS M. FERRIS JR., 0000
SHAI T. HALL, 0000
DERREK D. HENRIE, 0000
RODNEY C. JOHNS, 0000
RANDALL S. JONES, 0000
ROBERT H. JUDY, 0000
MATTHEW D. KATZ, 0000
AMAR KOSARAJU, 0000
JASON S. LENK, 0000
DOUGLAS M. LITTLEFIELD, 0000
PAUL A. LONGO, 0000
VICTOR B. MAGGIO, 0000
IGOR MARYANCHIK, 0000
SAPNA J. MELCHIORRE, 0000
JUAN K. PACKER, 0000
DARON C. PRAETZEL, 0000
THOMAS P. RILEY, 0000
ENRIQUE E. ROSADO, 0000
JENNIE LEIGH L. STODDART, 0000
GEORGE A. TANKSLEY JR., 0000
KAREN ANN THOMPSON, 0000
MINH C. VU, 0000
KIM L. WILKINSON, 0000
JUNKO YAMAMOTO, 0000
JAMES H. YAO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

GREGORY A. * ABRAHAMIAN, 0000
EDITH A. * AGUAYO, 0000
ALAN K. * ANZAI, 0000
RICHARD D. * BAKER, 0000
CATHERINE S. * BARD, 0000
GORDON W. * BATES JR., 0000
RICHARD J. * BEAN, 0000
CHARLES P. * BIEDIGER, 0000
JOSEPH A. * BIFANO, 0000
DAN W. BODILY, 0000
JAMES J. * BORDERS, 0000
JAMES E. BOYD, 0000
MARK P. BURTON, 0000
LEANDRO T. CABANILLA, 0000
JEFFREY S. * CALDER, 0000
DAVID B. * CARMACK, 0000
JOHN B. * CHACE, 0000
JONATHAN T. * CHAI, 0000
ANDY CJ * CHIOU, 0000
NISHAN H. * CHOBANIAN JR., 0000
THOMAS F. CLARKE, 0000
GARY L. * COHEN, 0000
EDWARD J. * COHN JR., 0000
ANDREW J. * COLLINS, 0000
KEVIN P. * CONNOLLY, 0000
DAVID D. COPP, 0000
DAVID L. * CUNNINGHAM, 0000
JOSEPH L. CVANCARA, 0000
DAVID R. * DELONE, 0000
SUSAN E. * DESJARDINS, 0000
LEE H. * DIEHL, 0000
BRIAN B. DURSTELER, 0000
MARK A. ERICKSON, 0000

MARK D. * ERVIN, 0000
DAVID E. FARNIE, 0000
SEAN D. * FINK, 0000
THEODORE J. FOONDOS, 0000
STACEY A. * FRAZIER, 0000
LARIS E. * GALEJS, 0000
JOHN V. GANDY, 0000
JOHN M. * GOOCH, 0000
PATRICIA L. GOODEMOTE, 0000
MARIA T. * GRABOW, 0000
PETER H. GRUBB, 0000
RANDY J. * GULIUZZA, 0000
E. RONALD * HALE, 0000
ERIC H. HANSON, 0000
JOHN H. * HARDY JR., 0000
THOMAS W. * HARRELL, 0000
BENJAMIN A. * HARRIS, 0000
LEE H. * HARVIS, 0000
CLAUDE A. HAWKINS, 0000
JOHN L. HAWS, 0000
MARC A. HESTER, 0000
STEPHEN V. HINGSON, 0000
ERIC G. HOOVER, 0000
ANN L. * HOYNIAKBECKER, 0000
TIMOTHY W. * HUISKEN, 0000
MYLENE T. * HUYNH, 0000
DANIEL M. * IHNAT, 0000
JEFFERY L. JOHNSON, 0000
PAUL C. JOHNSON IV, 0000
TIMOTHY W. KACZMAR, 0000
ROBERT W. * KESSLER, 0000
RUSSELL F. * KING II, 0000
PETER B. * KOVATS, 0000
GIA EVITA LANZANO, 0000
JEFFREY A. * LAWSON, 0000
JOHN G. * LINK, 0000
CHERYL A. * LINN, 0000
ELIAHU A. * LITMAN, 0000
DARRYL E. * MALAK, 0000
JOHN P. * MCKENNA JR., 0000
SHANNON C. * MILLER, 0000
DEBORAH L. * MUELLER, 0000
MARCUS E. MURPHY, 0000
ERIK J. NELSON, 0000
THOMAS S. NEUHAUSER, 0000
MICHAEL G. OLDROYD, 0000
GREGORY C. PARK, 0000
PHILLIP E. * PARKER, 0000
JOSEPH PR * PELLETIER, 0000
WILBUR D. PERALTA, 0000
MARILYN D. * PERRY, 0000
JON F. * PETERSEN, 0000
HEATHER R. * PICKETT, 0000
LOYD C. * PIMPERL, 0000
TRACY L. * POPEY, 0000
JERRY W. * PRATT, 0000
ANTHONY M. * PROPST, 0000
JAMES R. RICK, 0000
ERIC R. RITCHIE, 0000
SANFORD E. ROBERTS II, 0000
STEPHEN P. * ROBERTS, 0000
GONZALEZ JAVIER * ROMAN, 0000
DAVID M. * ROSSO, 0000
DOUGLAS M. ROUSE, 0000
ELIZABETH A. ROUSE, 0000
STEVEN R. SABO, 0000
CHRISTOPHER G. SCHARENBROCK, 0000
JANET C. SHAW, 0000
JACK B. SHELTON JR., 0000
PETER R. SILVERO, 0000
ALICE B. * SMITH, 0000
JENNIFER L. * SPERANDIO, 0000
JULIE A. * STARK, 0000
THERESA L. * STEWART, 0000
DAVID L. * STROBEL, 0000
DAVID A. * SVETEC, 0000
SARADY * TAN, 0000
KATHY J. * TOWNLEY, 0000
HOANG N. * TRAN, 0000
KARL K. * TRIMBLE, 0000
DONALD E. * TRUMMEL, 0000
SHAWN M. VARNEY, 0000
DALE A. VOLQUARTSEN, 0000
APRIL C. * WALTON, 0000
NATHAN C. WARD, 0000
JAMES W. * WHELAN, 0000
DAVID K. * WHITE, 0000
MICHAEL S. * XYDAKIS, 0000
EVELINE F. * YAOTIU, 0000
GREGORY B. * YORK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

SAMEH G. ABUERREISH, 0000
ZOHAIR S. ALAM, 0000
TALIB Y. ALI, 0000
PATRICK F. ALLAN, 0000
JAY R. ALLEN, 0000
MICHAEL D. ALMALEH, 0000
KEVIN M. ANDERSON, 0000
MICHAEL A. ANDERSON, 0000
KURT W. ANDREASON, 0000
MARC C. ANTONETTI, 0000
ADITYA ARORA, 0000
ELAINE T. ASTOR, 0000
TIMOTHY K. ATKINSON, 0000
MATTHEW J. AUNGST, 0000
KERI A. BAACKE, 0000
PETER SUNG JAE BAEK, 0000
TIMOTHY C. BALL, 0000
MICHAEL G. BARDEN, 0000
KEVIN B. BARKER, 0000
RENEE V. BARNHIZER, 0000
STEVEN M. BAUGHMAN, 0000
FELICIA M. BAXTER, 0000
TAMMY J. BEAVERS, 0000
VIKHYAT S. BEBARTA, 0000
RACHEL L. BECK, 0000
JEFFREY D. BELL, 0000
JAMES E. BERMUDEZ, 0000
CATHERINE L. BERRY, 0000
GARLAND K. BERRY, 0000
JULIE ANN BERRY, 0000
ANTHONY I. BEUTLER, 0000
DAVID A. BIDDLE, 0000
CHRISTOPHER T. BIRD, 0000
EDWARD W. BLOOM, 0000
KIRK D. BLUTH, 0000
STEVEN A. BOARDMAN, 0000
MICHAEL I. BOND, 0000
TRENA K. BONDE, 0000
GREGORY CLARK BORSTAD, 0000
NABIL BOUTROS, 0000
LAZARO O. BRAVO JR., 0000
BARTON C. BREZINA, 0000
JEFF BROBERG, 0000
MARC C. BROWER, 0000
DARIN S. BROWN, 0000
FRANCHESCA D. BROWN, 0000
HEIDI BUCKINGHAM, 0000
DEBORAH J. BULLOCK, 0000
RAFAEL BURGOS, 0000
GARY J. BUTCHKO, 0000
MICHAEL W. CANTRELL, 0000
CHRISTIAN CANZONIERO, 0000
DAREN E. CARLING, 0000
KYLE L. CARTER, 0000
MARK R. CARTER, 0000
MARK T. CATHERALL, 0000
MICHAEL T. CHARLTON, 0000
LYNN L. CHARRLIN, 0000
KRISTA CIVILETTI, 0000
GARY W. CLAUSER, 0000
JERRY M. CLINE, 0000
MARK B. CLINGER, 0000
SAMUEL G. CLOUD, 0000
DONALD M. COBB, 0000
MARK F. COLLIGAN, 0000
JAMES C. CONNAUGHTON, 0000
TAVIS L. COWAN, 0000
ROBERT W. CRAIGGRAY, 0000
EDWARD E. CRAVEN, 0000
PAUL F. CRAWFORD JR., 0000
PETER G. CRAWLEY, 0000
CORNELIS CRAYE, 0000
ERIC P. CRITCHLEY, 0000
JEFFREY T. CROWDER, 0000
SCOTT M. CUMMIS, 0000
THERESA M. CUOCO, 0000
VARD CURTIS III, 0000
CLAY R. DAHLQUIST, 0000
ANDREW C. DALEY, 0000
HEATHER I. DAVIS, 0000
MICHAEL R. DAVIS, 0000
CHRISTINA T. DEANGELIS, 0000
BRIAN L. DELMONACO, 0000
SANTOS ALAN J. DELOS, 0000
CHAD J. DEMOTT, 0000
EDWARD G. DETAR, 0000
PAUL D. DEVERS, 0000
JUSTIN F. DEVITO, 0000
WENDI J. DICK, 0000
PAUL A. DICPINIGAITIS, 0000
BENJAMIN C. DILLARD, 0000
HEATH A. DORIAN, 0000
SHELLEY E. DOTSON, 0000
CHRISTOPHER M. DRESS, 0000
MATTHEW D. DUNCAN, 0000
MICHAEL M. DUNN, 0000
JOHN P. DUTTON, 0000
DAVID P. EASLEY, 0000
ERIC J. EDELENBOS, 0000
KENNETH S. EGERSTROM, 0000
DARRYL G. ELROD JR., 0000
DAVID L. ESTEP JR., 0000
JOHN B. ESTER, 0000
CHRISTOPHER A. EWING, 0000
MATTHEW D. FAUBION, 0000
DOUGLAS J. FEELEY, 0000
JEFFREY A. FEINSTEIN, 0000
KEVIN J. FINLEY, 0000
KEVIN P. FITZGERALD, 0000
AMY L. FORSBERG, 0000
CHRISTIE L. FOSTER, 0000
KIMBERLY F. FOSTER, 0000
DAVID A. FOUTS, 0000
JAMES A. FROELICH, 0000
DANIEL H. FULKERSON, 0000
EMMANUEL L. GALLEGOS, 0000
SUSAN C. GALVIN, 0000
RUDOLPH B. GAMBOA, 0000
MATTHEW J. GARBERINA, 0000
ERIKA K. GEITNER, 0000
STEPHANIE P. GOLD, 0000
ROBERT GONZALEZ, 0000
JAMES A. GRAHAM, 0000
STEVEN F. GREGUREK, 0000
CAROL J. GROBNER, 0000
ROBERT S. GUERZON, 0000
LORIN E. GUILLORY, 0000
CHAD A. HAMILTON, 0000
TROY E. HAMPTON, 0000
CHRISTIAN T. HANLEY JR., 0000
ANDREW H. HARDY, 0000
SUSAN B. HARRISON, 0000
ALLYSON L. HARROFF, 0000
CRAIG A. HARTMAN, 0000
TRACIE F. HATA, 0000
JASON T. HAYES, 0000
CHRYSTAL D. HENDERSON, 0000
KENT S. HERBERT, 0000
BRUCE WAYNE HESS, 0000
RACHEL A. HIGHT, 0000
LANSING C. HILLMAN, 0000
CHAD M. HIVNOR, 0000
CYNTHIA D. HO, 0000
JEREMY P. HOLDSWORTH, 0000
MICHAEL D. HOLZER, 0000
BRADLEY S. HOOD, 0000
DELLA L. HOWELL, 0000
BRIAN T. HUBBARD, 0000
AMY M. HUBER, 0000
CHRISTOPHER M. HUDSON, 0000
ROSALIE P. HUDSON, 0000
JAMES F. HUIET III, 0000
JENNIFER A. HUNT, 0000
MARK T. ISAAC, 0000
BRANDON G. ISAACS, 0000
RANDOLPH L. JAMES, 0000
HERSHAN S. JOHL, 0000
KIMBERLY S. JOHNSON, 0000
HELEN N. JOHNSONWALL, 0000
MCCLURE K. JONES, 0000
ROLAND P. JONES, 0000
ANDREW W. KAMELL, 0000
KEVIN J. KAPS, 0000
ERICK G. KENT, 0000
JOCELYN A. KILGORE, 0000
TONY S. KIM, 0000
HEIDI L. KJOS, 0000
BRIAN A. KLATT, 0000
DANIEL S. KNEE, 0000
KY M. KOBAYASHI, 0000
JEFFREY D. KUETER, 0000
NONATO A. LARGOZA, 0000
MARK S. LASHELL, 0000
PAULETTE D. LASSITER, 0000
JAMES NATHAN LAU, 0000
CHARLES A. LEATH III, 0000
MAXIMILIAN S. LEE, 0000
JEANETTE A. LEGENZA, 0000
TANYA M. LEINICKE, 0000
WILLIAM C. LEWIS, 0000
TREVOR D. LIM, 0000
JOHN C. LIN, 0000
ERIC LIU, 0000
MARK D. LOCKETT, 0000
TERENCE PATRICK LONERGAN, 0000
JONATHAN D. LOPEZ, 0000
EVA M. LUHMAN, 0000
THOMAS W. LUTZ, 0000
TROY D. B. LYONS, 0000
DAVID S. MALLETTE, 0000
MADHAVI K. MANIAR, 0000
MELVIN J. MARQUE III, 0000
STEVEN C. MARTIN, 0000
DANIEL J. MARTINIE, 0000
ROBERT A. MAXEY, 0000
RYAN M. MCADAMS, 0000
DAVID E. MCCARTY, 0000
ZAIGA K. MCCONNELL, 0000
ROSS W. MCFARLAND, 0000
YURI F. MCKEE, 0000
AINE P. MCKENZIE, 0000
NOLA S. MCMANUS, 0000
VICTORIA LYNN MEREDITH, 0000
STEPHEN E. MESSIER, 0000
KYLE J. MICHAELIS, 0000
JULIE A. MONROE, 0000
JOHN V. MONTORELLO, 0000
THOMAS O. MOORE, 0000
REINALDO J. MORALES, 0000
DANIEL R. MORE, 0000
MICHAEL S. MORRIS, 0000
CHARLES H. MOSHER, 0000
MARK A. MOZER, 0000
TODD L. MURPHY, 0000
EDWARD M. NEELY, 0000
KAREN P. NEIL, 0000
DAVID M. NELSON, 0000
TERESA D. NESSELROAD, 0000
NATALIE A. NEVINS, 0000
THANG V. NGUYEN, 0000
ROBERT E. NOLL JR., 0000
BRENDAN M. NOONE, 0000
JR. KENNETH J. NORRIS, 0000
JEFFREY S. NUGENT, 0000
SAMIA A. OCHIA, 0000
AUDRA L. OCHSNER, 0000
ROBERT J. OCONNELL, 0000
DONELL BAIRD OLIVER, 0000
AMY OLSEN, 0000
ALAN R. OPSAHL, 0000
CHUMA G. OSUJI, 0000
TIMOTHY N. OZBURN, 0000
SYLVIA L. PARRA, 0000
RALPH W. PASSARELLI III, 0000
NATHAN H. PEKAR, 0000
MICHAEL D. PERRINO, 0000
LUTHER G. PERSON, 0000
MICHAEL C. PETRO, 0000
DARREL G. PIERCE, 0000
DANIEL J. PODBERESKY, 0000
THEODORE W. POPE, 0000
MATTHEW M. POPPE, 0000
DENNIS S. PROBST, 0000
ALLISON P. PUCKETT, 0000
MICHAEL S. PUTHOFF, 0000
MARK S. RASNAKE, 0000
JENNIFER RAVENSCROFT, 0000
PATRICK A. RAY, 0000
STEPHEN S. REICH, 0000
JOHN P. REILLY, 0000
TUESDAY M. RENNER, 0000
JOSEPH R. RICHARDS, 0000
TIMOTHY A. RICHTER, 0000
MATTHEW K. RIEDESEL, 0000
KISMET T. ROBERTS, 0000

ROBB K. ROWLEY, 0000
HARLAN C. RUST, 0000
JERRY D. SADLER, 0000
IRFAN SAEED, 0000
JAMES B. SAMPSON, 0000
MICHELLE SANBORN, 0000
JERRY W. SANDIEGO, 0000
KURT R. SANDINE, 0000
DONALD P. SAUBERAN, 0000
STEPHEN P. SAWYER, 0000
KIRK D. SCHLAFER, 0000
GREGORY A. SCHNERINGER, 0000
JEFFERY P. SCHOONOVER, 0000
MARK W. SCHULKE, 0000
NEIL L. SCHWIMLEY, 0000
SUZANNE M. SCOTT, 0000
RAYMOND R. SESSIONS, 0000
ROGER P. SHERMAN, 0000
ROBERT M. SHIDELER, 0000
JAMES W. SIMMONS, 0000
MONA A. SINNO, 0000
JOHN L. SMEAR, 0000
RICHARD A. SORENSEN, 0000
DAVID L. STEINHISER II, 0000
KEVIN W. STEPHENS, 0000
SHANNON F. STROMBERG, 0000
THOMAS G. STRUBLE, 0000
PHILLIP J. SUFFRIDGE, 0000
MICHAEL J. SUTHERLAND, 0000
ANGELA H. SWEENY, 0000
MATTHEW R. TALARCZYK, 0000
PUMIPAK TANTAMJARIK, 0000
LINDA P. THOMAS, 0000
MICHAEL C. THOMPSON, 0000
JEFFERSON R. THURLBY, 0000
STEPHANIA K. TIMOTHY, 0000
ANDREW O. TODD, 0000
KELLIE M. TOLIN, 0000
DAVID J. TOVEY, 0000
KELLY L. TRAPOLD, 0000
DAVID G. TRUE, 0000
MARK W. TRUE, 0000
RAJESH TULI, 0000
GALE T. TUPER, 0000
LAURIE K. TURENNE, 0000
KREANGKAI TYREE, 0000
MELISSA M. TYREE, 0000
CHRISTOPHER P. VAGLIA, 0000
CEASAR A. VALLE, 0000
KEVIN R. VANVALKENBURG, 0000
ANGELA J. VANZEE, 0000
PAUL A. VESCO, 0000
JOHN S. VISGER, 0000
LAWRENCE T. VOLZ, 0000
KEVIN R. WADDELL, 0000
JOEL S. WALDROP, 0000
CHRISTOPHER S. WALKER, 0000
CHRISTOPHER W. WALKER, 0000
GRAHAM W. WALLACE, 0000
STEVEN R. WARD, 0000
LORI SUE S. WEBER, 0000
JENIFER HALL WELSH, 0000
JOHN C. WESKE, 0000
REBECCA M. WESTER, 0000
MARIE J. WESTPHAL, 0000
DAVID A. WHITE, 0000
STEVEN E. WHITMARSH, 0000
JAMES F. WIEDENHOEFER, 0000
PAUL G. WILHELM, 0000
ARTHUR L. WILLIAMS, 0000
JAMES L. WILLIS, 0000
GORDON G. WINGARD, 0000
KRISTI C. WITCHER, 0000
JOHN R. WITHEROW, 0000
ROBERT M. WOOD, 0000
FRANCIS M. WU, 0000
RAMON YAMBOARIAS, 0000
PAUL A. YATES, 0000
ROBERT R. YORK, 0000
RUSSELL J. YOUNG III, 0000
GABRIEL ZIMMERER, 0000
MICHELLE K. ZIMMERMAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JAMES L. * AGLER JR., 0000
DAVID G. * AULT, 0000
SLAYTON E. * AUSTRIA, 0000
STEVEN E. * BODILY JR., 0000
ROBERT J. * BRICH, 0000
CHRISTOPHER J. * CANALES, 0000
GEORGE G. * CARTER, 0000
ANDREW T. * COLE, 0000
PAUL N. * CONNER, 0000
CARRIE D. COOPER, 0000
MARY G. * CREECH, 0000
GREGORY S. * CULLISON, 0000
MICHAEL D. * CUPITO, 0000
CHRISTOPHER A. * DUN, 0000
TIMOTHY A. * DYKENS, 0000
CORINA M. * EARLGRAEF, 0000
MONTSERRAT P. * EDIEKORLESKI, 0000
LEAH JANE * ERWIN, 0000
IRAD P. * GILLETT, 0000
BRIAN T. * GOUVEIA, 0000
LINDA M. GUERRERO, 0000
ROBERT A. HARRIS, 0000
HEIDI SPALT * HASTINGS, 0000
WARD K. * HINGER, 0000
MICHAEL R. * HOLMES, 0000
MARVIN S. * HSIE, 0000
SALLY ANN * KELLYRANK, 0000
STEPHEN D. * LARSEN, 0000
RODNEY J. * LASTER, 0000
DANIEL E. * LEE, 0000
SHELLEY R. * LOVELADY, 0000
JOHN J. * MAMMANO, 0000
ANTHONY M. * MARICI, 0000
TIMOTHY L. MARTINEZ, 0000
CHARESSE E. MCCREADIE, 0000
RONALD J. * MERCHANT, 0000
TIMOTHY T. * MIDDLETON, 0000
JON T. * MOHATT, 0000
JAMES B. * MOTT, 0000
GREGORY W. * PAPKE, 0000
WAYNE S. * PETERS, 0000
SUSAN J. * PIETRYKOWSKI, 0000
CADINA C. * POWELL, 0000
CURT B. * PRICHARD, 0000
MICHELLE A. * PUFALL, 0000
DIRK W. * SANDSTROM, 0000
SCOTT C. * SUCKOW, 0000
MICHAEL A. * TAYLOR, 0000
MARTIN G. * VALLES, 0000
SAMUEL C. * WASHINGTON, 0000
JEFFREY J. * WHITE, 0000
PAUL A. * WILLINGHAM, 0000
BEVERLY A. WOODS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

COLBY D. * ADAMS, 0000
ESTHER C. * ALLEN, 0000
LANCE L. * ANNICELLI, 0000
MICHAEL A. * ARNHOLTZ, 0000
LINUS * AUGUSTUS, 0000
DOUGLAS S. * BAKER, 0000
KAREN L. * BERKELEY, 0000
NICOLE K. * BOYLAN, 0000
GERALD S. * BRALEY, 0000
WILLIAM L. * BRIM, 0000
TENA M. * BUFFINGTON, 0000
RAUL * CANALES JR., 0000
PATRICK J. CASTLE, 0000
IMELDA M. * CATALASAN, 0000
ERIC M. * COX, 0000
KRISSA J. C. * CRAWFORD, 0000
EDDIE D. * DAVIS, 0000
KURTIS L. * DEAN, 0000
DAVID L. * DEATON, 0000
KATHLEEN S. * DETAMORE, 0000
JONATHAN R. * DEVANE, 0000
DAINE E. * DROBEK, 0000
MARK R. * DUFFY, 0000
MATTHEW J. * EITUTIS, 0000
MELANIE J. * ELLIS, 0000
PEDRO M. * FERNANDEZ, 0000
NICOLE L. * FRAZER, 0000
BETH R. * GARCIA, 0000
ANDREA D. * GARDNER, 0000
SHARON J. * GOBER, 0000
EDWARD A. * GOODNITE, 0000
JEFFERY A. * GOULD, 0000
TODD H. * GRAY, 0000
STEPHEN G. * GRIEP, 0000
JENNIFER L. * HALTER, 0000
COLLEEN M. A. * HALUPA, 0000
LEVETTE M. * HAMBLIN, 0000
GARY S. * HANKINS, 0000
MATTHEW V. * HANSEN, 0000
ILEANA * HAUGE, 0000
PEGGY A. * HEIMLICH, 0000
OSCAR R. * HERNANDEZ, 0000
DERYCK K. * HILL, 0000
BARBARA J. * HOEBEN, 0000
THOMAS G. * HUGHES, 0000
WILLIAM R. HURTLE, 0000
KENNETH L. * JONES, 0000
JULIE E. * KEAVENEY, 0000
NATALIE M. * KEELER, 0000
DANIEL C. * KING, 0000
DAVID W. * KOLES, 0000
LARRY S. * KROLL, 0000
DAVID J. * KUCH, 0000
MARTIN W. * LAFRANCE, 0000
ALLEN * LEIMENSTOLL, 0000
DAVID A. * LINCOLN, 0000
DAVID J. * LINKH, 0000
WINNIE * LOK, 0000
MARION F. * MALINOWSKI JR., 0000
CHERIE ANNE C. * MAUNTEL, 0000
MARK R. * MCDOWELL, 0000
JEFFREY W. * MCGUIRE, 0000
DONALD H. * MCKENZIE JR., 0000
TAMMY H. * MCKENZIE, 0000
WILLIAM M. * MCLEAN, 0000
JULIAN * MCLEOD, 0000
THOMAS W. * MCMAHON JR., 0000
BRIDGET N. * MCMULLEN, 0000
KEVIN L. * MCNABB, 0000
ABDOLLAH P. * MOGHADDAM, 0000
BRIAN E. * MOORE, 0000
DAVID G. * MORRIS, 0000
BARRY E. * NEWTON, 0000
DOUGLAS M. * ODEGAARD JR., 0000
KELLEY MAUD * OLIVER, 0000
GARY D. * PAGE, 0000
AMY J. * PARKER, 0000
MICHAEL B. * PEAKE, 0000
NINA L. * PERINO, 0000
SONJA R. * POITIER HICKMAN, 0000
PATRICE L. * PYE, 0000
CHARLES W. * REED, 0000
CRAIG A. * REFOSCO, 0000
DARREN P. * RHOTON, 0000
TRICIA L. * RILEY, 0000
JOEL B. ROBB, 0000
TERESA K. * ROBERTS, 0000
PHYLLIS M. * ROBERTSON, 0000
CHRISTINE R. * RUSS, 0000
LINDA M. * SCHEMM, 0000
STEPHANIE P. * SCHULTZ, 0000
LYNN M. * SHINABERY, 0000
MICHAEL E. * SHIPMAN, 0000
JEREMY M. SLAGLEY, 0000
DONNA C. * SMITH, 0000
KIMBERLY M. * SMITH, 0000
SCOTT M. * SONNEK, 0000
ALLEN D. * SPROUL, 0000
CHRISTINE L. * STABILE, 0000
STEVEN G. * STERN, 0000
ZAHID M. * SULAIMAN, 0000
DAVID F. * SWAYNE JR., 0000
LANCE A. * THOMPSON, 0000
THOMAS P. * TIMOTHY, 0000
MICHAEL W. * VERMEULEN, 0000
MINH T. * VUONG, 0000
DOUGLAS W. * WEBB, 0000
DAVID A. * WELGE, 0000
RICKY L. * WHITE, 0000
SCOT T. * WILLIAMS, 0000
VINCENT G. * WILLIAMS, 0000
JOHN W. * WOODS, 0000
ROBERT A. * WOOTTON, 0000
ROBERT K. * YOUNG, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

ELISE A. * AHLSWEDE, 0000
LEE ANN * ALEXANDER, 0000
WENDY L. * ARONSON, 0000
CONSTANCE C. * BANKS, 0000
MIMI * BANKS, 0000
LISA M. * BELL, 0000
VALERIE T. * BELLE, 0000
CHRISTINE R. * BERBERICK, 0000
PATRICIA N. * BRADSHAW, 0000
WAYNE R. * BRASCH, 0000
KIMBERLY A. * BRIDGE, 0000
KATHLEEN M. * BROWNING, 0000
LISA M. * COLE, 0000
ELLA M. * COLVIN, 0000
NICHOLAS J. * CUSOLITO, 0000
LISA A. * DANIELSSUTTON, 0000
SUSAN C. * DAVIS, 0000
LISA A. * DAVISON, 0000
MARTIN K. * DEFANT, 0000
LINDA S. * DEMARY, 0000
FRANCIS J. * DESJARDINS JR., 0000
KRISTA L. * DIXON, 0000
BELINDA A. * DOHERTY, 0000
DEBORAH K. * DRAPER, 0000
JOSEPH L. * EASLEY, 0000
MICHELE M. * EVEN, 0000
JULIE M. * FAUBION, 0000
KAREN M. * FEDERICI, 0000
LOUIS A. * GALLO, 0000
STEPHANIE M. * GARDNER, 0000
ELIZABETH S. * GESSNER, 0000
CAROL L. * GILCHRIST, 0000
HOLLY L. * GINN, 0000
ANDREA K. * GOODEN, 0000
SHAWN * GREGG, 0000
CALVIN R. * GRINER JR., 0000
EVELYN J. * HALE, 0000
ROSEMARY T. * HALEY, 0000
TAMARA J. * HALL, 0000
ROCHELLE L. * HAYNES, 0000
KERRY L. * HESSELRODE, 0000
JADE K. * HIN, 0000
WILLIAM C. * HULST III, 0000
PENNY L. * JESS, 0000
HEATHER L. * JOHNSON, 0000
MARGRET M. * JONES, 0000
HOWARD E. * LOAR JR., 0000
TERYL A. * LOENDORF, 0000
KRISTEN BERG * LOGAN, 0000
RODNEY A. * LOGAN, 0000
MARIA L. * MARCANGELO, 0000
CHARLENE R. * MARTINNEAL, 0000
STEPHENIE J. * MCCUE, 0000
LEE A. * MICHAELS, 0000
MARY B. * MIRE, 0000
SHERRY D. * MOORE, 0000
BRENDA J. * MORGAN, 0000
GEORGE R. * MOSELEY, 0000
RAYMOND M. * NUDO, 0000
BRADLEY A. * OLSSON, 0000
BRENDA L. * PARKER, 0000
JEANNINE M. * PARKER, 0000
CONNIE S. * PATTERSON, 0000
TORI E. * PEARCE, 0000
PAMELA D. * PETREE, 0000
KAREN J. * RADER, 0000
LORETTA C. * RAMBY, 0000
IMELDA M. * REEDY, 0000
GAIL A. * REICHERT, 0000
JOSERENAR U. * REYES, 0000
WILLIAM A. * REYNOLDS, 0000
ROBERT K. * RICE, 0000
SHIRRON E. * RICHARDSON, 0000
JOHN E. * ROSE, 0000
JEANNINE M. * RYDER, 0000
TREESA J. * SALTER, 0000
BRIAN R. * SCHWARTZ, 0000
SHEVONNE L. * SCOTT, 0000

THU D. * SCOTT, 0000
RICKY JAY * SEXTON, 0000
RICHARD W. * SHEA, 0000
GEMMA M. * SMITH, 0000
SUSAN E. * SMITHBOZKURT, 0000
TAMMY R. * STARMAND, 0000
DEANNA D. * STEEBY, 0000
PAMELA D. * STEPHENSON, 0000
BONNIE J. * STIFFLER, 0000
AVEN L. * STRAND, 0000
LANE C. * TAYLOR, 0000
RICHARD J. * TERRACCIANO, 0000
ANDREW J. * THOMAS, 0000
MICHELLE R. * TIRADO, 0000
ROBERT D. * TWEED, 0000
MELISSA A. * ULITZSCH, 0000
MARIA T. * VIDA, 0000
KIMBERLY J. * VOGEL, 0000
THEODORE J. * WALKER JR., 0000
MARY M. * WALSH, 0000
MARTHA A. WANCA, 0000
CHARLES T. * WHEELER, 0000
SHARON M. * WHITE, 0000
KIRBY L. WOOTEN III, 0000
CHERYL E. * YANCEY, 0000
PAUL K. * YENTER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

LAURA S. * BARCHICK, 0000
CHRISTOPHER B. * BENNETT, 0000
THOMAS A. * BIEDIGER, 0000
JONATHAN C. BOYD, 0000
GEORGE L. * BURNETT, 0000
BRETT D. * BURTON, 0000
REBECCA S. * CAGLE, 0000
KERRY A. * CARLSON, 0000
AMY L. * CHARLTON, 0000
THOMAS L. * CLUFF JR., 0000
BRENT A. * COTTON, 0000
ROBERT C. * COTTRELL JR., 0000
GAIL E. * CRAWFORD, 0000
TIFFANY A. DAWSON, 0000
PATRICK J. * DOLAN, 0000
DAVID B. * EBY, 0000
GREGORY C. * FOLEY, 0000
MICHELE A. * FORTE, 0000
PATRICK W. * FRANZESE, 0000
KARRI L. * GARRETT, 0000
HELEN A. GEORGE, 0000
ANDREA M. * GORMEL, 0000
KYLE W. * GREEN, 0000
CALEB B. HALSTEAD JR., 0000
BRANDON L. * HART, 0000
MATTHEW T. * JARREAU, 0000
JOHN C. * JOHNSON, 0000
JAMES H. * KENNEDY III, 0000
SHANNON J. * KENNEDY, 0000
JAMES E. KEY III, 0000
ARTHUR G. * KIRKPATRICK, 0000
MARC G. * KOBLENTZ, 0000
ANTONY B. * KOLENC, 0000
ANDREW T. * KROG, 0000
KIM E. * LONDON, 0000
JOHN C. * MALLEY, 0000
SEAN C. MALTBIE, 0000
MICHAEL S. * MARTIN, 0000
LAURA J. * MEGAN, 0000
MATTHEW J. * MULBARGER, 0000
KATHERINE E. * OLER, 0000
DANIEL A. * OLSON, 0000
RALPH A. * PARADISO, 0000
MICHELE A. * PEARCE, 0000
STEVE A. * RAMON, 0000
JAMES W. * RICHARDS IV, 0000
MICHAEL S. * RODERICK, 0000
THOMAS M. * RODRIGUES, 0000
WILLIAM G. * ROGERS SR., 0000
ROBERT N. * RUSHAKOFF, 0000
ELIZABETH L. * SCHUCHSGOPAUL, 0000
MICHAEL W. * TAYLOR, 0000
GRAHAM H. TODD, 0000
CHRISTINE C. * TREND, 0000
OWEN W. * TULLOS, 0000
TIMOTHY J. * TUTTLE, 0000
BRYAN D. * WATSON, 0000
JEREMY S. * WEBER, 0000
LISA F. * WILLIS, 0000
MARK V. * WITHERS, 0000
DONALD E. * WITMYER, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

WAYNE H. ALBRIGHT, 0000
MICHAEL G. BALL, 0000
MARK E. BARTMAN, 0000
JOAN M. BENTZ, 0000
STEVEN R. BLATT, 0000
ROBERT A. BLISSARD, 0000
ROBERT L. BOGGS, 0000
MAURICE T. BROCK, 0000
BRYAN G. CARPENTER, 0000
STEPHEN D. COTTER, 0000
DONNIE R. DAVIS, 0000
J. TERRY DAVIS, 0000
DENNIS M. DIGGETT, 0000
JAMES A. DRAKE, 0000
LEROY B. DUNKELBERGER II, 0000
RICHARD R. DUPUIS, 0000
ROBERT J. DUSEK, 0000
MARK F. ELLIS, 0000
ROBERT L. EZELLE, 0000
ROBERT V. FITCH, 0000
DANA J. GARVEY, 0000
EDWARD J. HULL, 0000
GARY J. JANDRISEVITS, 0000
SCOT W. JOHNSON, 0000
ELIZABETH M. JOSEPHSON, 0000
EDWARD D. KINOWSKI, 0000
CYNTHIA N. KIRKLAND, 0000
WILLIAM F. KOLBINGER, 0000
STEVEN R. KOPP, 0000
JAMES S. KRAJNIK, 0000
DONALD M. LAGOR, 0000
ROBERT H. MAGLASANG, 0000
MARY V. MARSHALL, 0000
DEBORAH C. MCMANUS, 0000
DANIEL M. MINI, 0000
MICHAEL R. MORGAN, 0000
WILLIAM E. NORTON, 0000
MATTEO J. ORLANDO, 0000
WILLIAM M. PARSEL, 0000
DEANE D. PENNINGTON, 0000
JOHN R. PRESLEY, 0000
STEVEN M. ROWE, 0000
BRUCE A. ROY, 0000
ANDREW T. RYDER, 0000
DARRELL A. SAMPLES JR., 0000
ALICE K. SANDERS, 0000
THOMAS J. SIMONET, 0000
GEORGE P. SMERAGLIO, 0000
DAVID D. SMITH, 0000
JACOB Y. SMITH III, 0000
WALTER J. SOBCZYK JR., 0000
ALLYSON R. SOLOMON, 0000
DAVID W. STICKLEY, 0000
FRANK H. STOKES, 0000
JONATHAN T. TREACY, 0000
THOMAS J. TURLIP, 0000
RICHARD G. TURNER, 0000
HARVEY M. VANWIE JR., 0000
CRAIG E. WALLACE, 0000
RUSS A. WALZ, 0000
DANIEL WAWRUCK, 0000
MICHAEL J. WILLIAMS, 0000