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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Let us pray:

Loving Father, You open Your heart to us. You assure us of Your unqualified, unlimited love. In spite of all the changes in our lives, You never change. We hear Your assurance, ''I love you. I will never let you go. You are mine. I have you chosen and called you to know, love, and serve Me.''

In response, we open our hearts to You. We choose to be chosen. We accept Your love and forgiveness and turn our lives over to Your control. We confess anything we have said or done that deserves Your judgment. Cleanse our memories of any failure that would haunt us today and give us the courage to act on the specific guidance You have given that we have been reluctant to put into action. We commit to You our families, friends, and those with whom we work. Help us to communicate Your creative delight in each person's uniqueness and potential.

We dedicate today's work in the Senate. Bless the Senators with a renewed sense of Your presence, a rededication to their calling to serve You and our Nation, and a reaffirmation of their dependence on You. You are our Lord and Saviour. Amen.

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PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. ALLARD). The acting majority leader is recognized.

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SCHEDULE

Mr. HATCH. Mr. President, today the Senate will resume consideration of the pending flag desecration resolution for 30 minutes prior to a cloture vote on the resolution. Therefore, Senators can anticipate the cloture vote to occur at approximately 10 a.m. Following the vote, the Senate will be in a period of morning business until 12:30 p.m. with the time under the control of Senators BROWNBACK, COVERDELL, and DURBIN.

It is hoped an agreement regarding final passage of the flag resolution can be made so that the vote can occur during today's session. As a reminder, cloture on the motion to proceed to the gas tax legislation was filed on Tuesday, and that vote will occur on Thursday at a time to be determined. Also on Thursday, the Senate is expected to begin consideration of the loan guarantees legislation.

I thank all Members for their attention.

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MEASURE PLACED ON THE CALENDAR—S.J. RES. 43

Mr. HATCH. Mr. President, I understand there is a joint resolution at the desk due for its second reading.

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

The bill clerk read as follows:

A joint resolution (S.J. Res. 43) expressing the sense of the Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru.

Mr. HATCH. I object to further proceeding on the resolution at this time.

The PRESIDING OFFICER. The resolution will be placed on the calendar.

FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Resumed

Mr. HATCH. I ask unanimous consent that the oversized posters we use this morning be permitted.

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

Mr. HATCH. Mr. President, during the past 2 days, we have heard several Senators who oppose the flag desecration amendment speak about the American flag as only a symbol or a piece of cloth that should not be confused with the real freedoms that we as Americans enjoy. They want to know why we get so worked up over a symbol, a mere piece of cloth. They want to know why we should care if someone urinates or defecates on the American flag. They ask: Aren't we strong enough as a nation to overlook such behavior?

The U.S. flag is a lot more than a symbol and a lot more than a piece of cloth. Don't take my word for it. Listen to the story of how Mike Christian feels about the American flag. Mike Christian was one of Senator John MCCAIN's cellmates at the ''Hanoi Hilton'' during the Vietnam war. He sewed an American flag on the inside of his shirt, and he often led his prisoners of war in the Pledge of Allegiance to the flag. One day, his captors found that flag and they beat him severely for possessing it. Despite the risk of even more life-threatening abuse, Mr. Christian sharpened a little piece of bamboo into a needle and painstakingly made another flag out of bits of cloth. His new flag, and the heroics it inspired, helped the other American prisoners survive their prolonged captivity under brutal conditions.

If a makeshift flag can stir such emotions, it is illogical for the Senate to ignore the feelings of the overwhelming number of Americans who support flag protection. The flag is not just a piece of cloth or a symbol. It is the embodiment of our heritage, our liberties, and indeed our sovereignty as

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

a nation. The American flag unites Americans because it embodies shared values and history.

Gen. Norman Schwarzkopf, commander of the U.S. and allied forces during the gulf war, summed this up eloquently in his letter supporting the flag amendment. General Schwarzkopf wrote:

> We are a diverse people living in a complicated fragmented society. I believe we are imperiled by a growing cynicism by certain traditions that bind us, particularly service to our Nation. The flag remains the single preeminent connection to each other and to our country. Legally sanctioning flag desecration only serves to undermine this national unity and identity which must be preserved.

That was General Schwarzkopf, one of the great heroes of our country.

I have a few flags that will help illustrate what the flag means to our shared history. These flags tell part of the story of how this Nation we all call ours came to be so great.

The flag with the circle of 13 stars was the first official flag of the United States. It was adopted by an act of Congress on June 14, 1777. According to legend, a group headed by George Washington came up with this design and commissioned seamstress Betsy Ross to execute it for presentation to Congress. It is a beautiful flag.

Let me go to the next flag. This design is believed by many authorities to be the stars and stripes used by the American land troops during the Revolutionary War. A flag such as this was flown over the military stores at Bennington, VT, on August 16, 1777, when Gen. John Stark's militia led Americans to victory over a British raiding force. The original of that flag is preserved in the Bennington, VT, museum.

The 15 stars and 15 stripes design was adopted prior to the War of 1812 after two States were added to the Union. Notice that it not only has 15 stars but also 15 stripes. This is the design that flew over Fort McHenry during a naval bombardment and inspired Francis Scott Key to compose what later became our national anthem. The actual flag that survived that night over Fort McHenry has been restored and now hangs in the Smithsonian.

Today's flag has 50 stars and 13 stripes. Its design was born of the need for a more practical way of adding states than adding both a star and a stripe for each one. Congress approved this design—seven red and six white stripes, and a star for each state—on April 4, 1818. The 50-star flag has been in use since July 4, 1960. It's a flag like this that Mike Christian tried to fashion from his cell in the Hanoi Hilton. It's a flag like this that flies over the Capitol and our Federal buildings around the world. It is a flag like this that we pledge allegiance to every day when we open the Senate.

Mr. President, do we mean what we say when we stand here each morning and pledge allegiance to the flag, or is it simply a hollow gesture? I fear that the significance of these flags, and their meaning to Americans, is being belittled by some who suggest the Senate's time is too important for the flag protection constitutional amendment.

Listen to the American people. That is what I would like to say to the Members of the Senate. The vast majority of our citizens support amending the Constitution to protect our Nation's flag. To us, protecting the flag as the symbol of our national community—and utilizing the constitutional amendment process to do so—is no trivial matter.

There are tens of thousands of veterans living on our country today who have put their lives on the line to defend our flag and the principles for which it stands. Those are the fortunate ones who were not required to make the ultimate sacrifice, as did my brother and my brother-in-law. For every one of those, there is someone who has traded the life of a loved one for a flag, folded at a funeral. Let's think about that trade—and about the people who made that sacrifice for us—before deciding whether the flag is important enough to be addressed in the Senate.

Would it really trivialize the Constitution, as some critics suggest, to pass an amendment that is supported by a vast majority of Americans? Is it somehow frivolous to employ the amendment process that our Founding Fathers wrote into Article V of the Constitution? Are we irresponsible if we simply restore the law as it existed for centuries prior to two recent Supreme Court decisions?

The Constitution itself establishes the process for its own amendment. It says that the Constitution will be amended when two-thirds of Congress and three-fourths of the states want to do so. It does not say that this procedure is reserved for issues that some law professors think are important, or for an issue that would immediately crush the foundations of our great republic if left unaddressed. If ''government by the people'' means anything, it means that the people can decide the fundamental questions concerning the checks and balances in our government. It means the people can choose whether it is Congress or the Supreme Court that decides whether flag desecration is against the law. The people have said that they want Congress to decide it in the state legislatures.

I urge my colleagues to think hard about what they consider ''important'' before they conclude that the Senate should ignore the people's desire to make decisions about the government which governs them. The flag amendment is the very essence of ''government by the people'' because it reflects the people's decision to give Congress a power that the Supreme Court has taken away. This question is very important. It involved the separation of power doctrine of our Constitution.

I think we all have a pretty good idea of where the votes are on this amendment. The question is why my colleagues wish to delay a vote on this important measure. Perhaps they feel the need to turn a few more votes . . . I don't know. Whatever the reason, I urge all my colleagues, whether they support the flag amendment or not, to vote for cloture so we can then have an up and down vote on the merits of S.J. Res. 14.

Finally, all this amendment does is give Congress the power to prohibit the physical desecration of the flag of the United States. I happen to think that is a wise thing to do. The vast majority of the American people think it is a wise thing to do. A vast majority of the House of Representatives think it is a wise thing to do. And a majority here—although, alas, probably not enough—do believe it is a wise thing to do as well.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, how much time is available to the Senator from Utah and the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Utah has 3 minutes remaining. The Senator from Vermont has 13 minutes remaining.

Mr. LEAHY. Thirteen? I thought the Senator from Vermont had half the time, which would have been 15 minutes.

The PRESIDING OFFICER. Half the time is 13 minutes to the side since the Senate started at 9:30.

Mr. HATCH. Mr. President, I ask unanimous consent we extend debate for 30 minutes so he can have 15.

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

Mr. LEAHY. Mr. President, I note we had discussion about whether people want to prolong this debate. We do want to have debate on the constitutional amendment. People have given tremendous speeches, pro and con, on this issue. I hope everybody will vote for cloture, for example. But let us not have any suggestion that anybody here is trying to stop a vote on this constitutional amendment. We all want it. But most Senators believe, if you are going to amend the Constitution, it requires at least more debate and more time than we might give to a simple resolution.

I yield 5 minutes to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator for his tremendous leadership in opposition to this constitutional amendment. I thank him for his leadership on this whole issue.

THE BILL OF RIGHTS AND FREEDOM OF EXPRESSION

Honoring the flag demands that we consider carefully the history of the Bill of Rights before we choose to alter it. Many of our Founders sought a Bill of Rights because, in their view, the Constitution failed properly to consider and protect the basic and fundamental rights of individuals.

Although many Federalists, including James Madison, felt that the limited powers conferred on the government by the Constitution were sufficiently narrow so as to leave those rights unquestioned, the Bill of Rights was adopted in order to provide reluctant states with the assurances necessary for approval of the Constitution.

From this beginning in compromise 209 years ago, the Bill of Rights has evolved into the single greatest protector of individual freedom in history. It has done so, in large measure, because attempts to narrow it have, to date, been rejected.

It was fundamental to the founding of this Nation that individuals should be free to express themselves, secure in the knowledge that government will not suppress their expression because of its content. Our Nation's Founders created this new country to escape oppression at the hands of the state. They firmly believed that government should not limit one's ability to speak out. They wrote into our fundamental charter the ten simple words: ''Congress shall make no law . . . abridging the freedom of speech.''

Over time, this Nation has grappled with the boundaries of free speech, regulating defamation or obscenity. That government may regulate some expression, however, does not change the law's presumption against content-based regulation. In the words of Justice Scalia: ''[T]he government may proscribe libel; but it may not make the further content discrimination of proscribing only libel critical of the government.''

We need not concern ourselves with the parameters of speech that can be proscribed, because the expression in question—political expression—is clearly protected under the first amendment. The defining standard that has marked the history of free expression in this Nation is that speech may not be regulated based upon its content.

The presumptive invalidity of content regulation protects all forms of speech—that with which we agree, as well as that to which we object. To do otherwise would make hollow, at best, the promise of free speech. As the Supreme Court held in Street v. New York: ''[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.''

My colleagues, this amendment departs from that noble and time-honored standard. It seeks instead to prohibit expression solely because of its content.

Proponents of this amendment have made plain that they direct their effort at expression that they deem ''disrespectful.'' Even more troubling is that this amendment leaves the determination of what is disrespectful to the government.

For the promise of free expression to be fulfilled, the first amendment must protect those who rise to challenge the existing wisdom—to raise those views that may anger or offend. As Justice William O. Douglas observed, free speech, ''may indeed serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger.''

Adherence to this ideal is what separates America from oppressive regimes across the world. We tolerate dissent and protect dissenters. They suppress dissent and jail dissenters, or condemn dissenters to a fate still more grave.

The first amendment to the United States Constitution is not infallible. It cannot sanitize free expression any more than it can impart wisdom to thoughts which otherwise have none. Nor can the first amendment ensure that free expression will always comport with the views of a majority of the American people or the American government.

What the first amendment does promise, however, is the right of each individual in this Nation to stand and make a case, regardless of particular point of view, and to do so absent fear of government censor. This right is worthy of preserving. It is this right that is at risk today. When we start down the road to distinguishing between whose message is appropriate and whose is not, we risk something far greater than the right to burn a flag as political expression.

Much of what is clearly protected expression can easily be deemed objectionable. So it is with flag burning. As the Supreme Court has repeatedly stated, the act of flag burning cannot be divorced from the context in which it occurs—that of political expression. This Nation has a proud and storied history of political expression—much of which could easily be characterized as objectionable.

Does any Member of this body believe that if the question had been put to the crown as to whether or not the speech and expression emanating from the colonies, in the form of Thomas Paine's ''Common Sense'' or the Articles of Confederation, should be sustained, the answer would have been anything but a resounding no? Could not the same be said of messages of the civil rights and suffrage movements?

This Nation was born of dissent. Contrary to the view that it weakens our democracy, this Nation stands today as the leader of the free world because we tolerate these varying forms of dissent—not because we persecute them.

In seeking to protect the American flag, this amendment asks us to depart from the fundamental ideal that government shall not suppress expression solely because it is disagreeable. As Justice Brennan wrote for the majority in Texas v. Johnson:

> If there is a bedrock principle underlying the first amendment, it is that the government may not prohibit expression of an idea simply because society finds the idea itself offensive or disagreeable. We have not recognized an exception to this principle even where our flag has been involved.

So this amendment runs counter to the very premise of the Bill of Rights—that the rights of individuals should remain beyond the purview of unwarranted government intervention. That is what lead to the adoption of the Bill of Rights. In the words of Justice Jackson, speaking for the Supreme Court in 1943:

> The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

Yet, this amendment would do exactly that. It would subject the fate of one of our most fundamental rights to turn upon the outcome of elections. What comfort is a first amendment that tells the people that the appropriateness of their political expression will be left to the government?

In charting a divergent course, this amendment would create that exception—an exception at odds with free expression and with our history of liberty. If adopted, this amendment would for the first time in our history, signal an unprecedented, misguided, and troubling departure from our history as a free society.

VALUES

During this debate and debates like it that often occur in years divisible by four, we often hear a great deal about values. We often hear a great deal about the kinds of things we are teaching our children. We often hear aspirations for this amendment that appear at least a little exaggerated: that it's going to stop the downward slide that our culture has supposedly been on since the 1940s, that it's going to improve our schools, that it even might help get rid of bad movies. All kidding aside, when some proponents of the amendment start talking about this amendment as a fight over values, I get nervous. It reminds me of the ''culture war'' that some have invoked in the past decade. We do not need to create one more source of division and divisiveness. We need understanding and tolerance and community.

In any event, I am skeptical as to whether the alleged increased incidence of disrespect for the flag, supposedly stemming from a Supreme Court decision in 1989, has caused the purported deterioration in our culture that some have cited. If it is, passing this amendment is surely not going to stop it.

What this amendment will do is abridge the most precious freedom and the most important principle that our country stands for, the right of free speech. I do not say ''most precious'' and ''most important'' lightly. What message is curtailing that freedom going to send to our children? What

values are we upholding by taking this extreme step to deal with a problem that by all accounts is not severe at all?

A fine piece in the March 22 Milwaukee Journal Sentinel reported that ''[o]ne academic research found fewer than 45 flag burnings between 1777, when the flag was adopted, and 1989.''

Similarly, when the Judiciary Committee examined the issue last year, the Congressional Research Service found 36 reported cases of flag burning or other physical acts of disrespect to the flag. And for that we are going to amend, with unknown consequences, the most basic right of our citizens?

I respectfully disagree with the supporters of the amendment about the effect that this issue has on children. We can send no better, no stronger, no more meaningful message to our children about the principles and the values of this country than to explain to them that the beauty and the strength of this country is in its freedoms, not in its symbols. When we uphold first amendment freedoms despite the efforts of misguided and despicable people who want to provoke our wrath, we send a message to our children of what America is really about. Our country is far too strong to be threatened by those who burn the flag. We need to teach our children, and we should teach our children, and virtually all of us do teach our children, that it is wrong to burn the flag. We don't need to empower the government to put people in jail for doing it in order to make that lesson plain and powerful.

Ironically, some supporters of the amendment have said that the amendment was going to help create community in this country. As if a law that attempts to legislate patriotism can create community. As if bringing the full wrath of the criminal law and the power of the state down on political dissenters is going to do anything other than encourage more people who want to grandstand their dissent and imagine themselves ''martyrs for the cause.''

We all know that's what will happen the minute this amendment goes into force. More flag burnings and other despicable acts of disrespect to the flag, not fewer. Will the amendment make these acts any more despicable than they are today? Certainly not. Will it make us love the flag any more than we do today? No. Will the new law deter these acts? I doubt it.

I particularly doubt it in light of the testimony we heard before the Judiciary Committee that supporters of the amendment think that the punishment for violators of the statute that this amendment will allow Congress to pass ought to be a citation and a fine, or maybe some community service or required classes, not jail time. So now it turns out we are going to amend the Bill of Rights, the very heart of the Constitution, in order to give the Congress of the United States the power to issue what the ranking Democratic member of the Judiciary Committee, Senator LEAHY, aptly called ''traffic tickets'' to people who burn the flag. To me that makes no sense at all.

General Brady of the Citizens Flag Alliance told the Judiciary Committee that the government ought to require flag burners to attend classes on the meaning and importance of the flag. Frankly that sanction is even more troubling. As a sanction for expressing political dissent, the government is going to force people to take classes to understand the ''politically correct'' way to think about the flag. Are ''re-education'' programs to become the American way?

What this debate is really about is not whether flag burning is a good idea, not whether we love and respect our flag, but whether the threat to our country from those who would burn the flag is so great that we must sacrifice the power and majesty of the first amendment to the Constitution in order to prosecute them.

IS FLAG BURNING A PROBLEM?

Some argue that we must amend the Constitution in order to preserve the symbolic value of the U.S. flag. They do so, however, in the absence of any evidence that flag burning is rampant today, or that it may be in the future. Perhaps more importantly, this amendment is offered in the absence of any evidence that the symbolic value of the flag has in any way been compromised.

No evidence has been offered to show that the handful of misguided individuals who may burn a flag each year have any effect whatsoever on this Nation's love of the flag or our democratic way of life. Respect of this Nation for the flag is unparalleled. The citizens of this Nation love and respect the flag for varied and deeply personal reasons—not because the Constitution imposes this responsibility upon them. As an editorial in the Lacrosse, Wisconsin, Tribune pointed out:

> Allegiance that is voluntary is something beyond price. But allegiance extracted by statute—or, worse yet, by Constitutional fiat—wouldn't be worth the paper the amendment was drafted on. It is the very fact that the flag is voluntarily honored that makes it a great and powerful symbol.

The suggestion that we can mandate, through an amendment to the Constitution, respect for the flag or any other symbol ignores the premise underlying patriotism. More importantly, it belies the traditional notions of freedom found in our Constitution.

CONCLUSION

Mr. President, the rights at the heart of this debate are far too fundamental and far too important to be subjected to the uncertainty created by this amendment. We must not abandon two centuries of free expression in favor of an unwarranted and ill-defined standard which allows government to choose whose political message is worthy of protection and whose is not. This is counter to the very freedoms the flag symbolizes.

The very idea that a handful of misguided people could cause this Nation—a Nation which has, from its inception been a beacon of individual liberty, a Nation which has defended, both at home and abroad, the right of individuals to be free—to retreat from the fundamental American principle that speech should not be regulated based upon its content is cause for great concern.

We will be paying false tribute to the flag if in our zeal to protect it we diminish the very freedoms it represents. The true promise of this great Nation is rooted in our Constitution. Ultimately, the fulfillment of this promise lies in preservation of this great covenant, not just our symbols. If we sacrifice our principles, ultimately our symbols will represent something less than they should.

The Capitol dome is not our Constitution. The national anthem is not our form of government. And the flag, by itself, is not our Nation.

Yes, let us honor the ''broad stripes and bright stars * * * so gallantly streaming.'' But we best honor that for which our flag stands when we protect the Constitution and its Bill of Rights. In that way, we will best ensure that our Star Spangled Banner shall yet wave over a land that is still free.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Wisconsin, the ranking Democrat on the Constitution Subcommittee. He has been a leader on this issue and so many other constitutional issues that protect the rights of all of us. He has done that ever since he came to the Senate. I applaud him, not only for what he said here but for his active work in the committee.

I yield 5 minutes to the distinguished Senator, and my friend, from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Vermont. I know this letter has been referenced previously, but I want to re-reference it in light of what the Senator read from General Schwarzkopf. No less a distinguished general, Gen. Colin Powell, has written a letter to Senator LEAHY:

> I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense.

I am skipping down a paragraph:

> I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we found outrageous.
>
> I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Mr. President, I ask unanimous consent to print in the RECORD this letter from Gen. Colin Powell.

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

GEN. COLIN L. POWELL, USA (RET),
Alexandria, VA, May 18, 1999.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: Thank you for your recent letter asking my views on the proposed flag protection amendment.

I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense.

Americans revere their flag as a symbol of the Nation. Indeed, it is because of that reverence that the amendment is under consideration. Few countries in the world would think of amending their Constitution for the purpose of protecting such a symbol.

We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration.

If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous.

I would not amend the great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Finally, I shudder to think of the legal morass we will create trying to implement the body of law that will emerge from such an amendment.

If I were a member of Congress, I would not vote for the proposed amendment and would fully understand and respect the views of those who would. For or against, we all love our flag with equal devotion.

Sincerely,

COLIN L. POWELL.

P.S. The attached 1989 article by a Vietnam POW gave me further inspiration for my position.

WHEN THEY BURNED THE FLAG BACK HOME: THOUGHTS OF A FORMER POW

(By James H. Warner)

In March of 1973, when we were released from a prisoner of war camp in North Vietnam, we were flown to Clark Air Force base in the Philippines. As I stepped out of the aircraft I looked up and saw the flag. I caught my breath, then, as tears filled my eyes, I saluted it. I never loved my country more than at that moment. Although I have received the Silver Star Medal and two Purple Hearts, they were nothing compared with the gratitude I felt then for having been allowed to serve the cause of freedom.

Because the mere sight of the flag meant so much to me when I saw it for the first time after 5½ years, it hurts me to see other Americans willfully desecrate it. But I have been in a Communist prison where I looked into the pit of hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners. Let me explain myself.

Early in the imprisonment the Communists told us that we did not have to stay there. If we would only admit we were wrong, if we would only apologize, we could be released early. If we did not, we would be punished. A handful accepted, most did not. In our minds, early release under those conditions would amount to a betrayal, of our comrades of our country and of our flag.

Because we would not say the words they wanted us to say, they made our lives wretched. Most of us were tortured, and some of my comrades died. I was tortured for most of the summer of 1969. I developed beriberi from malnutrition. I had long bouts of dysentery. I was infested with intestinal parasites. I spent 13 months in solitary confinement. Was our cause worth all of this. Yes, it was worth all this and more.

Rose Wilder Lane, in her magnificent book ''The Discovery of Freedom,'' said there are two fundamental truths that men must know in order to be free. They must know that all men are brothers, and they must know that all men are born free. Once men accept these two ideas, they will never accept bondage. The power of these ideas explains why it was illegal to teach slaves to read.

One can teach these ideas, even in a Communist prison camp. Marxists believe that ideas are merely the product of material conditions; change those material conditions, and one will change the ideas they produce. They tried to ''re-educate'' us. If we could show them that we would not abandon our belief in fundamental principles, then we could prove the falseness of their doctrine. We could subvert them by teaching them about freedom through our example. We could show them the power of ideas.

I did not appreciate this power before I was a prisoner of war. I remember one interrogation when I was shown a photograph of some Americans protesting the war by burning a flag. ''There,'' the officer said, ''People in your country protest against your cause. That proves that you are wrong.''

''No,'' I said, ''That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us.'' The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

Aneurin Bevan, former official of the British Labor Party, was once asked by Nikita Khrushchev how the British definition of democracy differed from the Soviet view. Bevan responded, forcefully, that if Khrushchev really wanted to know the difference, he should read the funeral oration of Pericles.

In that speech, recorded in the Second Book of Thucydides' ''History of the Peloponnesian War,'' Pericles contrasted democratic Athens with totalitarian Sparta. Unlike, the Spartans, he said, the Athenians did not fear freedom. Rather, they viewed freedom as the very source of their strength. As it was for Athens, so it is for America—our freedom is not to be feared, but our freedom is our strength.

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. The flag in Dallas was burned to protest the nomination of Ronald Reagan, and he told us how to spread the idea of freedom when he said that we should turn America into ''a city shining on a hill, a light to all nations.'' Don't be afraid of freedom, it is the best weapon we have.

Mr. KERRY. Mr. President, I have enormous respect for the patriotism and the passion which so many of my fellow veterans bring to the effort to protect the flag of our country. Many of them are my friends, and it is never easy to disagree with friends on issues of conscience and emotion. While, obviously, out of approximately 250 million Americans there are a few miscreants, as Gen. Colin Powell says, who might choose to desecrate the flag, the vast majority of Americans know better.

Americans rightfully love the Stars and Stripes for all it symbolizes, for all the history, the glory, the promise, and the possibilities that are carried within its four corners. As most Americans, I feel the long honor roll of battles won and lost when I see Old Glory marched in for the presentation of colors. I feel unbridled pride watching her ripple in the breeze when we join together to sing the national anthem. I feel the cloak of patriotism draped over the coffin of a veteran to whom we bid farewell. Our flag is a stunning symbol of all that has made us who we are.

In the end, it is a symbol. It is not who we are. Who we are is embodied in the rights and obligations in the Constitution itself. A desecrated flag is replaceable. Desecrated rights are lost forever to those who experience the loss. What makes the United States different and, in many ways, stronger than any other nation is our aspiration for tolerance and diversity. Thanks to our Constitution, we are the leading proponent on the face of this planet for the greatest experiment in freedom that is set forth in words and in practice.

At the close of our national anthem, we sing, ''land of the free and home of the brave.'' Were this amendment to pass, make no mistake about it, we would certainly be a little less free and a lot less brave.

In the final analysis, there are eight powerful reasons for anyone, but I think particularly for a veteran, to vote against this constitutional retreat. They are: Iran, Iraq, Libya, North Korea, China, Cuba, Syria, and Sudan. These are the nations of the world that have laws banning flag desecration. They used to be joined by the South Africa of apartheid and Nazi Germany.

I ask my fellow Senators: Is that what we want to do with the freedom of the United States of America? Is this in keeping with all that our great Stars and Stripes stands for? Is this for what soldiers fought and died, so we could join this list of discredited, dictatorial regimes?

Does the United States of America, in response to an occasional act of defiance, ignorance, stupidity, and insolence, want to tremble and, for the first time in an extraordinary 224 years

of challenges, alter the Constitution to diminish someone's right to be stupid?

Our flag is stronger than any of those individual acts will ever be, quite simply because our country is bigger and stronger than any of those acts, and our country is bigger and stronger because of our Constitution and particularly the Bill of Rights.

This vote is not a test of patriotism because patriotism is, after all, love of country and loyal support of one's country. Our country is defined by the rights we protect, and my oath as a Senator is to defend the Constitution which defines those rights. That is how I will vote, and that is how I think my colleagues should vote.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Vermont has 3 minutes. The Senator from Utah has 5 minutes.

Mr. LEAHY. Mr. President, I applaud the distinguished Senator from Massachusetts for his statement as a decorated war veteran. He does not have to prove his courage or his commitment to our country or our symbols. He has already done that. He has done that in combat, and he has done it to honor himself but also the country.

Everybody is talking about when we will come to this vote and whether we should cut off debate. That will be a nonissue. I urge all Senators to vote for cloture.

I also point out that if this is so important—we are going to set aside all kinds of time today to do other things—we ought to spend time on this. We are talking about amending the Constitution, and we are talking about amending the Bill of Rights, contrary to what has been said on this floor, to amend the Bill of Rights for the first time in our 200-year history. I hope we will not do it.

There has been reference to one of our first flags, a flag that was designed in my State of Vermont and flew in battles there. I have that same flag in my office. As we all know, any flag, once used by the United States, can be used as a legitimate symbol of our country. I chose to fly the flag in Vermont.

Like all Vermonters, I revere the symbol. Every day when I am home in Vermont, that flag flies bravely and safely because nobody would touch it. Nobody would seek to destroy it. Nobody would burn the flag that flies in my front yard. We revere it and we praise it, not because we are required by law to do so, but because we want to as Americans, as Vermonters.

Every town hall in Vermont flies the American flag. Every one of our public meetings shows the Vermont flag. But I point out to all Senators, that one of the first flags of the country came from the State of Vermont. I will also tell you, Vermont is the only State in the Union that has not asked for a constitutional amendment on burning the flag. Why? Because we Vermonters do not need to be told by law or Constitution that we should show respect for the symbols of our country. We do it because we want to. We do not do it because the law requires us.

We are not like Cuba or China or Libya or Iraq or Iran or those countries that require a law to make people respect their flags and their symbols. We do it from our heart and from our sense of patriotism. That is the way most Americans are. We do not need a law to tell us to be patriotic.

Mr. President, yesterday, the Senate finally began the debate on S.J. Res. 14, the proposal to amendment the First Amendment of the Constitution to cut back on political protest and expression for the first time in our history. Earlier this week, on Monday and Tuesday morning, the debate was focused on the Hollings amendment and the McConnell amendment in accordance with the Senate agreement governing this matter.

Only Senator HATCH and I spoke for any length of time at all on the underlying proposed amendment on Tuesday morning. The debate then resumed after the votes on Tuesday afternoon. By my estimate, the Senate has spent less than 3 hours debating the proposed constitutional amendment.

Rather than continue that debate and conclude it, the majority is insisting that we now divert ourselves with an unnecessary cloture vote. The interruption of debate for this vote is unfortunate. I have said to the Republican manager from the outset that I did not believe the debate would be extended unnecessarily, but that I wanted to ensure that Senators had their rights protected so that any Senator who wished to be heard on this proposal to amend the Constitution, could be heard.

On Monday, the Senate heard from Senators MCCONNELL, BENNETT, DORGAN, CONRAD, HOLLINGS, SMITH and SESSIONS. Yesterday, thoughtful statements were made by Senators FEINGOLD, DURBIN, WELLSTONE, KENNEDY, KERREY, ROBB and MOYNIHAN articulating a number of reasons for opposing the amendment. In addition, the Senate heard from Senators HATCH and FEINSTEIN in favor of the amendment. Today, I expect to hear from Senators BYRD, DASCHLE, KERRY, FEINGOLD, CHAFEE and perhaps others.

At the outset we were confronted by a demand that we agree to limit statements in opposition to the proposed constitutional amendment to a total of 2 hours. Amending the Constitution is a serious matter, entitled to more time than the Senate spends on ceremonial resolutions. Two hours seemed unnecessarily restrictive.

Had we so limited the debate we may not have had the benefit of the extraordinary moments on the Senate floor last night when Senator BOB KERREY, who was awarded the Congressional Medal of Honor for his valor in Vietnam, spoke to us from his heart about our country, our values and our flag. We may not have heard a riveting address from Senator CHARLES ROBB, himself a Marine highly-decorated for his service in Vietnam, in which he demonstrated his strength and consistency as one who fights for the Constitution and the values that make this country great.

We may have missed the opportunity to hear from Senator DANIEL PATRICK MOYNIHAN, a veteran of World War II, and the most knowledgeable of Senators, whom we will sorely miss when he retires at the end of this Congress after his extraordinary service to this nation. I urge those who were not here to experience that debate to read their thoughts and wise counsel.

I have every expectation that we could conclude the debate today in an orderly fashion. I know of no Senator who has threatened a filibuster on this matter. I know of no Senator who intends to engage in dilatory tactics. I know of no Senator who intends to offer any additional amendments or series of amendments. I know of no Senator who is using the rules of the Senate to delay the final vote on this matter. Accordingly, I know of no reason for the Republican leadership to have filed this petition for cloture and know of no reason for them to persist in insisting on this cloture vote this morning.

The Republican majority's timing of this debate has been strange for a long time. Last Congress, there was a half-hearted attempt to have the Senate consider the proposed constitutional amendment toward the end of a session when the majority knew that Senator Glenn was necessarily absent in connection with his NASA mission. Last year there was a rush to report the proposed constitutional amendment from the Judiciary Committee in April and then no effort to consider it before the full Senate. Indeed, while the matter was voted out of the Committee on April 29, 1999, the Committee Report was not filed until 11 months later. The Republican leadership took almost a year to decide to turn to the matter, then filed a cloture petition on the first day of debate and now insists on a vote on cloture after just 3 hours of debate on the merits of the proposed constitutional amendment.

In fact, this cloture vote and our debate on it only diverts us from finishing the debate on the merits of the proposed constitutional amendment. This cloture petition and vote say more about the lack of seriousness of the Republican leadership with regard to this debate than anything else.

I have no doubt that the Senate will invoke cloture this morning. I also have no doubt that this hour would have been better spent debating the merits of the proposal.

Does the Senate know what we will do after cloture is invoked this morning? Lest anyone think that we will be staying on the proposed constitutional amendment to conclude debate and proceed to vote on the merits, let me

disabuse them of any such notion. No, following the cloture vote, the Senate is scheduled to proceed to two hours of unrelated debate and the introduction of other matter in morning business.

We will not be resuming debate on the proposed constitutional amendment until at least 12:30 this afternoon. At that time many of us in the Senate leadership are scheduled to be meeting with the President of Egypt. So this closing debate on the amendment will take place later this afternoon and possibly into this evening.

Just as the Bill of Rights serves to protect the minority in the country and the First Amendment protects even unpopular speech, so it is the role of the minority manager to protect the rights of those who wish to be heard in opposition to a Senate proposal. The rules of the Senate accord us at least that right. I know of at least five Senators who still wish to be heard in opposition to the amendment. As the minority manager of the bill, I am seeking to accommodate them and then to proceed to the final vote. I fully expect that we will reach the appropriate time for the vote long before the 30 hours of post-cloture debate would be consumed. I look forward to cooperating with the Democratic leader, the majority leader, and the Republican manager of the proposed constitutional amendment to bring this matter to conclusion at the earliest appropriate time after the completion of debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been interested in these arguments because, if I recall it correctly, the distinguished Senator from Massachusetts has said that basically America is different from the long list of repressive regimes or dictatorial regimes—from Cuba, to North Korea, to Nazi Germany—because we do not have a law prohibiting flag desecration.

But until 1989, we had State laws, in nearly all of the States, prohibiting flag desecration. If I recall it correctly, I believe the distinguished Senator from Massachusetts is saying we should not have a State law protecting the flag. If I recall it correctly, he voted for the flag statute to protect the flag back in 1989, and just yesterday voted for the McConnell amendment which would have done the same thing.

Now look, there is a certain ''elitism'' around here in this country that literally is saying: We are above having to protect the flag of the United States. If somebody defecates on it or urinates on it, we do not want to give them any publicity for that.

It is kind of the ''high society'' approach to things. If you want to be a member of the ''high society'' group, then don't do the ''unintellectual'' thing to protect our flag. That is what is getting me about this.

We had, for 200 years, in 48 States, anti-flag-desecration statutes that protected the flag. These very people who are saying we cannot do this in a constitutional amendment, to give the Congress the power, the coequal right, to protect our flag, and ignore the Supreme Court, that is wrong in these 5–4 decisions, these two decisions—they said we cannot do this in this constitutional amendment—yet many of them voted for an anti-flag-desecration statute back in 1989, and yesterday many of them voted for the McConnell amendment.

Until the Supreme Court struck down these 48 States' statutes in 1990, we had a Federal statute protecting the flag. I cannot believe the distinguished Senator from Massachusetts was arguing that in those days, when we had flag protection statutes in the States and the Federal Government, we were like Nazi Germany or Cuba or North Korea or Iran or Iraq. That is something that really bothers me.

I look at those marines risking their lives in raising the flag on Iwo Jima. They revered that flag, just as we do today. Eighty percent of the people in this country revere this flag—in fact, I hope everybody does—and want this constitutional amendment.

If we had any sense of proportion, we Members of Congress should want to overrule those two Supreme Court decisions. The only way we can do it is with a constitutional amendment. In that process, we prove we are coequal to the judicial branch of Government and will protect our flag in the process. We will be a better Nation for it.

If we do it, we will create a debate on morals and values around this country in all 50 States that, sadly, is lacking at this particular time. We will, for once in our lives, stand up and say to our children, there are some values and some symbols—at least one symbol in our country that is extremely important to us, and that happens to be this flag of the United States of America.

I think there are very sincere people on the other side of this issue. I do not mean to malign them. But I have to say, I get particularly upset when I hear these arguments, as I have heard this morning, when, in fact, they vote for statutes that would protect the flag, the very thing they are arguing against. It seems a little inconsistent to me.

All we are saying is, give the Congress the power to do this, and then we will enact a statute for which they voted.

CLOTURE MOTION

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

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 98, S. J. Res. 14, an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

Trent Lott, Orrin Hatch, Bill Roth, Peter Fitzgerald, Rod Grams, Ted Stevens, Chuck Hagel, Thad Cochran, Paul Coverdell, Pat Roberts, Phil Gramm, Frank H. Murkowski, Don Nickles, Bob Smith of New Hampshire, Susan Collins, and Tim Hutchinson.

The PRESIDING OFFICER. By unanimous consent, the quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on S.J. Res. 14, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The senior assistant bill clerk called the roll.

The yeas and nays resulted—yeas 100, nays 0, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—100

Abraham	Feingold	Mack
Akaka	Feinstein	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Moynihan
Bayh	Graham	Murkowski
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Robb
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bryan	Helms	Roth
Bunning	Hollings	Santorum
Burns	Hutchinson	Sarbanes
Byrd	Hutchison	Schumer
Campbell	Inhofe	Sessions
Chafee, L.	Inouye	Shelby
Cleland	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden
Edwards	Lott	
Enzi	Lugar	

The PRESIDING OFFICER. On this vote, the yeas are 100, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that a number of letters and other statements pertaining to this amendment be printed in the RECORD at a cost of $1,300.00.

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

MARCH 22, 2000.

Hon. ORRIN G. HATCH,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: As you prepare for the introduction of the flag protection amendment in the United States Senate, on behalf of the Citizens Flag Alliance and our millions of members and supporters, I want

to again extend our thanks and commend you for the commitment you made, long ago, in support of the right of the people to protect our flag. Thanks to the leadership of you and Senator Max Cleland we are very close to victory.

Of all the horrors of combat, none is greater than the loneliness. In death and near death experiences, the warrior is ultimately alone with his fears and hopes. In their loneliness, soldiers look to symbols for comfort—a letter, a photo, a holy medal, a lock of hair. And they look to the greatest conqueror of fear, the greatest symbol of hope, the constant companion of our warriors and their supreme inspiration—Old Glory. No other symbol, nothing, says better, ''you are not alone.''

For many veterans much of what they have, their very dignity, is based on their service and sacrifice under that flag. It was the defining moment of their life. An attack on Old Glory is an attack on their dignity. These great men and women know how important speech is in a democracy, many have died for it. What they do not understand is that defecating on our flag is ''speech.'' And neither did the author of the Bill of Rights, James Madison and his colleague, Thomas Jefferson. Both denounced flag burning.

Abraham Lincoln warned, ''Don't interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties.'' It is not the colored cloth that is at the core of the flag amendment debate, it is our sacred Constitution. All veterans once raised their hand and swore to protect and defend the Constitution. Each of us does the same when we pledge allegiance to the flag. The Supreme Court has interfered with our Constitution and we have an obligation to correct their error. The flag amendment does not change the Constitution, it restores it.

To those of your colleagues who are yet to join in support of the measure, we hope they would come to recognize as we have, that there are good and learned people on both sides of this issue, as well as varying opinions. There is, however, only one fact and that is that the people of America want returned to them the right to protect their flag.

In the final analysis this issue is truly about free speech, the right of the people to speak, to be heard and to be heeded.

Sincerely,

PATRICK H. BRADY,
Major General (USA Ret),
Chairman of the Board.

THE CITIZENS FLAG ALLIANCE, INC.,
Indianapolis, IN, April 22, 1999.

BALTIMORE SUN,
Baltimore, MD.

TO THE EDITOR: This is in response to your editorial on April 10 titled, ''Burning Issue; Constitutional Ban: Flag Desecration Amendment Would Chip Away At Free-Speech Rights.''

The scarcity of flag burning has nothing to do with the evil of flag burning. People do not frequently shout, ''fire'' in a crowded theater or burn crosses, but we still should, and do, have laws against these evils. Laws in our society have never been based on frequency but on right and wrong.

Flag desecration is conduct not speech. One could make the argument that defacing the Washington Monument or spray painting graffiti on the Vietnam Veterans Memorial is a form of ''political demonstration or protest.'' That argument, however, would not hold up in a court of law. And it's wrong to hold that defacing the Flag of the United States is any different.

If free speech is to truly flourish, we must protect the bond that unites us, including the substantive parameters of the right of free expression. We must strengthen the bonds that hold us together, and so make it possible to engage in robust disagreement with each other. Protecting the flag lays the foundation for this objective.

The great strength of our democratic system is that we have the ability to determine the laws that govern our society. Our forefathers had the insight to create a document that allowed for WE THE PEOPLE to determine the future of our country. As George Washington admitted, ''The Constitution is an imperfect document made more perfect by the amendment process.'' Apparently the editors mistrust the good judgment of the American people. And George Washington.

Sincerely,

MARTY JUSTIS,
Executive Director.

THE CITIZENS FLAG ALLIANCE, INC.,
Indianapolis, IN, April 23, 1999.

WASHINGTON POST,
Letters to the Editor,
Washington, DC.

TO THE EDITOR: The Clinton Administration apparently was miffed at the thought of a Justice Department official being upstaged by a Harvard Law Professor and a Medal of Honor Recipient (''In The Loop,'' April 21).

On Tuesday, April 20 I was seated in the Senate Judiciary Committee hearing room, flanked by five Medal of Honor Recipients from World War II and Korea. All were awarded our nation's highest award for valor. In most cases, the Medal of Honor is presented to its recipient by the President of the United States of America in the name of Congress. So it is ironic that the Administration would consider it ''inappropriate'' to testify on the same panel as our nation's Recipients.

But the irony does not stop there. At the same time our President is sending men and women into Kosova to serve under the flag, our Administration is testifying against protecting the very same symbol that will drape the coffins of those whose final earthly embrace will be in the folds of Old Glory. If our flag is not deserving of protection, then it is not worthy to be draped on the coffins of our dead soldiers.

Several months ago, the fate of our President resided in the hands of Congress. But the American people ultimately had the final voice in the debate. Polls show that the American people consistently and overwhelmingly want to see their flag protected. If polling figures saved the President, then they can save our flag. Ultimately, the American people will decide this issue. That is justice even the Justice Department cannot ignore.

Sincerely,

DANIEL S. WHEELER,
President.

GRAND LODGE, BENEVOLENT AND
PROTECTIVE ORDER OF ELKS,
Gainesville, FL, May 4, 1999.

Senator ORRIN HATCH,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: It was a pleasure meeting you last week just prior to the start of the hearing on the Flag Amendment. You were most kind to make time in your busy schedule to speak with me. As the National President of the Elks, I can tell you that our million plus membership is fiercely patriotic and hard at work seeking the passage of an Amendment which would prohibit the desecration of our beloved American Flag. In our Order's Ritual we refer to the flag as follows:

''This is the flag of our Country, the emblem of freedom and the symbol of unity. As Americans and patriots we first place it beside our Altar. And as the American Flag typifies the glory of our nation we have adopted it as emblematic of the cardinal principle of our Order—Charity.''

Please know that the Elks are among your greatest supporters. We admire your even temperament and your outstanding leadership and take comfort in knowing men of your caliber are at the reins of our government.

Thank you and God bless you.

Sincerely,

C. VALENTINE BATES,
Grand Exalted Ruler.

KNIGHTS OF COLUMBUS,
New Haven, CT, March 16, 1999.

Hon. ORRIN G. HATCH,
Senate Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: As Supreme Knight of the Knights of Columbus, with approximately one million members—plus our families—in the United States, and one of the 137 member organizations of the Citizens Flag Alliance, Inc., I ask you to support the Hatch Flag Protection Constitutional Amendment. I urge you to follow the wisdom of the American people who, in poll after poll, have indicated strong support for protection of ''The Stars and Stripes.''

This issue is not about freedom of speech, nor is it about protecting a piece of colored cloth. It is about the American people reclaiming the right to protect their flag. This is a right we enjoyed for 200 years prior to the 1989 Supreme Court decision in Texas v. Johnson.

Nearly eveyone agrees that desecration of the flag is wrong, but the lesson it teaches our children is worse. Therefore, when you consider your vote, I ask that you think about not just America's flag, but America's young people. The support you give to this issue will determine the legacy we leave for our children—a nation of respect and pride in country, or a society void of responsibility and moral compass.

With best wishes, I am,

Sincerely,

VIRGIL C. DECHANT,
Supreme Knight.

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, April 13, 1999.

Hon. ORRIN HATCH,
Chairman, Senate Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing this letter on behalf of the more than 277,000 members of the Grand Lodge, Fraternal Order of Police to advise you of the strong support of S.J. Res. 14, which would amend the Constitution to give Congress to power to prohibit the physical desecration of our nation's flag.

Attempts by the Congress to protect the flag statutorily have failed to withstand judicial review. The Supreme Court has, in two narrow 5–4 decisions, overturned statutes prohibiting physical desecration of the flag. Amending the Constitution is the only way to return to the American people the right to protect their flag.

Flag burning is not free speech; it is an act of vandalism—a hate crime, pure and simple. What is the difference in the political statement made by a vandal torching the American flag and a terrorist who makes his political statement by blowing up government buildings? Quite simply, there is no difference. The American people recognize that, and Congress ought to recognize it by passing this amendment.

When we bury a hero, a brother or sister from the ranks of our military or our police

departments, a flag is draped over the coffin. It is folded solemnly and presented to the surviving members of the family in remembrance of the one who gave his or her life. Whether a soldier fighting a foreign enemy on a foreign shore, or a police officer killed in the line of duty—the sacrifice of each is symbolized by the flag. To desecrate this symbol is to dishonor that sacrifice. To use freedom or liberty as a shield to commit a crime is no more than base cynicism and a very real miscomprehension of the American concept of liberty.

I salute you, Mr. Chairman, for your sponsorship of Senate Joint Resolution 14, and join you in urging all members of the United States Senate to protect our flag from those who would dishonor our nation and its heroes.

If we can be of any further assistance to you in moving this bill forward, please do not hesitate to contact me or Executive Director Jim Pasco at my Washington office, (202) 547–8189.

Sincerely,

GILBERT GALLEGOS,
National President.

THE AMERICAN LEGION,
WASHINGTON OFFICE,
Washington, DC, April 14, 1999.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: On behalf of the 4 million members of the American Legion family, I want to personally thank you for sponsoring S.J. Res. 14, the Flag Protection Constitutional Amendment. We truly realize how important passage of this amendment is to the future of our children. It is imperative that we return to the American people the right to protect the U.S. Flag. I can assure you that Legionnaires and their families will do everything possible throughout our great nation to assist you in getting S.J. Res. 14 passed this year.

The majority of Americans support this amendment. Polling during the past 10 years has consistently shown nearly 80 percent of voters believe protecting the U.S. Flag through a constitutional amendment is the right thing to do. They do not believe such protection is a threat to freedom of speech.

I am certain you were as touched as I in reading the reports of our stealth pilot rescued from Yugoslavia. He carried an American flag, folded under his flight suit. The flag was given to him by an airman before he took off from Aviano Air Base in Italy. Following his rescue the pilot told reporters, ''For me, it (the flag) was representative of all the people who I knew were praying. It was a piece of everyone and very comforting. It helped me not go of hope. Hope gives you strength * * * it gives you endurance.''

My heart also swelled with pride when I saw an Associated Press photo of a flyer from the 31st Air Expeditionary Wing at Aviano waving an American flag to boost morale as U.S. war planes prepared to launch another series of strikes in support of NATO's Operation ALLIED FORCE.

The U.S. Flag is a powerful symbol. A living symbol of our great nation. Providing a special place in the U.S. Constitution that protects our flag is what Americans want and deserve.

I stand ready to assist you in any way that will help assure passage of this amendment. I know that your encouragement of your fellow Senators will make the crucial difference.

Thank you again for your sponsorship of S.J. Res. 14.

Sincerely,

HAROLD L. ''BUTCH'' MILLER,
National Commander.

AIR FORCE SERGEANTS ASSOCIATION,
Temple Hills, MD, April 14, 1999.

Hon. ORRIN HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I respectfully request that you permit consideration of and introduction into the record the attached statement concerning Flag Protection. The statements reflects the position of the 150,000 members of this association which represents active and retired enlisted members of the active and reserve components of the United States Air Force.

The statement would coincide with the hearing scheduled before your committee for April 20, 1999, concerning the same project. Thank you for the opportunity to share the concerns of our members with your committee.

Sincerely,

JAMES D. STATON,
Executive Director.

Attachment.

STATEMENT BY JAMES D. STATON, CHIEF MASTER SERGEANT, USAF (RET.), EXECUTIVE DIRECTOR, AIR FORCE SERGEANTS ASSOCIATION

Mr. Chairman and distinguished committee members, numerous polls in recent times have shown that over 80 percent of the American people say that they should have the right to decide the question of flag protection through the constitutional amendment process. In fact, all but one state have passed memorializing resolutions asking Congress to send the flag protection amendment question to the states. Senate Joint Resolution 14 would give the American people the opportunity they desire to protect their flag through law. S.J. Res. 14 would send to the people a very simple article: ''The Congress shall have power to prohibit the physical desecration of the flag of the United States.'' The 150,000 members of the Air Force Sergeants Association urge you to support this resolution. AFSA represents the millions of active duty and retired enlisted Air Force, Air Force Reserve, and Air National Guard members and their families. These Americans, perhaps more than any others, have a vested interest in that they put their lives on the line under the banner of this sacred symbol of greatness and sovereignty.

All members of the 106th Congress should support this resolution in order to put this important decision in the hands of the people. If the congressional representatives truly represent the will of the people, there should be no delay in acting upon the wishes of the people by allowing them to rule on this question. The personal feelings and opinions of elected representatives on this issue should be subordinated to opinions held by those to whom the elected officials are responsible—those who own the process. Our members have strongly communicated their concern over the need to protect the flag and, at the same time, to have a role in deciding the laws governing that protection.

For enlisted military members, whose work is characterized by dedicated sacrifice, the flag is a reminder of why they serve. For those stationed overseas, it is a symbol of America, seen every day. For all military members, the flag represents the principles for which they are prepared to sacrifice. Supreme Court Justice John Paul Stevens once wrote:

''A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. * * * So, too, the American flag is more than a proud symbol of the courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other people who share our aspirations.''

Military members serve so that they can protect this country, putting their lives on the line if necessary, and they revere our nation's most visible symbol—Old Glory. It is the one hallowed symbol all patriots hold sacred. Most importantly, the flag plays a central role in ceremonies that honor those who have fought, suffered and died. They know full well that this very flag may drape their coffins as a result of their unselfish service. Denying protection and, thereby allowing desecration, of this important symbol of sacrifice insults the memories of those who are honored in these ceremonies.

The American people, especially those in the military, deserve the opportunity to make the decision if they want to put flag protection into the law. Through their sacrifice and dedication, those who have served have earned your support in giving them the ability to make this decision.

Mr. Chairman and committee members, we urge your full support of S.J. Res. 14. Some questions of governance and law are of such importance to a people that they deserve the opportunity to speak directly to those issues. This is one such question. We thank you for this opportunity to present our views on this important matter. As always, AFSA is ready to support you on matters of mutual concern.

THE AMERICAN LEGION,
NATIONAL HEADQUARTERS,
Indianapolis, April 23, 1999.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: On September 5, 1989, American Legion delegates at the National Convention in Baltimore, Maryland, unanimously adopted a resolution seeking adoption and ratification of a flag-protection amendment. In every year since, the issue has been debated at every national convention and at every meeting of the National Executive Committee, and a new resolution authorizing continuation of the campaign has been adopted. Each resolution supporting a flag-protection amendment passed unanimously with all Past National Commanders having a right to be heard. Past National Commander Keith Kreul, who, as a PNC and delegate to the National Conventions, has both a voice and a vote in the making of Legion policy, has never publicly uttered a word in opposition.

As National Commander, it is my duty, and privilege, to serve a one-year term as the executive head of The American Legion with full power to enforce the provisions of the National Constitution and by-laws as well as the resolutions of the National Convention. And this national commander fervently supports the flag-protection amendment, as do all living Past National Commanders of The American Legion, save one.

In honor of their service, I would like to enter into the record the 28 Past National Commanders of The American Legion who have given of themselves for God and Country and who stand with me in their support of an amendment which would return to the American people the right to protect their flag. They are listed below in order of service.

E. Roy Stone, Jr.—South Carolina
Erle Cocke, Jr.—Georgia
J. Addington Wagner—Michigan
Preston J. Moore—Oklahoma

William R. Burke—California
Hon. Daniel F. Foley—Minnesota
Donald E. Johnson—Iowa
William E. Galbraith—Nebraska
John H. Geiger—Illinois
Joe L. Matthews—Texas
James M. Wagonseller—Ohio
William J. Rogers—Maine
John M. Carey—Michigan
Frank I. Hamilton—Indiana
Michael J. Kogutek—New York
Clarence M. Bacon—Maryland
Hon. James P. Dean—Mississippi
John P. Comer—Massachusetts
Hon. H.F. Gierke—North Dakota
Miles S. Epling—West Virginia
Robert S. Turner—Georgia
Dominic D. DiFrancesco—Pennsylvania
Roger A. Munson—Ohio
Bruce Thiesen—California
William M. Detweiler—Louisiana
Daniel A. Ludwig—Minnesota
Joseph J. Frank—Missouri
Anthony G. Jordan—Maine

Their service spans nearly five decades. Many served in their position in an era when our flag was protected under law. Only ten of us have served since the erroneous 1989 Texas v. Johnson Supreme Court decision which invalidated flag protection laws in 48 states and the District of Columbia.

I am proud to be among this elite group of distinguished gentlemen who stand united in a common goal—passage of a flag-protection amendment.

Sincerely,

HAROLD L. ''BUTCH'' MILLER,
National Commander.

THE OHIO AMERICAN LEGION,
DEPARTMENT HEADQUARTERS,
Columbus OH, March 10, 1999.

Hon. ORRIN HATCH,
U.S. Senate, Senate Office Building,
Washington, DC.

DEAR SENATOR HATCH: The Ohio American Legion, consisting of 165,000 members, is supportive of a Constitutional Amendment to protect the U.S. Flag from physical desecration.

We urge your favorable consideration and vote for a measure that will allow the American people what polls have shown for years they favor, the right to have their flag protected by laws of the land.

Sincerely,

CARL SWISHER,
Department Commander.

LOS ANGELES DODGERS,
Los Angeles, CA, March 22, 2000.

Senator ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: As I have said many, many times before, we live in the land of opportunity and the United States flag represents a strong bond between the States and the diversity of the greatest nation on the fact of the earth. At no time, should our flag be destroyed in any manner.

During my career, I was fortunate to be involved in many exciting baseball games. Yet, one of the proudest moments occurred in 1976 when Rick Monday saved the American flag from being burned by a pair of protestors at Dodger Stadium. This act was one of the most recognizable moments of the Bicentennial Celebration and remains one of the great moments in stadium history.

I tell this story to every patriotic group whenever the subject of the American flag arises. Therefore, I lend my full support to the SJR–14, The Hatch-Cleland Flag Protection Constitutional Amendment, which will protect and defend our flag as it was designed by the framers of the Constitution.

Sincerely,

TOMMY LASORDA,
Senior Vice President.

SALON NATIONAL LA BOUTIQUE,
Washington, UT, March 13, 1999.

To: The U.S. Senate Judiciary Committee,
Washington, DC.

GENTLEMEN: I am writing as the National Chapeau of the Eight and Forty a subsidiary organization of the American Legion Auxiliary, consisting of 17,144 Partners (members). We are asking that when the measure to pass a constitutional amendment to protect our flag comes before you that you unanimously approve the bill.

I have just recently had the opportunity to help judge girls who are in their Junior year of High School to attend the American Legion Auxiliary Girls State. One of the questions we asked each applicant was how they felt regarding a bill to protect our flag and each and every girl said she felt that there should be a law protecting our flag from desecration.

So for both the young people of our country and the older people who have fought to protect our country, we of the Eight and Forty ask you to support this bill.

Yours in Service to our Country,

WANDA S. NORTH,
Le Chapeau National.

NCOA,
Alexandria, VA, April 15, 1999.

Hon. ORRIN G. HATCH,
U.S. Senate, Senate Russell Office Building,
Washington, DC.

DEAR SENATOR HATCH: The Noncommissioned Officers Association of the USA (NCOA) has joined with the Citizens Flag Alliance (CFA) to support the efforts of many in Congress to pass a Flag protection amendment. NCOA's 148,000 members are solidly committed to the passage of Flag protection legislation and have placed the issue among their very highest legislative priorities. In this regard NCOA is delighted with the recent introduction of S.J. Res. 14 in the U.S. Senate.

On behalf of NCOA's noncommissioned and petty officer members, I fully expect the members of Senate Judiciary Committee to approve legislation and pave the way for the matter of Flag protection to be brought to the Senate floor for vote in an expeditious manner. NCOA urges your support of S.J. Res. 14.

In closing allow me to reiterate the importance of this matter to NCOA members and their families. The will never give up on this issue and look to you to support their desires to see Flag protection legislation passed during the 1st Session of the 106th Congress.

Sincerely,

ROGER W. PUTNAM,
President/CEO.

THE RETIRED OFFICERS ASSOCIATION,
Alexandria, VA, March 23, 2000.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: On behalf of The Retired Officers Association, I am writing to urge you to cosponsor and vote for final passage of S.J. Res. 14, ''Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.''

The fundamental principle in supporting the Resolution is that it will allow the people to exercise their will. This is a very important distinction. We do not believe it's appropriate that a minority in Congress, in this case 34 Senators, should have the power to keep this important decision from being considered by the people. Consistent with the democratic principles that have governed this country for more than two centuries, the Flag Amendment restores the decision on flag desecration to the people and if ratified by 38 states, flag desecration could be prohibited.

That's a second important distinction. The proposed amendment will not change the Constitution to prohibit flag desecration. It would authorize Congress to pass a law prohibiting physical desecration of the flag and as is the case with any law, it would be subject to Presidential veto. This language is a change from the 104th Congress when the resolution said Congress, or the states, may pass laws prohibiting flag desecration. That could have led to 50 different laws resulting in consistent standards of respect for the flag.

Based on the foregoing, I urge you to vote for passage of S.J. Res. 14 to return control of the flag to the people where it resided for more than 200 years before the United States Supreme Court ruled in 1989 that flag desecration was essentially freedom of speech.

Sincerely,

MICHAEL A. NELSON,
President.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 28, 2000.

DEAR SENATOR HATCH: We appreciate your efforts in bringing S.J. Res. 14 through the Senate Judiciary Committee and to the Senate floor. We recognize the importance of this important legislation to protect the flag of the United States.

Many people are concerned that such an amendment would limit our prized right of free speech. However, the right of free speech is not an absolute right. The Supreme Court unanimously ruled in Chaplinsky v. New Hampshire, 315 U.S. 568 (1942):

''Allowing the broadest scope to the language and purpose of the Fourteenth Amendment, it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.''

Burning the Nation's flag is anything but a necessary part of a political speech or exposition of ideas. It seems that little can be gained by burning or spitting on a flag which could not be accomplished through words, signs, newspapers, rallies, buttons, bullhorns, or petitions. The act of burning the nation's flag by its very nature antagonizes and incites violent reaction. It is conduct, not speech.

This amendment authorizes legislative bodies to prohibit physical desecration with regard to one object, and one object only, our nation's flag. We can protect this one unique object from physical desecration without damaging our freedom of speech in any way.

In the words of Chief Justice Rehnquist, ''The American flag . . . throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It

does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another ''idea'' or ''point of view'' competing for recognition in the marketplace of ideas.'' Let us act now to protect the symbol of our nation's liberty and freedom.

Sincerely,

JAMES V. HANSEN.
CHRIS CANNON.
MERRILL J. COOK.

GEORGE W. BUSH,
GOVERNOR OF TEXAS,
Austin, TX, March 24, 2000.

Greetings to: The Members of the American Legion.

Congratulations as you gather with family and friends in the capital of a grateful nation that you served so bravely. Coming together in Washington, D.C., is a powerful reminder that those who want to lead America accept two important obligations. One is to use our military power wisely, remembering the costs of war. The other is to remember our soldiers who have paid those costs.

The American Legion helps us to carry out those obligations. You defend and recall America's history of sacrifice. You stand as a friend to the families of our fallen soldiers. You serve America's communities in countless ways—an example of true service in a comfortable age.

One of the most enduring symbols of your sacrifice and service is our nation's flag. Brave Americans have fought and died to protect the ideals of democracy that it represents. That is why I strongly support a constitutional amendment protecting the flag from desecration—to honor our courageous veterans and to send the unmistakable message that Old Glory is a sacred symbol of freedom to all Americans.

I believe our government should honor our commitments to our veterans as you have honored yours.

Laura joins me in sending our best wishes to each and every one of you.

Sincerely,

GEORGE W. BUSH.

APRIL 5, 1999.

DEAR SENATOR HATCH: I am writing to express my support and gratitude for your sponsorship of the flag protection constitutional amendment (S.J. Res. 14), which I understand may come before the Senate for a vote in the near future. Like you, I regard legal protections for our flag as an absolute necessity and a matter of critical importance to our nation. The American flag, far from a mere symbol or a piece of cloth, is an embodiment of our hopes, freedoms and unity. The flag is our national identity.

I am honored to have commanded our troops in the Persian Gulf War and humbled by the bravery, sacrifice and ''love of country'' so many great Americans exhibited in that conflict. These men and women fought and died for the freedoms contained in the Constitution and the Bill of Rights and for the flag that represents these freedoms, and their service and valor are worthy of our eternal respect. Most of these great heroes share my view that there is no threat to any right or freedom in protecting the flag for which they fought. Perhaps as much as any American, they embrace the right to free speech. Indeed, they risked death to protect it.

I do see a very real threat in the defilement of our flag. We are a diverse people, living in a complicated, fragmented society. And I believe we are imperiled by a growing cynicism toward certain traditions that bind us, particularly service to our nation. The flag remains the single, preeminent connection among all Americans. It represents our basic commitment to each other and to our country. Legally sanctioned flag desecration can only serve to further undermine this national unity and identity that must be preserved.

I am proud to lend my voice to those of a vast majority of Americans who support returning legal protections for the flag. This is an effort inspired by our nation's history and our common traditions and understanding, under which, until a very recent and controversial Supreme Court decision, the American flag was afforded legal protection from acts of desecration. The flag protection constitutional amendment is the only means of returning to the people the right to protect their flag, and your leadership will undoubtedly help to ensure the success of this important campaign.

Sincerely,

H. NORMAN SCHWARZKOPF,
General, U.S. Army, Retired.

THE CITIZENS FLAG ALLIANCE, INC.,
Indianapolis, IN, April 22, 1999.

USA TODAY,
Arlington, VA.

TO THE EDITOR: To say that to, ''ban flag burning gains ground by hiding risks,'' (''Don't Amend Bill Of Rights,'' editorial, April 21, 1999) hides the truth. You also hide the truth by saying the First Amendment has never been amended. The truth is Americans had the right to protect their flag from our birth until 1989 when the Supreme Court amended the First Amendment by calling flag burning ''speech.'' What were the risks? You denigrate the ''political opportunists who want to rewrite the wisdom of James Madison.'' Those political opportunists are the vast majority of the American people, and James Madison agrees with them. He denounced flag burning, as did another founding father, Thomas Jefferson.

This issue has nothing to do with ''feel-good politics.'' Flag burning is wrong but what it teaches our children about respect, about our values, about who owns the Constitution and the demeaning of the will of the majority, is worse.

The majority of Americans understand the importance of free speech; many have died for it. What they do not understand is that defecating on the flag is ''speech.'' The only majority in America who feel good about the freedom to burn the American flag are the media and 5 out of 9 judges on the Supreme Court.

Sincerely,

Maj. Gen. PATRICK BRADY,
U.S. Army, Ret.,
Chairman of the Board.

APRIL 26, 1999.

ST. LOUIS POST DISPATCH,
Attention: Letters to the Editor,
Reached via fax: (314) 340–3139.

DEAR EDITOR: The recent editorial, ''Desecrating the Constitution'' (April 21), is a clear example of the complete disregard by a slim minority of the media to follow the good judgement of the American people.

The editors of the Post Dispatch should undertake a more studied analysis of the flag amendment before jumping to conclusions. The first line of the editorial reads, ''Our nation has made it through 208 years without amending the First Amendment.'' The U.S. Flag, which predates the Constitution, was protected under our nation's law and traditions for 200 years. A razor thin, five-Justice majority of the Supreme Court wrested this right from the American people in 1989 when they invalidated flag-protection laws in 48 states and the District of Columbia.

This tradition and precedent has been recognized by Justices on five previous Supreme Courts. In fact, Justice Hugo Black, perhaps the staunchest defender of individual rights ever to sit on the Supreme Court, stated, ''It passes my belief that anything in the Federal Constitution bars . . . making the deliberate burning of the American flag an offense.''

In every sense, an amendment to return to the American people the right to protect their flag would change nothing in the Constitution. Nor would it infringe our precious First Amendment rights. On the contrary, it would restore the Constitution and the First Amendment to a time-honored interpretation and understanding that existed for all but the last ten years of our history.

The editors mention an invisible ''slippery slope'' if a flag-protection amendment passes. Over 10,000 amendments have been proposed and only twenty-seven have been ratified—the first ten are the Bill of Rights. If there is any ''slope'' in amending the Constitution, it is a steep incline.

Finally, for the record, burning a cross on anyone's lawn is a hate crime punishable under law. Burning a flag is a hate crime against all Americans and should also be punishable under law.

If our flag is not deserving of protection, then it is not worthy to be draped on the coffins of our dead soldiers. Senator Ashcroft understands the intrinsic value of the flag. Unfortunately, its meaning is lost on the editors of the Post-Dispatch.

Sincerely,

JOSEPH J. FRANK,
Past National Commander,
The American Legion.

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MILLENNIUM DIGITAL COMMERCE ACT

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 761) to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and other purposes,

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 761) entitled ''An Act to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and other purposes'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electronic Signatures in Global and National Commerce Act''.

TITLE I—VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES FOR COMMERCE

SEC. 101. GENERAL RULE OF VALIDITY.

(a) GENERAL RULE.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce, notwithstanding any statute, regulation, or other rule of law, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied—

(1) on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record; or

(2) on the ground that the contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or

record is signed or affirmed by an electronic signature.

(b) AUTONOMY OF PARTIES IN COMMERCE.—

(1) IN GENERAL.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce—

(A) the parties to such contract, agreement, or record may establish procedures or requirements regarding the use and acceptance of electronic records and electronic signatures acceptable to such parties;

(B) the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied because of the type or method of electronic record or electronic signature selected by the parties in establishing such procedures or requirements; and

(C) nothing in this section requires any party to use or accept electronic records or electronic signatures.

(2) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a) and paragraph (1) of this subsection—

(A) if a statute, regulation, or other rule of law requires that a record be provided or made available to a consumer in writing, that requirement shall be satisfied by an electronic record if—

(i) the consumer has affirmatively consented, by means of a consent that is conspicuous and visually separate from other terms, to the provision or availability (whichever is required) of such record (or identified groups of records that include such record) as an electronic record, and has not withdrawn such consent;

(ii) prior to consenting, the consumer is provided with a statement of the hardware and software requirements for access to and retention of electronic records; and

(iii) the consumer affirmatively acknowledges, by means of an acknowledgement that is conspicuous and visually separate from other terms, that—

(I) the consumer has an obligation to notify the provider of electronic records of any change in the consumer's electronic mail address or other location to which the electronic records may be provided; and

(II) if the consumer withdraws consent, the consumer has the obligation to notify the provider to notify the provider of electronic records of the electronic mail address or other location to which the records may be provided; and

(B) the record is capable of review, retention, and printing by the recipient if accessed using the hardware and software specified in the statement under subparagraph (A)(ii) at the time of the consumer's consent; and

(C) if such statute, regulation, or other rule of law requires that a record be retained, that requirement shall be satisfied if such record complies with the requirements of subparagraphs (A) and (B) of subsection (c)(1).

(c) RETENTION OF CONTRACTS, AGREEMENTS, AND RECORDS.—

(1) ACCURACY AND ACCESSIBILITY.—If a statute, regulation, or other rule of law requires that a contract, agreement, or record be in writing or be retained, that requirement is met by retaining an electronic record of the information in the contract, agreement, or record that—

(A) accurately reflects the information set forth in the contract, agreement, or record after it was first generated in its final form as an electronic record; and

(B) remains accessible, for the period required by such statute, regulation, or rule of law, for later reference, transmission, and printing.

(2) EXCEPTION.—A requirement to retain a contract, agreement, or record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract, agreement, or record to be sent, communicated, or received.

(3) ORIGINALS.—If a statute, regulation, or other rule of law requires a contract, agreement, or record to be provided, available, or retained in its original form, or provides consequences if the contract, agreement, or record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS.—If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of all the information on the front and back of the check in accordance with paragraph (1).

(d) ABILITY TO CONTEST SIGNATURES AND CHARGES.—Nothing in this section shall be construed to limit or otherwise affect the rights of any person to assert that an electronic signature is a forgery, is used without authority, or otherwise is invalid for reasons that would invalidate the effect of a signature in written form. The use or acceptance of an electronic record or electronic signature by a consumer shall not constitute a waiver of any substantive protections afforded consumers under the Consumer Credit Protection Act.

(e) SCOPE.—This Act is intended to clarify the legal status of electronic records and electronic signatures in the context of writing and signing requirements imposed by law. Nothing in this Act affects the content or timing of any disclosure required to be provided to any consumer under any statute, regulation, or other rule of law.

SEC. 102. AUTHORITY TO ALTER OR SUPERSEDE GENERAL RULE.

(a) PROCEDURE TO ALTER OR SUPERSEDE.—Except as provided in subsection (b), a State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 if such statute, regulation, or rule of law—

(1)(A) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as reported to the State legislatures by the National Conference of Commissioners on Uniform State Laws; or

(B) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts, agreements, or records; and

(2) if enacted or adopted after the date of the enactment of this Act, makes specific reference to this Act.

(b) LIMITATIONS ON ALTERATION OR SUPERSESSION.—A State statute, regulation, or other rule of law (including an insurance statute, regulation, or other rule of law), regardless of its date of the enactment or adoption, that modifies, limits, or supersedes section 101 shall not be effective to the extent that such statute, regulation, or rule—

(1) discriminates in favor of or against a specific technology, process, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures;

(2) discriminates in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures;

(3) is based on procedures or requirements that are not specific or that are not publicly available; or

(4) is otherwise inconsistent with the provisions of this title.

(c) EXCEPTION.—Notwithstanding subsection (b), a State may, by statute, regulation, or rule of law enacted or adopted after the date of the enactment of this Act, require specific notices to be provided or made available in writing if such notices are necessary for the protection of the public health or safety of consumers. A consumer may not, pursuant to section 101(b)(2), consent to the provision or availability of such notice solely as an electronic record.

SEC. 103. SPECIFIC EXCLUSIONS.

(a) EXCEPTED REQUIREMENTS.—The provisions of section 101 shall not apply to a contract, agreement, or record to the extent it is governed by—

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law;

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and 1-206 and Articles 2 and 2A;

(4) any requirement by a Federal regulatory agency or self-regulatory organization that records be filed or maintained in a specified standard or standards (including a specified format or formats), except that nothing in this paragraph relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (title XVII of Public Law 105–277);

(5) the Uniform Anatomical Gift Act; or

(6) the Uniform Health-Care Decisions Act.

(b) ADDITIONAL EXCEPTIONS.—The provisions of section 101 shall not apply to—

(1) any contract, agreement, or record entered into between a party and a State agency if the State agency is not acting as a market participant in or affecting interstate commerce;

(2) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings; or

(3) any notice concerning—

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual; or

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities).

SEC. 104. STUDY.

(a) FOLLOWUP STUDY.—Within 5 years after the date of the enactment of this Act, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall conduct an inquiry regarding any State statutes, regulations, or other rules of law enacted or adopted after such date of the enactment pursuant to section 102(a), and the extent to which such statutes, regulations, and rules comply with section 102(b).

(b) REPORT.—The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 5-year period.

(c) ADDITIONAL STUDY OF DELIVERY.—Within 18 months after the date of the enactment of this Act, the Secretary of Commerce shall conduct an inquiry regarding the effectiveness of the delivery of electronic records to consumers using electronic mail as compared with delivery of written records via the United States Postal Service and private express mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 18-month period.

SEC. 105. DEFINITIONS.

For purposes of this title:

(1) ELECTRONIC RECORD.—The term ''electronic record'' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

(3) ELECTRONIC.—The term ''electronic'' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.

(4) ELECTRONIC AGENT.—The term ''electronic agent'' means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records in whole or in part without review by an individual at the time of the action or response.

(5) RECORD.—The term ''record'' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) FEDERAL REGULATORY AGENCY.—The term ''Federal regulatory agency' means an agency, as that term is defined in section 552(f) of title 5, United States Code, that is authorized by Federal law to impose requirements by rule, regulation, order, or other legal instrument.

(7) SELF-REGULATORY ORGANIZATION.—The term ''self-regulatory organization'' means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

TITLE II—DEVELOPMENT AND ADOPTION OF ELECTRONIC SIGNATURE PRODUCTS AND SERVICES

SEC. 201. TREATMENT OF ELECTRONIC SIGNATURES IN INTERSTATE AND FOREIGN COMMERCE.

(a) INQUIRY REGARDING IMPEDIMENTS TO COMMERCE.—

(1) INQUIRIES REQUIRED.—Within 180 days after the date of the enactment of this Act, and biennially thereafter, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall complete an inquiry to—

(A) identify any domestic and foreign impediments to commerce in electronic signature products and services and the manners in which and extent to which such impediments inhibit the development of interstate and foreign commerce;

(B) identify constraints imposed by foreign nations or international organizations that constitute barriers to providers of electronic signature products or services; and

(C) identify the degree to which other nations and international organizations are complying with the principles in subsection (b)(2).

(2) SUBMISSION.—The Secretary shall submit a report to the Congress regarding the results of each such inquiry within 90 days after the conclusion of such inquiry. Such report shall include a description of the actions taken by the Secretary pursuant to subsection (b) of this section.

(b) PROMOTION OF ELECTRONIC SIGNATURES.—

(1) REQUIRED ACTIONS.—The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, including those identified in the inquiries under subsection (a) for the purpose of facilitating the development of interstate and foreign commerce.

(2) PRINCIPLES.—The principles specified in this paragraph are the following:

(A) Free markets and self-regulation, rather than Government standard-setting or rules, should govern the development and use of electronic records and electronic signatures.

(B) Neutrality and nondiscrimination should be observed among providers of and technologies for electronic records and electronic signatures.

(C) Parties to a transaction should be permitted to establish requirements regarding the use of electronic records and electronic signatures acceptable to such parties.

(D) Parties to a transaction—

(i) should be permitted to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced; and

(ii) should have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(E) Electronic records and electronic signatures in a form acceptable to the parties should not be denied legal effect, validity, or enforceability on the ground that they are not in writing.

(F) De jure or de facto imposition of standards on private industry through foreign adoption of regulations or policies with respect to electronic records and electronic signatures should be avoided.

(G) Paper-based obstacles to electronic transactions should be removed.

(c) CONSULTATION.—In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(d) PRIVACY.—Nothing in this section shall be construed to require the Secretary or the Assistant Secretary to take any action that would adversely affect the privacy of consumers.

(e) DEFINITIONS.—As used in this section, the terms ''electronic record'' and ''electronic signature'' have the meanings provided in section 104 of the Electronic Signatures in Global and National Commerce Act.

TITLE III—USE OF ELECTRONIC RECORDS AND SIGNATURES UNDER FEDERAL SECURITIES LAW

SEC. 301. GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

''(h) REFERENCES TO WRITTEN RECORDS AND SIGNATURES.—

''(1) GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.—Except as otherwise provided in this subsection—

''(A) if a contract, agreement, or record (as defined in subsection (a)(37)) is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be in writing, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record;

''(B) if a contract, agreement, or record is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be signed, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied on the ground that such contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature; and

''(C) if a broker, dealer, transfer agent, investment adviser, or investment company enters into a contract or agreement with, or accepts a record from, a customer or other counterparty, such broker, dealer, transfer agent, investment adviser, or investment company may accept and rely upon an electronic signature on such contract, agreement, or record, and such electronic signature shall not be denied legal effect, validity, or enforceability because it is an electronic signature.

''(2) IMPLEMENTATION.—

''(A) REGULATIONS.—The Commission may prescribe such regulations as may be necessary to carry out this subsection consistent with the public interest and the protection of investors.

''(B) NONDISCRIMINATION.—The regulations prescribed by the Commission under subparagraph (A) shall not—

''(i) discriminate in favor of or against a specific technology, method, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; or

''(ii) discriminate in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures.

''(3) EXCEPTIONS.—Notwithstanding any other provision of this subsection—

''(A) the Commission, an appropriate regulatory agency, or a self-regulatory organization may require that records be filed or maintained in a specified standard or standards (including a specified format or formats) if the records are required to be submitted to the Commission, an appropriate regulatory agency, or a self-regulatory organization, respectively, or are required by the Commission, an appropriate regulatory agency, or a self-regulatory organization to be retained; and

''(B) the Commission may require that contracts, agreements, or records relating to purchases and sales, or establishing accounts for conducting purchases and sales, of penny stocks be manually signed, and may require such manual signatures with respect to transactions in similar securities if the Commission determines that such securities are susceptible to fraud and that such fraud would be deterred or prevented by requiring manual signatures.

''(4) RELATION TO OTHER LAW.—The provisions of this subsection apply in lieu of the provisions of title I of the Electronic Signatures in Global and National Commerce Act to a contract, agreement, or record (as defined in subsection (a)(37)) that is required by the securities laws.

''(5) SAVINGS PROVISION.—Nothing in this subsection applies to any rule or regulation under the securities laws (including a rule or regulation of a self-regulatory organization) that is in effect on the date of the enactment of the Electronic Signatures in Global and National Commerce Act and that requires a contract, agreement, or record to be in writing, to be submitted or retained in original form, or to be in a specified standard or standards (including a specified format or formats).

''(6) DEFINITIONS.—As used in this subsection:

''(A) ELECTRONIC RECORD.—The term 'electronic record' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

''(B) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

''(C) ELECTRONIC.—The term 'electronic' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.''.

Amend the title so as to read ''An Act to facilitate the use of electronic records and signatures in interstate or foreign commerce.''.

Mr. LOTT. Mr. President, I ask unanimous consent the Senate disagree to the amendments of the House, agree to the request for a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The Presiding Officer (Mr. L. CHAFEE) appointed, from the Committee on Commerce, Science, and Transportation, Senators JOHN MCCAIN, CONRAD BURNS, TED STEVENS, SLADE GORTON, KAY BAILEY HUTCHISON, SPENCER ABRAHAM, ERNEST F. HOLLINGS, DANIEL K. INOUYE, JOHN D. ROCKEFELLER, IV, JOHN F. KERRY, and RON WYDEN;

From the Committee on Banking, Housing, and Urban Affairs for items within their jurisdiction, Senators PHIL GRAMM, ROBERT F. BENNETT, and PAUL S. SARBANES;

From the Committee on the Judiciary for items within their jurisdiction, Senators ORRIN G. HATCH, STROM THURMOND, and PATRICK J. LEAHY conferees on the part of the Senate.

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DIGITAL SIGNATURE LEGISLATION

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the following letter, signed by 45 members of the Democratic Caucus, be printed in the RECORD. Moreover, I would like to thank my colleagues, Senator SARBANES, ranking member of the Banking Committee, and Senator LEAHY, ranking member of the Judiciary Committee, for their assistance in the preparation for the conference on S. 761, the digital signature bill.

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

U.S. SENATE,
Washington, DC, March 28, 2000.

Members of the Conference Committee on Electronic Signature Legislation United States Congress.

DEAR CONFEREE: We are writing to express our strong support for legislation that will ensure the electronic marketplace functions effectively for both businesses and consumers. We all supported S. 761, the ''Millennium Digital Commerce Act,'' as it passed the Senate on November 19, 1999. As that bill proceeds to conference, we continue to believe that it is important to remove unintended barriers to electronic commerce. We must provide certainty regarding the legality of electronic transactions which spur economic growth and provide many benefits to consumers.

We also want to ensure that any new law would provide consumer protections equivalent to those currently required for paper transactions, and would not facilitate predatory or unlawful practices. The electronic world should be no less safe for American consumers than the paper world.

According to a recent Commerce Department report entitled *Falling Through the Net*, more than 70 percent of American households do not have access to the Internet. In enacting legislation to facilitate electronic commerce, we must ensure that we do not widen the ''digital divide,'' to the disadvantage of the majority of Americans.

We must ensure that consumer protections established over several decades are not inadvertently made ineffective by the transition to electronic transactions. We believe that the legislation produced by your conference committee must incorporate the following principles in order for us to support it:

Ensure effective consumer consent to the replacement of paper notices with electronic notices.

Ensure that electronic records are accurate, and relevant parties can retain and access them.

Enhance legal certainty for electronic signatures and records and avoid unnecessary litigation by authorizing regulators to provide interpretive guidance.

Avoid unintended consequences in areas outside the scope of the bill by providing clear federal regulatory authority for records not covered by the bill's ''consumer'' provisions.

Avoid facilitating predatory or unlawful practices.

Attached is a more detailed description of these principles.

The conference committee has the opportunity to write the ground rules for the transition of our economy from paper-based transactions to electronic transactions. This transition offers great potential benefits for both business and consumers, but must be done in a way that preserves basic consumer protections and ensures the confidentiality and security of such transactions.

Sincerely,

Patrick Leahy, Paul Sarbanes, Tom Daschle, Chris Dodd, Max Cleland, John Edwards, Harry Reid, Daniel K. Akaka, Ernest F. Hollings, Ron Wyden, John F. Kerry, Tom Harkin, Charles E. Schumer, Frank R. Lautenberg, Barbara A. Mikulski, Joseph R. Biden, Jr., Jay Rockefeller, J. Robert Kerrey, Richard J. Durbin, Barbara Boxer, Carl Levin, John B. Breaux, Daniel K. Inouye, Mary L. Landrieu, Max Baucus, Richard H. Bryan, Bob Graham, Jack Reed, Tim Johnson, Evan Bayh, Joseph I. Lieberman, Jeff Bingaman, Russell D. Feingold, Dianne Feinstein, Chuck Robb, Byron L. Dorgan, Paul Wellstone, Patty Murray, Daniel Patrick Moynihan, Ted Kennedy, Herb Kohl, Robert Torricelli, Blanche L. Lincoln, Kent Conrad, Robert C. Byrd.

BASIC CONSUMER PROTECTION PRINCIPLES FOR ELECTRONIC SIGNATURE LEGISLATION

1. Ensure Effective Consumer Consent to the Replacement of Paper Notices with Electronic Notices.

The final bill must include effective consumer consent provisions that provide the following protections:

Consumer consent must involve a demonstration that a consumer will actually have the capacity to receive and read electronic notices.

Consumers must be notified of their rights, including any right to receive notices on paper, a description of the types of records covered, and their right to revert to paper records (or clear explanation that the option will not be available because of the purely on-line nature of the business).

Consumer consent must be reconfirmed if a change in technology by business results in a material risk that a consumer will be unable to receive electronic records.

Consumers must be ensured that electronic delivery of notices will have substantially equivalent reliability as paper delivery.

Consumer privacy must be protected by requiring that the provider of the electronic record shall take reasonable steps to ensure confidentiality and security.

2. Ensure that Electronic Records are Accurate, and That Relevant Parties Can Access and Retain Them.

The legislation must require that, in order to meet record delivery and retention requirements under existing consumer protection laws, businesses must take reasonable precautions to preserve the accuracy and integrity of electronic records. In addition, all parties entitled to a copy of a notice or disclosure by law or regulation should be able to access and retain an accurate copy of that record for later reference and settlement of disputes.

3. Enhance Legal Certainty for Electronic Signatures and Records.

The legislation must provide clear interpretive authority to the regulatory agencies responsible for implementing the statutes modified by the legislation. Failure to provide such authority will create significant business uncertainty about the requirements for compliance with the law, which in turn might lead to litigation. Agencies may also be unable to stop abusive practices and preserve consumer confidence in on-line transactions without such authority. This authority would not give agencies the ability to override any of the bill's requirements, only to clarify how they apply in specific circumstances.

4. Avoid Unintended Consequences in Areas Outside the Scope of the Bill.

The legislation must provide clear federal regulatory authority for records not covered by the bill's consumer provisions, including authority to exempt requirements from the bill's provisions if necessary. The broad scope of the legislation may have unintended consequences for laws and regulations governing ''records'' outside its intended focus on business-to-consumer and business-to-business transactions. For example, the bill could affect rules on the posting of workplace safety notices. Protections must be provided against such unintended consequences of the legislation.

5. Avoid Facilitating Predatory or Unlawful Practices.

The legislation must provide adequate protection against predatory or unlawful practices.

Mr. LEAHY. Mr. President, I am pleased that my colleagues on the other side of the aisle have worked out their problems and enabled the Senate, at last, to appoint conferees on S. 761. I co-authored S. 761 as it passed the Senate, and I look forward to working as a conferee to ensure that the final conference report respects the principles that this body endorsed when it passed that legislation by unanimous consent last year. The letter to conferees dated March 28, 2000, signed by all 45 Democratic Senators, reminds us of those principles.

I am only one conferee among 17 but working with the other 6 Democratic Senate conferees and the 10 Republican Senate conferees. I will endeavor to encourage electronic commerce with balance, fairness, and due regard for consumer protection.

The PRESIDING OFFICER. The Senator from Utah.

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ELIAN GONZALEZ

Mr. HATCH. Mr. President, I rise this morning to voice my deep concern over the developing situation in Miami involving this young boy, Elian Gonzalez.

I do not rise today to make legal or policy arguments regarding the events that have transpired thus far, although I have strongly held views on those matters. Rather, I rise to implore—yes, implore—the Justice Department and the Clinton Administration to exercise restraint in how they proceed.

For reasons I fail to understand, this Administration yesterday significantly ratcheted up the stakes in this matter, and unnecessarily turned this into a crisis situation by threatening to involuntarily and forcibly remove this

boy from the place he calls home and to forcibly remove him from the family that has cared and sheltered him for four months.

And why? The Justice Department had previously indicated a willingness to allow the Miami family to pursue its legal avenues in federal court. This family is appealing the recent decision of the district court. That is not news, and should hardly come as a surprise to the Department. In fact, it is my understanding that the family has agreed to the Justice Department's request to try and expedite the appeal.

So why has the Administration manufactured this crisis and issued these threats and ultimatums? Why make these threats regarding this arbitrary, self-created and self-imposed deadline of Thursday morning at 9:00 a.m.?

I know that my colleagues have different views on the matter of whether Elian Gonzalez should be returned to Cuba or allowed to stay in our country. But I do not stand before you today to debate that matter.

Rather, I would hope we could all join in calling upon the Department of Justice and the Clinton Administration to calm down, exercise restraint, and stop acting to increase the tension of this delicate situation unnecessarily through arbitrary deadlines or threats of force.

I fail to see how these threats serve any useful purpose. Hasn't this young boy been through enough? Why does this Administration need to forcibly remove him from his home while the appeal process continues to run? Has Elian become an enemy of the United States of America? If not, why is the Administration treating him like a dangerous drug lord or a mass murderer?

Again, I implore this Justice Department and this Administration to calm down and exercise restraint. We need to find a way to diffuse this situation, not to further inflame it. And, we need to act in accordance with the values of our country—restraint, respect for law, and common sense. We should not be led to extremes merely to appease a foreign government. We will be fair and deliberate. But, we should not engage in ridiculous, overwrought measures. After all, this is not Cuba. This is the United States of America, and we have a young boy here. He ought to be treated with dignity and with respect by a government that does not act as a bully with no restraint whatsoever.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

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MARRIAGE TAX PENALTY

Mrs. HUTCHISON. Mr. President, I rise today to talk about the marriage tax penalty. We are trying not so much to give a tax cut to married couples but to make a tax correction. It is not the business of Government to say that when you are married your taxes should be higher. The Tax Code should be blind.

It should be fair to all. Any single person making $35,000 a year marrying someone making $35,000 a year should not automatically go into a higher tax bracket. In fact, under today's Tax Code, that is exactly what happens. It is one of the most egregious oversights of our tax system that we must address.

It is estimated that 21 million married couples pay a marriage penalty; about 48 percent of people in this country who are married pay a penalty for being married. The question is, What can we do to correct that inequity? This is not just a tax cut. It is a tax correction.

Yesterday, Senator ROTH revealed his plan that will go to the Finance Committee for markup, hopefully, tomorrow. It is a very solid beginning. His plan, first and foremost, does something that will affect every single married couple: It doubles the standard deduction.

Today, the standard deduction is $7,350 for a married couple. It is $4,400 for singles. One would think a married couple would get $8,800. That is not the case. They get $7,350. Regardless of the tax bracket, there is a marriage tax penalty from the standard deduction. Senator ROTH's bill doubles the standard deduction next year.

Second, the bill starts with the lowest tax bracket, the 15-percent bracket. Over a 6-year period, starting in 2000, that bracket will be doubled for married couples. This is an $8,650 increase that allows people to continue paying in the 15-percent level for $8,650 more. Basically, that means if someone today is making up to $43,000 as a married couple, they are in the 15-percent bracket. We raise that to $52,500. As a married couple making about $26,000 a year, they will stay in the 15-percent bracket and will not have that penalty.

It is important for people to know that everyone pays up to the $52,000 in the 15-percent bracket. Even if you go up to the 28-percent bracket or the 36-percent bracket, you will also get that 15-percent bracket relief.

It was my hope to double the 28-percent bracket, as well, because this is where most people get hit the hardest. A policeman who marries a schoolteacher gets hit in that 28-percent bracket. They are making approximately $30,000 each. They would not be fully covered under the bill that will go to markup.

There will be opportunities to increase that bracket to 28 percent, which is what we hope to do. We want to go up to about $120,000 in joint income to do away with that penalty for married couples. We will take the 28-percent bracket up to about $126,000. A 28-percent tax bracket is almost a third of what a person makes, so with salaries of $40,000 or $50,000, it is a pretty big hit, especially if you have children and are trying to do the extras for their education.

We have the 15-percent bracket doubling, starting in 2000. We want to make that 28 percent, but even if we can do the 15 percent, it is certainly a step in the right direction, saying to people they should not be penalized because they chose to get married. The penalty is not small. The average is about $1,400 more that people pay. If they are making $28,000 a year or $40,000 a year and have to pay $1,400 more in taxes, that is a lot of money, money that could be saved for the first downpayment on a house. It is money that could be put on car payments, mortgage payments, or a family vacation.

This is the time in people's lives when they need the money the most, when they are a young couple, just beginning. They do not have a nest egg yet. To tax them $1,400 more a year is a heavy penalty. There is no reason for it. We should not make the choice for people that if they get married they must pay more taxes.

The alternative minimum tax is also reformed in Senator ROTH's plan. The alternative minimum tax is a tax that is levied on people. An alternative minimum tax is levied perhaps because too much of their income is tax free. This has begun to hit more and more people.

The alternative minimum tax has begun to hit people who make $75,000 a year as married couples. This keeps them from having the $500-per-child tax credit fully given; it keeps them from getting the Hope scholarship money fully given; it keeps them from having an adoption credit fully given. It takes away the value of those credits.

We say to people: You get a $500-per-child tax credit because we want you to have more of the money you earn, but if you make over $75,000 a year, we will take part of that credit away. We want to make those types of tax credits, the nonrefundable tax credits, whole for people, regardless of where they are in the system. We don't want the marriage tax penalty to encroach on that, as well. We are trying to exempt those nonrefundable tax credits from the AMT.

We also increase the earned-income tax credit for low-income couples, so if a person chooses to go to work and get off welfare, which is what we are encouraging them to do, we don't want to punish them by taking away their earned-income tax credit.

It is ironic that today we say to a married couple: You will pay more in taxes than if you had stayed single. We have a higher tax burden in our country today in peacetime than any time since World War II. We are trying to take away some of that tax burden on hard-working Americans. We find with many couples that both work because the tax burden is so high. They are trying to do extra things for their children. In order to meet all of their needs and the extra requirements they have for giving their children a good education, they are having to go to work. That second income is penalizing that spouse who decides to leave the home and go into the workplace.

This is wrong. It is time to end this unfair part of our Tax Code. We started trying to correct this inequity 3 years ago. We sent President Clinton a bill that had marriage tax penalty relief in it and the President vetoed that bill.

It is very important that President Clinton look carefully at this particular bill. It hits people at the lower and middle-income level. The President has said he is for income tax relief for middle-income people. He has said that in public statements. But, in fact, he has vetoed the marriage tax penalty relief we have sent him.

I hope this is going to be a clean bill. I hope it will be a bill that is not amended with extraneous amendments that are not marriage tax penalty amendments. If we can send that clean bill, then I think the President will have some explaining to do if he does not sign it to give this relief to hard-working American couples.

We are about 20 days away from having to file the income taxes for 1999. April 15 is the day. April 15 is Saturday, so we get a reprieve until April 17. But when people are filling out their income tax returns in the next few weeks, I hope they will think of this marriage penalty that most people are paying in this country. I hope they will realize Congress is trying to give people relief. Congress is trying to double the standard deduction, so when you are filling out your form in the next 20 days, realize if you are married, your standard deduction is $7,350. Under our plan it would be $8,800 that would be totally exempt from taxation.

Furthermore, we would give you about $8,000 more over the next 6 years in the 15-percent bracket. So whereas today you would start going into that 28-percent bracket at $43,000, we are going to give you up to $52,000 over a 6-year period with the bill that is going into the Finance Committee tomorrow. We are hoping we can even expand that to the 28-percent bracket so more people will pay at the lower bracket levels. This will help every single tax-paying American who is married and paying this penalty.

I hope very much the President of the United States is listening. I hope we can pass this clean marriage penalty bill through the Senate. We have a good start in the House bill. We have a good start from the Senate Finance Committee mark. I hope we can even make it better. With a relatively small addition, I think we can. I think we can go from the 15-percent to the 28-percent bracket—doubling. That will give significant relief to the most taxpayers in this country. Most people pay in the 15- and 28-percent brackets. That is where I think we need the relief.

I urge my colleagues to work with us on this marriage penalty relief. I urge the President to listen to the hard-working people of this country who are saying: We need relief, and most of all, we need fairness in our tax system. It is not fair to tax people because they are married.

I see my colleague from Georgia is on the floor. My colleague from Georgia has been one of the early cosponsors of this marriage tax penalty relief. He has been a stalwart defender of fairness in our Tax Code and fairness in our tax system. I appreciate that he is here and I yield the floor to the Senator from Georgia.

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, the Senator from Georgia, Mr. COVERDELL, or his designee, is recognized to speak for 30 minutes.

Mr. COVERDELL. Mr. President, parliamentary inquiry: It is my understanding the Senator from Texas and the Senator from Kansas had a period of approximately 30 minutes before the 30 minutes that was assigned to me. At the moment, I will be speaking on that time, if there is any of that time remaining.

The PRESIDING OFFICER. There is 14 minutes remaining.

Mr. COVERDELL. Then, if I might, with that clarification, at the conclusion of my remarks and the remarks of the Senator from Texas or others on marriage penalty, then I will begin to implement the 30 minutes that was assigned to me.

Mr. President, first I thank the Senator from Texas for her perseverance in pursuing relief of the marriage tax penalty on so many millions of Americans. I have several general comments to make about this proposal at this time. Again, before she gets away, I thank the Senator from Texas for the drumbeat by which she has continued to pursue this issue because it is an exceedingly important policy issue. That is the first point I want to make.

The fact we would have ever come to the point in the United States, given all the problems we have been talking about over these last several years of destabilization in our society, that we would punish people for creating families is unconscionable public policy. It is almost unbelievable it could have ever come to this point. So, as a matter of sound, intelligent, appropriate public policy, there should not be a penalty for people creating families. We should be encouraging, not discouraging, that. We should be making available to those families as many resources as possible to carry out the building of America upon which we have always relied. It is that family that we have depended upon to get America up in the morning, to get it to school and to work, to house it, to provide for the health needs and education of the country.

The dreams of America are in the hands of these families. To punish them, to financially punish them, as I said a moment ago, is absolutely unconscionable public policy. It raises all kinds of questions about what kind of thinking goes on in this Capital City, for Heaven's sake. The punishment is not insignificant—about $1,400 a year on average. Start thinking of the things that would do: The home computers, tutors, a new mortgage, transportation. The average American family's disposable income, that which is left after the Government marches through their checking account and takes over half of it —in our State, that family is probably making about $45,000 to $50,000. By the time you take that down by half—then think of all the things they have to do to raise America, to take care of America—we have not left enough there to get the job done. No wonder we see so many problems in our society.

If you were to put a graph behind me from 1950 to 1990 and show what the Federal Government was taking out of that checking account in 1950, and then what it is taking out in 1990, you would faint. If you put up a graph of every other problem—SAT scores, teenage suicide rates, you name it—as that graph went up, as we took more and more resources away from those families, bad things start to happen in our country. So there is nothing more important than making a statement that we are not going to punish families and we are going to take steps to leave more value, more of what they work for in their checking accounts so they can do what they need to do for America.

If every little family can take care of itself, the country is in great shape. Conversely, if we make it difficult for these families to get the job done, the country starts to wobble a bit. It has gotten right close to wobbling.

The other point I want to make is this: If we are going to talk about eliminating the marriage tax penalty, then we ought to be bold about it and serious about it. This proposal that is coming from the Finance Committee, and for which the Senator from Texas has fought, is just that.

The President has used the name but no substance—the name, the sound bite—but it is not getting the job done. Clearly, if we are going to go before the country and say we are going to eliminate the marriage tax penalty, it ought to virtually get the job done.

The proposal sponsored by the Senator from Texas, and which is likely to come out of the Finance Committee, will do that. The President's proposal does not.

I hope this ultimately passes the Senate, that we work out any differences with the House, and it goes to the President's desk and he acknowledges that a marriage tax penalty is a bad thing, it is bad policy.

I have one other comment to make about this before I yield back the remainder of the time to the Senator from Texas. I have not heard anybody refer to this, but this proposal is across-the-board tax relief. Why is that? Because it takes the bottom tax bracket where people pay 15 percent and increases substantially the amount of income any family can earn and only be taxed on that income at 15 percent. Every taxpayer will receive tax relief because they all pay 15 percent on the

first bracket. The first bracket is being enlarged. Everybody will benefit.

Admittedly, by focusing on these earlier tax brackets, the amount of relief, while the same for everybody, is more meaningful to middle-income families and lower-income families. This $1,500 is the difference between, as I said, the house or not, the car or not, proper education or not. For some of our wealthier citizens, it will not have that great an impact. They would make a different kind of decision about it. It is fair because it is across the board and it affects the entire 15-percent tax bracket. That is good. I want to see us do more of this where we are lowering the tax rates for all taxpayers.

One of the things about which I have been most encouraged, because Americans pay vastly different percentages of income taxes—it has actually gotten to a very negative separation of our citizens. About 50 percent pay very few taxes, and the top 5 or 10 percent pay inordinate taxes. That can lead into all kinds of problems.

The good thing is, the American people, our culture, demand fairness. They really do. One can ask any American in our country, no matter the walk of life, their gender, or their racial background: What is a fair tax? It is always about the same. It doesn't matter where they come from or what their economic status is. They will say it should be about 25 percent. It should not be 50. Americans are essentially fair, and that is good. That gives us the ground upon which to correct some of these onerous bad policies that are in the Tax Code. This is one of them. This is the right thing to do, as I said the other day, and it is the right time to do it.

Mr. President, I yield back the remainder of time to the Senator from Texas.

Mrs. HUTCHISON. Mr. President, parliamentary inquiry: What is the time remaining on my 30 minutes?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mrs. HUTCHISON. Mr. President, I thank Senator COVERDELL for his remarks. He laid out the fairness question very well. I thank him for the leadership he has provided in trying to give tax relief to hard-working American families on several fronts. Of course, he was the leader helping people give their children extra education benefits. Unfortunately, that bill was vetoed last year by the President, and hopefully, having passed it again this year, the President will give that area of tax help to the hard-working families who want to send their children to college or who want to buy a computer for their child in elementary school. That has been led by Senator COVERDELL.

Certainly, Senator COVERDELL is now helping lead the effort on reduction of the marriage penalty tax because, of all the Tax Code inequities, this is the biggest. It affects the most people. It is the biggest tax cut that should be given. It is a fairness question.

If one is a policeman and making $30,000 a year and marries a schoolteacher, why should they pay $1,400 more in taxes just because they get married? There was no promotion, no bigger salary but the same salaries, two people, and they got married. They pay $1,400 more a year in taxes. It hits the schoolteacher and the policeman the hardest.

It is the people making that $25,000 to $35,000 who get hit the hardest. Yet that is the couple trying to save to buy a home for their family or to upgrade a home or to buy the second car or to go on a family vacation. This is money that should not be spent by the Federal Government; it is money that should be spent by the people who earn it. That is the question today.

We are going to continue to debate the issue of the marriage penalty tax, and we will be testing people to see what their priorities are. Why would we continue to have this inequity in the Tax Code when we can fix it? We can fix it, and we are going to have the opportunity to do that the week people are beginning to pay their taxes. We are going to take this bill up the week of April 10, so that when people are filling out their tax forms, they can look at that standard deduction and say: My goodness, I am a married person and my standard deduction is $7,350 and it should be $8,800. If the bill that will be before the Senate on April 10 is passed, it will be $8,800 next year, and this year will be the last year that a married couple has to pay more taxes because of the standard deduction inequity.

I thank the Presiding Officer, and I thank the Senator from Georgia. I urge my colleagues to look at this issue. Let's focus on doing away with this inequity as soon as we possibly can.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. COVERDELL. It is my understanding, then, that there are 30 minutes now under the control of the Senator from Georgia.

The PRESIDING OFFICER. The Senator is correct. The Senator from Georgia is recognized for up to 30 minutes.

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THE WESTERN HEMISPHERE

Mr. COVERDELL. Mr. President, before I left the Foreign Relations Committee very recently and going to the Finance Committee, I was chairman of the Subcommittee on the Western Hemisphere. I will address the Senate this morning with regard to those responsibilities and to our hemisphere. I will suggest that we must reinvigorate our partnerships in this hemisphere as we begin a new century. If we work to nurture the political and the economic relationships among the nations of the Western Hemisphere, I am convinced that the next century will be the century of the Americas—a time of unparalleled peace and prosperity.

The reason for my remarks, however, is that there are threats, serious threats, to the stability of the democracies in our hemisphere. We need to confront them together—neighbor helping neighbor.

There has been a great deal of discussion recently on deciding what event adequately defines the last century. Some would say victory over Hitler in World War II, or the fall of the Berlin Wall, the first man to walk on the Moon, or the invention of computers. You would make a good case for each one of these.

But I believe the history of the 20th century cannot be defined by one of these singularly remarkable achievements. The greatest development was not an event at all but a slow and steady march over time. For me, it was the spread of democracy around the world, a movement in which the United States played a leading role.

Consider the following: According to the Freedom House, of the 192 sovereign states in existence today, 119 are considered true democracies. In 1950, a date I referred to in the earlier debate, only 22 countries were democracies—22; today there are 119. This means that nearly 100 nations have made this incredible transition over this last half century. I witnessed much of this great transformation as Director of the U.S. Peace Corps under President Bush. Nowhere did I see more dramatic change than in our own backyard.

In 1981, 18 of the 33 nations in the hemisphere were under authoritarian rule. By the beginning of the 1990s, all but one—Cuba—had freely elected heads of state. It was the springtime of democracy.

In the new century ahead, we must nurture and protect this freedom around the world but with great attention on our own hemisphere. Our welfare is inextricably tied to that of our neighbors in the region. We share common geography, history, and culture. Together we possess unbound potential for regional economic prosperity.

To harness this potential, we must continue to extend political and economic freedom to the entire hemisphere. The stakes are very high. If we are successful, I am confident the 21st century will be remembered, as I said, as the century of the Americas. But if we neglect our responsibilities, we could realistically witness a balkanization of Latin America and a stagnation in our own economy.

The task is daunting, and becoming more so by the day. Freedom in the hemisphere remains fragile and uncertain.

Under the Clinton administration, we have failed to respond to the new challenges facing the region—allowing emerging threats to fester in places such as Colombia, Haiti, and Panama. As a result, some of the hard-fought victories for freedom in Latin America are weakened and in jeopardy.

Let me take a minute or two to focus on three core components of health in the Western Hemisphere. I mentioned a moment ago that there are serious threats to these new democracies. I also mentioned there is enormous potential in the hemisphere.

If you took the whole Western Hemisphere combined, it is the largest consumer base in the world. There is enormous potential here. Most people do not realize that trade in this hemisphere today is already larger than all of our trade in Europe, almost double our trade with the European Union. Trade in this hemisphere is significantly larger than our trade with the Pacific rim. If you were to ask most Americans, they would undoubtedly say our greatest trading partner would be Europe. It is third. The Western Hemisphere is first; the Pacific rim is second; and a long way back is the European Union.

That tells me where we have to be highly focused in the context of the health of the hemisphere. As I said, in the early 1990s, we could look across this area and see all these new democracies. But as we look today, after about 9 years of this wonderful achievement, there are some pretty serious issues on which we need to be focused, and we are not.

You see, for democracy to be successful, it has to be more than just an election of a head of state. For democracy to be successful, it has to have a sound judiciary; in other words, a way for disputes to be resolved peacefully and civilly.

This is incredibly important to trade and to relations between the countries. I will give you an example. Who is going to make an investment in a country for which there is no appropriate judiciary to resolve differences? Not many because you have put it at too high a risk. Investment does not go to high risk; it runs from it. Investment goes to security; it seeks it. In too many of our new democracies, we have not focused on helping build an appropriate judiciary.

Law enforcement: In many of these new countries, law enforcement had previously been the responsibility of the military. In Nicaragua, Honduras, many of these countries, in Guatemala, it was the military that established order. As we all know, that can be without due process. It can be orderly, but you better not cross it. You better not have a disagreement. In other words, you have a condition in which citizens or guests are not safe or could be threatened. Whenever that happens, you have a deterioration of economic mobility and stability. Investments move away from those kinds of situations, not to them.

Substantial progress has been made in each of the countries I mentioned to move to a civil form of law enforcement, but this is a daunting task. Look at Haiti today; with the investment that has been made, which is approaching $3 billion, and an attempt by the United Nations to train a civil law enforcement—not a military, a civil law enforcement—it just does not exist. Do we really believe there is a judicial process that would allow an investor to come in and put a high-stake investment in the country and if there were a dispute of some form between the government and that country or between two parties or a native Haitian and a foreign investor that there would be a competent, capable way for that dispute to be resolved? No. Therefore, the investments don't flow. When the investments don't flow, you have a deteriorating economy. When you have a deteriorating economy, then you begin to destabilize everything you have talked about in terms of democracies. They begin to wobble; they can disappear.

Today we have a President of one of the more significant countries of Latin America, Peru, who is flouting the constitution. The constitution says a President, as in the United States, may be elected President for two terms. That is not enough for Fujimori; he wants three. Push the constitution to the side; push freedom of the press to the side; ignore the fundamentals of fair elections. Does that remind you of democracy? Does that suggest that the institutions of democracy—constitutional law, civil law enforcement, a fair and sound judiciary—are in order? You would be hard-pressed to answer that question yes.

Venezuela has a new popular President who has essentially moved everything to the side and who shaped the government in his own view. The question is still out there, but those are not very encouraging signs. They are worrisome. Where is that all going to lead? Does that make people who believe in constitutional law, civil authority, comforted? Answer: No, it does not. I want to come back to this point, but we must remember that about 13 percent of our oil energy today comes from Venezuela.

Colombia: Colombia is in the middle of a raging war. CNN has not found it. There are more refugees in Colombia than there were in Kosovo. No one is speculating on the number of dead. It is 35,000 people. And an insurgency driven by narcotics—not ideology, narcotics—controls 30 to 40 percent of the country and is on the outskirts of Bogota. We and this administration have been talking about this old traditional republic that has been a great ally, supplying over 5 percent of our energy, and we have yet to get the assistance through this Congress. We have sent Ambassador Pickering, we have sent General McCaffrey, legislators, myself and others. We know we have to help protect that democracy that sits in the middle of Venezuela and Ecuador and Peru and Panama, the entire Andean region.

This is a reflection of our inability—and it is not just this administration, as a people—to understand how important our own backyard is. We tend to get focused off someplace else. I am not saying those are not significant priorities, but for Heaven's sake, if it is at your back door, you better be paying attention. Bogota is a 3-hour flight from Miami.

Talking about Mexico and the enormous problems they have had, I admire their leadership. They are struggling. But as President Zedillo said to me: There is no threat to the security of the Republic of Mexico that matches the corruption and the intrusion of narcotics. He is surrounded by it.

So we have Colombia, Mexico, then Texas, New Mexico, Arizona, then Georgia and New York and Chicago, right at the back door. You have to open the door.

In Paraguay—knock on wood—constitutional law was protected because it was an example of people in the hemisphere paying attention. The Vice President of the country was assassinated, and it looked as if constitutional law was gone. I have deep memories of this. The people of Paraguay overthrew a dictator, Stroessner. I was at the first inauguration of a freely elected President. If you had seen the faces of these people who had accomplished freedom, everybody ought to go through that. Everybody should have that opportunity. If you told me at the time that within a handful of years it would come to the point where their Vice President was assassinated, and it looked as if it was all going to collapse, I wouldn't have believed you, but it almost happened.

The institutions that make a democracy really be a democracy are not in place, and we have lost a lot of time—too much time. The nefarious, evil nature of narcotics has intruded the entire hemisphere—all of it—and it is marching. Its ultimate goal leaves nothing but ruins behind it. It corrupts the institutions of democratic principle, and it is doing it in country after country—in our own backyard.

We have been celebrating—and this is my third point—enormous trade opportunities. In the nineties, we have experienced it all across the country, across the hemisphere; it is staggering. It helps build a new middle class; it brings economic prosperity to people who have never enjoyed it. As an example, I can remember years ago, in Guatemala, about all that was being raised was corn and beans for self-sustenance. Now, they are truck gardening in fruits, with huge markets for them. Who do you see in the fields? You see 18- and 20-year-old young Guatemalans with a great job, and you know where that leads because we are from America. We know what happens. They start becoming independent. They stop relying on government. They start thinking for themselves. That needs to be nurtured.

The trade opportunities are boundless, but we have been knotted up; we have been unable to expand these trade agreements. What is happening? Did you read the newspapers yesterday?

The European Union signed the treaty with Mexico, and Mexico is entering into treaties with Mercosur, the southern cone of South America, and we are tied up in a knot here. So we are inviting this huge economic base to become the customer of other regions of the world because we can't seem to get it together.

Now, I assume my time is nearing the end.

The PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. COVERDELL. My point is that a core component of new democracy in the world occurred right in our hemisphere. There was a marvelous achievement—to survive the institutions that make democracy work have to be put in place, and we have not done a good job on this. It has been sporadic, it is destabilizing, and we can see it. We have to only pick up a newspaper—Peru, Venezuela, Haiti, Colombia, and the list goes on.

No. 2, we have an enormous and powerful adversary in the narcotic cartels. They don't care about a single child anywhere, they don't care about any human life, and they do not care about any country. They are as evil a scourge as the world has ever seen. And they are fueling a criminal syndicate in the United States that is more powerful than anything with which we have ever dealt. Undoubtedly, somebody listening to this saw Godfather I and Godfather II—amateurs, rank amateurs compared to what we are dealing with. The economic opportunity is limitless, boundless, sitting right in our backyard, as I have said. Simply open a door. And we have let it get all frayed; we have not stayed attentive.

So, as I say, we can get focused in our own home if we can create, I call it a doctrine of the Americas, where all of us as neighbors demand certain standards, that they be upheld, and that constitutional law is a part of this hemisphere, that civil law enforcement is what we have grown to expect, and a fair judiciary must be in place. The Constitution cannot be just thrown across the desk and into a trash can. We all should be together demanding that kind of activity. If we will pay attention to this evil force and respond to it—not simply cover our eyes, but respond to it—we can keep it from doing enormous damage not only in the U.S. but across the hemisphere.

They are ruining governments. It will leave democracy in shambles. Mark my word. It must be confronted vigorously. It is a huge threat to our security. If we will pay attention to the trade opportunities and be vigorous about it, if we will do these three things, they will call this century the century of the Americas, and all of us will be rewarded tenfold in every country, and we will be an enormous force for world peace. Conversely, ignore all of these things and it will breed a problem and a trouble that will haunt us throughout the century.

I am for a century of the Americas. I get excited about it. I think we have to, as a nation, make a step forward; we have to be bold and we have to pay attention.

Mr. President, I yield back whatever time remains. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Under the previous order, the Senator is recognized to speak for up to 60 minutes.

Mr. KENNEDY. I thank the Chair. I don't intend to take that amount of time.

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PRESCRIPTION DRUGS

Mr. KENNEDY. Mr. President, the Senate Finance Committee is today holding the second in a series of hearings on prescription drugs. It is the 14th hearing on Medicare reform and how we will deal with the challenges facing the Medicare system.

I had an opportunity to testify before the Finance Committee as did several of my colleagues. Both Republicans and Democrats are urging the Senate Finance Committee to take steps to provide important our senior citizens relief from the cost of prescription drugs. It is a national crisis. It affects seniors in New England, it affects seniors in the Southwest, it affects seniors all across this Nation. We have a responsibility to our seniors to address the issue this year. It would be inexcusable for us to have an adjournment without addressing the prescription drug crisis that is affecting the health, well-being, and livelihood of millions of senior citizens all across this Nation.

I want to take just a few moments of time to review exactly where we are in this challenge that is facing the Senate of the United States as an institution. The Budget Committee is meeting today to make recommendations on the issue of prescription drugs, and the Finance Committee has responsibility in examining why action is so important now.

The drug crisis for seniors is reflected in two important ways:

One, coverage is going down.

Those seniors who currently have drug coverage are seeing it evaporate. The costs being paid by those senior citizens with coverage are going through the roof.

This chart is a clear indication of the situation facing our senior citizens. There are approximately 35 million senior citizens receiving Medicare. Twelve million of these seniors have no prescription drug coverage whatsoever. This is almost one third of all senior citizens.

Almost another third—11 million—have employer-sponsored coverage through their former employers. They have coverage.

Then we have Medicare HMOs, which cover 3 million seniors; 4 million seniors purchase Medigap coverage that includes a limited drug benefit; 4 million seniors have coverage through Medicaid; and 3 million have coverage through the VA and other means.

This chart really tells the story. We have 12 million seniors on Medicare with no prescription drug coverage.

What about those seniors with employer-sponsored coverage? How reliable is that coverage for our senior citizens?

Look at this chart. There has been a 25% drop in firms offering retiree health coverage between 1994 and 1997, a 3-year period. A quarter of all persons receiving employer-sponsored retiree coverage have been dropped.

The rather ominous fact is that current coverage is declining in an even more dramatic way. More and more firms are unilaterally dropping prescription drug coverage from their retiree programs. The number of seniors who are in these employer-sponsored programs is going down dramatically.

Let's look at the 3 million who have coverage through Medicare HMOs. This year alone, more than 325,000 Medicare beneficiaries lost their HMO coverage. That is true in the western part of my State. It is true in Connecticut, it is true in many parts of New England and it is true in many other areas of the country.

We know the drug coverage is only an option under HMOs; Medicare HMOs are not required to provide drug coverage. Medicare HMOs are leaving the market, and those remaining are drastically reducing the level of drug coverage. Seventy-five percent of all seniors covered through Medicare HMOs have limited coverage—capped at less than $1,000 this year. The number of plans with such limited coverage has doubled since 1998. Thirty-two percent have imposed caps of less than $500, an increase of 50 percent since 1998.

On the one hand, many HMOs are dropping coverage. Those maintaining coverage are putting limitations on the dollar amounts they actually cover. In the last 2 years, 75 percent have unilaterally declared that they won't provide any coverage in excess of $1,000, and 32 percent have limited coverage to $500.

Here we have no coverage.

Here we have falling coverage.

Here we have collapsing coverage.

And now we look at the question of the Medigap.

Look at the situation with Medigap. To qualify for Medigap coverage that includes a drug benefit, one must get that coverage at the time they first enroll in Medicare.

This chart shows that drug coverage through Medigap is unaffordable. This is the sample premium for a 75-year-old: In Delaware, $2,600; New York, $1,900; in Iowa, $2,000; in Maine, $2,400; Mississippi, $2,400.

Individuals have to apply for Medigap plans with drug coverage at the time they first qualify for Medicare; they

are effectively closed out from purchasing a Medigap plan that includes drug coverage later.

What we are seeing here is an explosion of the Medigap premiums. As a result, protection against the cost of prescription drugs through Medigap is also in free fall. The only seniors with reliable drug coverage are the 4 million covered through Medicaid.

At the same time we are seeing this very significant decline in coverage, drug costs are growing at double-digit rates. We go from 1995, 9.7 percent; 10.1 percent in 1996; 14.2 percent in 1997; 15.7 percent in 1998; and 16.0 percent in 1999. This is against a background of a virtual flat rate of inflation. The inflation rate in 1995 was 2.5 percent; 1996, 3.3; 1997, 1.7; 1998, 1.6 and in 1999, 2.7. The inflation rate is virtually flat, yet we have seen dramatic increases in costs and reduction in coverage for drug benefits.

We have a situation where Congress is going to act. We need coverage for all, universal coverage. We must include both basic and catastrophic coverage. We should try to take care of those senior citizens represented in this group here: the 57 percent with incomes under $15,000 plus the 21 percent with incomes between $15,000 and $25,000—a total of close to 80 percent of all senior citizens have incomes below $25,000. We have to take care of these seniors. I believe coverage ought to be universal. This is what we currently do in both Medicare and Social Security.

Close to 80 percent of our senior citizens have incomes below $25,000 a year. This is extraordinary. Almost 60 percent have incomes below $15,000. Overall, their incomes are very modest indeed.

So coverage is collapsing at the same time costs are exploding. And who is it impacting? It is impacting close to 80 percent of the elderly people in this country with incomes below $25,000.

This chart gives an idea of typical patient profiles. These are the types of ailments that typically affect so many of our seniors: Osteoporosis, heart trouble, high blood pressure, enlarged prostate, arthritis, ulcers, high blood pressure, heart disease and anemia.

Look at the typical cost per year. If 150 percent of poverty is $11,985, and we saw on the last chart about 60 percent of our seniors have incomes in that range, look at the outlays these seniors have: 20 percent of their entire income, just to cover the of essential drugs needed to treat osteoporosis and heart trouble. The costs only increase for other typical conditions. These are their out-of-pocket expenditures for drugs; this does not even deal with other health-related needs they might have. It is an extraordinary burden they have.

This is why we believe that Medicare drug coverage needs to be universal. It should cover all of our senior citizens. It should provide basic coverage. It should also reach those with higher drug costs through catastrophic coverage. We know only about 10 percent of the seniors need catastrophic coverage today. But many of our seniors are very concerned that they may face catastrophic needs in the future.

I am a strong believer that the next century is going to be the life science century, with major breakthroughs in medical treatment. For example, in my State of Massachusetts, if we had a breakthrough in Alzheimer's disease, we would empty half of all the nursing home beds. The savings would be astronomical. The cost of the prescription drugs might be large, but the savings through keeping Medicare beneficiaries out of hospitals and nursing homes can be dramatic, significant. That is why I think we need both basic and catastrophic coverage.

We must be guided by these principles. We want coverage that is affordable for the individual senior citizen. It should also be affordable to the Federal Government. That is why Senator ROCKEFELLER and I have advanced a Medicare drug program. A number of our colleagues have advanced other programs. What is important is that we take action and take it now.

I have here before me what we call the chairman's mark. The Budget Committee of the Senate of the United States is meeting even as I speak. They have in their chairman's mark what they call a reserve fund for Medicare. They are talking about reserving $20 billion for Medicare. In the chairman's mark they describe a reserve fund for Medicare:

> Whenever the Committee on Ways and Means of the House or the Finance Committee reports a bill or an amendment or a conference report that implements the structural Medicare reform—

In other words, nothing is available for prescription drugs without comprehensive Medicare reform. I am all for Medicare reform. But I do not know why we ought to hold a good, effective prescription drug benefit program hostage until we get comprehensive Medicare reform. This is what the program requires.

Then it says:

> and improves the solvency of the Medicare Program without the use of transfers or new subsidies from the general fund.

Therefore it prohibits any use of any of the surplus at a time where we have an important and significant surplus projection. The surplus should be used to assist the Medicare program in a modest way. They prohibit any use of that surplus. It also requires and ensures additional reimbursement for Medicare providers. So we have to have a comprehensive reform of the Medicare system and we have to also have the major changes for Medicare providers before we can ever come to consider the $20 billion that is going to be recommended as possible funds that could be used for a prescription drug program. This is half of what the President of the United States has asked for, half of his $40 million request.

This is what it says. Under the budget:

> Prescription drug benefit. The adjustments made pursuant to the prescription drug benefit may be made to address the cost of prescription drugs.

It is optional. It is optional. I do not think that is what the seniors or the American people—not just seniors, but all Americans are really interested in. They want us to take action and they want us to take action now. They do not want to set up an arbitrary barricade for us before we can take action.

I do not understand why our Budget Committee is effectively binding the Senate of the United States and prohibiting it from being able to take action on a prescription drug benefit this year unless it goes through the hoops which they have established in the committee. Even if you were able to get through all those hoops, it provides woefully inadequate funding over the next 5 years.

Last year the Budget Committee had $100 billion over 10 years for Medicare, although in reality that money was not dedicated solely to Medicare and Medicare prescription drug coverage. Yet this year they are talking about $20 billion over 5 years. The problem has gotten worse, not better. As we have seen, even though they had their program last year and said they are really all for prescription drug coverage, they do not have any program.

That is a very unsatisfactory way to proceed when we are talking about one of the central concerns for not only seniors but also for their families. Seniors do the best they can. So often, when the parents are unable to pay, the burden falls on other family members to chip in and help pay for mom or dad's necessary prescription drugs.

The fact is, when the Medicare system was adopted in 1965, it was to be universal in nature and have the confidence of the American people. It was a pledge to the American people—if they worked hard and played by the rules, when they retired these seniors who fought in this country's wars would be free from the dangers of absolute financial ruin due solely to their health.

We passed Social Security to provide for them to live with some sense of dignity, and Medicare was passed to give assurance that they would be able to live their golden years in with the peace, security, and dignity in knowing their health care would be covered.

At that time, only 3 percent of all private health insurance programs had a prescription benefit, so the Medicare system did not put in a prescription drug benefit. Now almost every private employer-based health plan—99 percent of them—have a prescription drug benefit. But not Medicare. This is a serious coverage gap that exists, and every senior citizen has to be concerned about this gap in coverage. It demands action.

We can develop a program this year with our current circumstances, with the economic benefits under the existing surplus. We can enact a benefit

package now that can benefit seniors. We ought to pass it this year. Sure, we can phase it in, we can build it up, but we want it now. Not like the Budget Committee saying maybe sometime off in the future and giving us absolutely no assurance. That is a mistake. That is flawed policy. That is, I think, a completely inadequate response to the challenges our seniors face.

Next week, when we debate the budget, we will have the opportunity to address this issue. I hope the overwhelming majority of the Members will support an effort that will come from our side, from our leaders to commit this body to take action and take it now. We will have a chance to vote on that. It ought to be something to which every senior citizen in this country pays attention. We will make every effort to fashion a program to provide assistance to our seniors. We are committed to that. We will not be discouraged from that opportunity by these budget recommendations.

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PRESIDENT HOSNI MUBARAK

Mr. KENNEDY. Mr. President, I see my friend and colleague, the good Senator from Delaware; but behind him, I see someone for whom I have great admiration, who I join in welcoming back to the United States, a dear friend to me and one of the great world leaders of our time. He is a real voice for peace in the Middle East.

I know I will not trespass on the privileges of the Chair and the ranking minority by mentioning his name, but I want him to know what a pleasure it is to see him here.

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VISIT TO THE SENATE BY THE PRESIDENT OF EGYPT, HOSNI MUBARAK

Mr. HELMS. Mr. President, it is my honor to present to the Senate the longtime friend of most Senators, the Honorable President of Egypt, Hosni Mubarak.

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RECESS

Mr. HELMS. I ask unanimous consent we stand in recess for 7 minutes.

There being no objection, the Senate, at 11:52 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BURNS).

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for as much time as I may consume.

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

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TRANSPORT OF VIOLENT OFFENDERS

Mr. DORGAN. Mr. President, I intend to introduce some legislation dealing with violent crime. Before I describe that legislation, I want to speak briefly about another piece of legislation that I previously introduced called Jeanna's bill, named after an 11-year-old girl from Fargo, ND, who was brutally murdered some while ago. I will speak about that for a moment today because something has happened in the last couple of days of which we ought to be aware.

This is a picture of a man named Kyle Bell. He is a child killer. He molested children. He was sent to prison for 30 years. He was eventually convicted of killing Jeanna North from Fargo, ND, and sent off to prison.

As is too often the case in this country, Kyle Bell was remanded to the custody of a private company to transport him to a prison in some other part of America. That private transport company lost this child killer along the way. He escaped. He was not wearing red clothing or an orange jumpsuit that said: ''I am a prisoner.'' He was in civilian clothes. He was in a van with other prisoners.

One of the guards of the company that was transporting him apparently went in to buy a hamburger or something at a gasoline stop, and the other was asleep in the van. Kyle Bell somehow got his shackles off, climbed up through the roof of the van, and was gone. Tragically, the guards did not notice they had lost a convicted child killer for 9 hours—9 hours.

It concerned me when I saw what had happened to this child killer. This newspaper piece describes what happened and the manhunt around the country for Kyle Bell, a very violent career criminal.

I put together a piece of legislation and was joined by Senator ASHCROFT, Senator LEAHY, and others, to say that if state and local authorities are going to contract with a private company to haul convicted killers and violent offenders, at least the company ought to have to meet some basic standards. That is just common sense to me. It is not now the case.

Any retired law enforcement officer and their brother-in-law and cousin can buy a van, show up at a prison someplace and say: We are hired to haul your prisoners. In fact, it has happened all too often. I will give an example.

A husband and wife team showed up at an Iowa State prison to transport six inmates, five of them convicted murderers. The warden looked at the husband and wife team and said: You have to be kidding me. But the prisoners were given to the husband and wife to transport, and, of course, they escaped. There is story after story of this same circumstance.

The reason I mention it today is earlier this week in Chula Vista, CA, convicted murderer James Prestridge was being transported. He is a person convicted of murder and sentenced to life without parole. He was apparently, according to the Los Angeles Times, being transported from Nevada to North Dakota where he was going to be incarcerated under some kind of prisoner exchange. This is a convicted killer, to be incarcerated for the rest of his life.

Guess what. Mr. James Prestridge, a convicted killer, is no longer in custody. The private company called Extradition International lost him. He escaped. They stopped at a bathroom and he overpowered a guard. He went back to the van, overpowered the other guard, and this guy was gone. He and another violent offender who was with him are on the loose today.

Why is this happening? It does not happen when the U.S. Marshal Service transports violent offenders around the country. They are not losing violent offenders. But private companies have no standards to meet, none at all. Hire a couple of people, rent a van, get your brother-in-law, and you are in business. Some States will turn convicted murderers over to you to be transported to another part of the country.

This makes no sense to me at all. Convicted killers are being transported around our country without the precaution one would expect in the transport of violent offenders. Under these circumstances, the American people are not safe.

Again, the bill I have introduced will require any private company that transports a violent offender to meet basic standards established by the Department of Justice. That bill needs to be heard. We have asked for a hearing before the Judiciary Committee. It has bipartisan support. Congress needs to pass this legislation this year.

The escape in Chula Vista, CA, of a convicted murderer is just one more example of many escapes from private prisoner transport companies. I could stand here for 20 minutes and describe the escapes that have occurred with private companies having access to violent offenders. That is not in the public interest.

In my judgment, violent offenders probably ought to be transported only by law enforcement. But if some States decide they are going to contract with private companies to transport violent offenders around this country, then those companies ought to have to meet basic standards—standards on how you shackle a violent prisoner, standards on what that violent prisoner shall wear when being transported, standards on the experience and the training of the guards and the kind of equipment that is used.

But those standards do not exist now. There is none. That is why people, such as James Prestridge, a convicted murderer, are on the loose. Let's hope no one else loses their life because of this kind of incompetence.

(The remarks of Mr. DORGAN and Mr. DURBIN pertaining to the introduction of S. 2317 and S. 2318 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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BUDGET RESOLUTION

Mr. DURBIN. Mr. President, I came to the floor to address an issue which is

pending before the Senate today, and that is the decision to write a budget resolution for the next fiscal year, a blueprint for our spending.

Just a little over a week ago, Billy Crystal, the comedian, did the Oscars presentation show, the Academy Awards. He was referring to a movie called ''The Sixth Sense,'' where there was a little boy who had some supernatural power to see dead people. Billy Crystal, in one of the best jokes of the evening, said: I see dead people all the time. I watch C–SPAN.

Of course, it was a joke at our expense, serving in the Congress. But it must be true for a lot of people that when they tune in and listen to our debates and, of course, watch the committee deliberations, they have to wonder: Isn't it more exciting? Don't these people do something that might be more entertaining?

It may not hit a high entertainment level, but I think the debate currently underway on the budget resolution is exciting in terms of spelling out America's priorities for its future because in a room just a block or two away from here, there will be a decision made on spending for America that can literally affect every family in the country. It is an important decision.

Part of that decision comes down to the major issue in the Presidential campaign. Governor George W. Bush, who appears to be the likely candidate on the Republican side, has made the cornerstone of his campaign a massive tax cut. In my estimation, it is a very risky tax cut. He believes the surplus we are generating now, because of a strong economy and a decision to cut back on the deficit, should go into a massive tax cut.

On the other side of the equation, President Clinton and Vice President GORE believe, as I do, that is foolish and reckless and it could endanger the economic growth we have seen over the last 7 years. Don't just take our word for it. Our colleague, Republican Senator JOHN MCCAIN, a candidate in that same Republican Presidential primary, said of George W. Bush's tax cut that it was not the thing to do; it was, in fact, bad policy. He said it more artfully, but that was his conclusion.

Chairman Alan Greenspan—no partisan, a man who has led the Federal Reserve and helped this economy to develop and prosper—has said it is the wrong thing to do.

The George W. Bush tax cut approach really overlooks the most important thing, which is debt reduction in America. Two-thirds of the American people agree with Mr. Greenspan, Senator MCCAIN, and the Democratic Party, that we should take our surplus and dedicate it to debt reduction, strengthening Social Security and Medicare, have targeted tax cuts—limited, but targeted where they are really needed—and then spend money on health care and education for the families across America.

Well, the Budget Committee is now debating this. In an hour or two, when I return there as a member, I will allow my colleagues on the committee an opportunity to decide whether or not they want to vote for the George W. Bush tax cut or they believe there is a better way. Now it may put some of my Republican colleagues on the spot. But politics is about choices. We make choices every day in the well when we cast votes, when we announce whether we are for or against a bill or whether we will sponsor it or vote for it. My colleagues on the Budget Committee will have a choice.

I think, frankly, they ought to reflect for a moment on some realities. Take a look at what has happened in America since 1992. From the election of President Clinton up to the year 1999, in virtually every income category in America, we have seen rising incomes. This economy is moving forward. Take a look at unemployment. In 1992, it was 7.5 percent. In America today, it is 4.2 percent. The No. 1 complaint of businesses across Illinois is: We can't find skilled workers. I am sorry for that situation; we are trying to address it. But what a welcome change from the days when we had double-digit unemployment.

We have taken, under the Clinton-Gore administration, a step forward in putting Americans to work. Record home ownership: 64 percent of Americans owned homes at the end of 1992. The number is up to 67 percent now. I don't have the chart to show it, but business creation is hitting record levels as well. Inflation is down. The economy is moving forward.

Now the obvious question is: Shall we change things?

We believe the tax cuts that should be enacted are limited and targeted, not massive tax cuts that would go to wealthy people. If we are going to have tax cuts, let's help families with an elderly parent. The President proposed that. Let's expand education so if you have a child in college, you can deduct all your college education expenses up to $10,000. That is going to help some families pay for the college education expenses the kids face. A bipartisan proposal to eliminate the marriage penalty—we need that. Let's help people prepare for retirement with new accounts for saving. Let's expand the earned-income tax credit. These things are consistent with bringing down the debt and strengthening Social Security and Medicare.

Look at what the other side proposes in the George W. Bush tax cut, which is the cornerstone of his campaign; it goes to the wealthiest people in America.

Fairness is an important question when it comes to Government policy. If you happen to be earning over $300,000 a year—and you know who you are out there—George W. Bush thinks you need a $50,000-a-year tax cut. I think you can get by without it if you are making more than $300,000 a year. Frankly, it troubles me that the bottom 60 percent of wage earners in America, people making less than $39,300 a year, get a measly $249 from the George W. Bush tax cut.

When you take a look at that, you have to ask yourself, why would we jeopardize our economic growth, forswear an opportunity to bring down our debt and reduce the burden of paying interest on that debt for our children, why would we jeopardize our economy—in the estimation of Chairman Greenspan—for a tax cut for the wealthiest people in this country?

This is a further illustration of people making incomes of $31,000 a year—$501 in tax cuts, and 60 percent of the people are going to see very little tax relief. Those with higher income figures will see dramatic increases.

When you look at the tax cut and what it means, the sad reality is that you cannot reach the tax cuts proposed by the Republicans without raiding the Social Security trust fund. Oh, they say, of course you can. All you have to do is freeze spending.

Does anyone really believe we will freeze spending on the military, that we won't give the men and women in uniform a pay raise? Does anybody believe we should deny to everyone who works for the Federal Government any kind of cost-of-living adjustment for the next 5 or 10 years in order to pay for a tax cut that gives $30,000 or $50,000 in tax breaks to wealthy Americans? That is not going to happen.

Even under Republican Congresses, we have increased spending in budgets by about 3 percent a year. It reflects inflation plus a little bit. But now they would have us believe that is no longer the case, that we can somehow, in the next 5 or 10 years, not provide any additional spending in a lot of key areas to pay for what I consider to be a very risky tax plan.

It will, in fact, raid Social Security. Take a look at this chart, for example. The Bush tax cut would raid Social Security trust funds to the tune over 5 years of $483 billion; the Republican budget plan, $150 billion. I thought we kind of reached an agreement around here, a bipartisan agreement, that the Social Security trust fund was off limits, that we weren't going to get into it, we were going to protect it for future generations, and we were going to keep Social Security strong. Sadly, that is not the case.

Mr. President, one last issue I want to raise, which I will offer as an amendment, is the question about violent crime and gun crime in this country. There is a breakdown in the debate. Some people believe, as I do, that we should close loopholes so criminals, convicts, and children cannot get their hands on guns through gun shows and other means; that we should have trigger locks to keep guns safe; that we should close the loopholes. Others argue we should have more enforcement; that we have plenty of laws, let's enforce them. I, frankly, believe we need both—close the loopholes and better enforcement.

Look at the Republican budget now being presented to the Senate. Hard as it may be to believe, this Republican budget is going to cut the 900 FBI agents proposed by President Clinton. It is going to reduce, as well, the number of personnel in the Drug Enforcement Agency. It is going to reduce by over 400 the proposal by the President to put more guards at the borders to stop drugs. It completely eliminates the President's proposal for 500 new ATF agents to keep an eye on gun dealers who are selling to criminals. The President proposes 1,000 new prosecutors for enforcement, the same enforcement you heard Charlton Heston, Wayne LaPierre, and other folks on that side talk about. We need more enforcement, and the Republican bill doesn't provide a penny for this Presidential initiative for more enforcement.

You can't have it both ways. Your rhetoric has to catch up with reality. The Budget Committee room is a dance studio where we have the Republican majority side-stepping the George W. Bush tax cut, saying, we are not sure we want to go with that—a Texas two-step if I have ever seen one—and waltzing away from a commitment for more enforcement to stop gun crime in America.

That isn't going to wash, folks. People across America will look at this and say that is not a recipe for America's future, it is a recipe for disaster—on the economic front and when it comes to bringing peace to our neighborhoods and schools.

So I certainly hope those who watch C–SPAN will not be lulled to sleep, as Billy Crystal suggested, but will, rather, see there are some pretty important issues being developed and debated. I hope before this all ends, we will stick with the economic plan that moves America forward, that provides opportunity for more and more Americans, for businesses and for home ownership, that we will dedicate ourselves to a sensible reduction in our debt rather than a risky, dangerous, and massive tax cut, as Governor Bush has proposed.

I hope we will follow Chairman Greenspan's advice and keep this economy moving in such a way that we create opportunity for everybody.

When it comes to gun safety, let's do both. Let's close the gun show loophole. Let's have trigger locks for the safety of guns. Let's not let the Sunday morning talk show rhetoric about enforcement die by Sunday evening. On Monday through Friday when we are in session, that rhetoric should be very much alive. I sincerely hope that during the course of this debate we can put together a bipartisan majority to achieve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. Under the previous order, there are 30 seconds remaining in morning business.

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EXTENSION OF MORNING BUSINESS

Mr. DODD. Mr. President, I ask unanimous consent that morning business be extended for another 15 minutes.

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

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FLAG DESECRATION AMENDMENT

Mr. DODD. Mr. President, I rise today in opposition to the resolution which will be before us later this afternoon dealing with the issue of flag burning. I will spend a few minutes to express to my colleagues and to others who may be interested at least my point of view on this. We have debated it in this Chamber a number of times over the past decade or more. We have it before us again today. I wish to take a few minutes to explain my views on this issue and how I intend to vote when the matter comes before us.

This is no ordinary resolution. It is no ordinary debate. When we speak of amending the Bill of Rights of our Constitution, we ought to do so with great care.

Our Bill of Rights has existed now for more than 200 years, and, despite literally thousands of proposals to amend it, our forebearers, and those who occupied this Chamber over the years, saw fit to not on a single occasion amend the Bill of Rights of the U.S. Constitution. It is a remarkable record when you consider the trials and tribulations this Nation has been through—a great depression, great world wars, a great civil war which ravaged this Nation. Despite more than 11,000 attempts to amend the Constitution—many of them to amend the Bill of Rights—none of our predecessors, and none of the Congresses that have preceded us, saw fit during all of those great trials and tribulations to amend the Bill of Rights of the United States.

Today, we are being asked to change that 209-year history and to amend the Bill of Rights to deal with the outrageous, indefensible behavior of those who would burn the symbol of our freedom, the symbol of our Constitution, the symbol of our democracy, the great flag of the United States. It goes without saying that every Member of this Chamber and the other body, and the overwhelming majority of Americans would find flag burning offensive and abhorrent. As many of our colleagues, I believe it ought to be a crime—whether it is criminal intent to incite violence or commit a theft. But to truly honor our Nation's history and the veterans, we must not only protect our flag but, in my view, we must also protect the Constitution and the freedoms promised by that flag.

Our former colleague, Senator John Glenn of Ohio, who served this Nation as a combat pilot in Korea, as an astronaut, and as Senator, well known to most Americans, well known by all of our colleagues, put it very well. I would like to quote it: ''There is one way to weaken the fabric of your country, and it is not through a few misguided souls burning our flag. It is by retreating from the principles that the flag stands for. And that will do more damage to the fabric of our Nation than 1,000 torched flags could ever do. . . . History and future generations will judge us harshly, as they should, if we permit those who would defile our flag to hoodwink us into also defiling our Constitution. The Framers of the Constitution, in their boundless wisdom and notable humility, understood that succeeding generations may see fit to amend this cornerstone document. But those amendments should be limited, in James Madison's words, to ''great and extraordinary occasions.''

Regrettably, Madison's edict has not been heeded by many who have come after him. In this Congress alone, more than 50 proposed amendments to the Constitution have been introduced—including one to make it easier to amend the Constitution in the future.

But collectively our Nation has paid heed to the caution urged by Madison and others of his day. It is reassuring to know that, of the 11,000 amendments introduced since ratification of the Bill of Rights 209 years ago, only 17 have been adopted.

Clearly, there is no great and extraordinary occasion warranting ratification of the amendment proposed in the Senate today. Flag burning is rare, thank God. It is despicable. It is reprehensible. But it does not present a constitutional crisis for our Nation.

Indeed, in the entire history of our Nation, there have been only about 200 reported incidents of flag burning, an average of less than one a year for each of our Nation's history—one a year, 200 cases in a nation of 260 million people today. And we have less than roughly one case a year for the 200-year history of our Nation.

I would submit that the despicable acts of a few misguided miscreants do not cry out for this Congress to be the first in history to restrict the liberties of all Americans by narrowing the Bill of Rights.

Some argue that even one flag burned would be enough to warrant ratification of this proposed amendment. They say that, without such an amendment, we effectively sanction flag-burning. But toleration is not approval. We do not as a nation sanction everything which we do not punish. Indeed, I would submit that the heart of the greatness of our democracy is that we tolerate that which we disapprove of. We permit and protect that which we find most offensive and obnoxious. They will continue, and probably grow, unfortunately, in number in a disgraceful effort to attract attention to themselves. What will such a possibility portend for the respect we all have for our beloved Constitution?

I do not for a moment question the intentions of those who support the resolution before us. I respect most, if not all, of the people who are advocating this change. But, in my view, let us be clear. No amendment and no amount of amendments to the Constitution will in and of themselves result in greater respect for the flag and for the free and democratic nation that it symbolizes. You cannot mandate nor legislate patriotism. You carry it in your heart and soul. But I cannot write it for you. I cannot force it down the throats of the citizens I represent. We can change laws but we cannot change hearts by changing laws. We can only attempt to change conduct and to enshrine in our laws the eternal principles that have guided our Nation from its earliest days—principles such as liberty and equality.

Let us leave to statutory law—those already on the books, and those along the lines proposed by several of our colleagues—to sanction those who would with criminal intent burn our beloved flag. But let us leave the Constitution unsullied by a proposal such as this that would needlessly, in my view, restrict our liberties as a people.

The great genius of our Constitution is that it enshrines in word the eternal aspirations of humanity. We may try to amend it, but if we do so in a manner at odds with those aspirations, then we act at our peril and in folly.

As Alexander Hamilton said:

> The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sunbeam in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power.

Let us not trifle with the Bill of Rights, a document that has never been changed, not one comma, not one semicolon, not one word, in 210 years of history. Let us not change that today over this issue.

I urge the defeat of this resolution.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. I thank the Chair.

(The remarks of Mr. SMITH of New Hampshire pertaining to the introduction of S. 2314 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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MEASURE READ THE FIRST TIME—S. 2314

Mr. SMITH of New Hampshire. Mr. President, I rise for the purpose of introducing another bill that I send to the desk and ask that it be read for the first time.

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

The legislative clerk read as follows:

> A bill (S. 2314) for the relief of Elian Gonzalez and other family members.

Mr. SMITH of New Hampshire. Mr. President, I now ask for the second reading and, on behalf of the minority, I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read for the second time on the next legislative day.

Mr. SMITH of New Hampshire. Mr. President, this bill refers to a matter that is on everyone's mind. I know the Senator from Nebraska has had some concerns on this. I rise to explain what this legislation does.

I think timeliness is important. This is an urgent matter. I introduced this bill along with my colleagues from Florida, Senators MACK and GRAHAM. I am pleased to have their support in introducing the bill. I am doing it today to correct an injustice.

There is an injustice being committed, as we speak, by the Attorney General and the Immigration and Naturalization Service against Elian Gonzalez. I thank Senator MACK for his leadership in sponsoring a private relief bill to grant Elian Gonzalez citizenship. A grant of citizenship to Elian Gonzalez has the practical effect of removing the Elian Gonzalez controversy from the immigration law and places the controversy in the Florida courts for a custody proceeding.

This bill today does not grant Elian Gonzalez citizenship. Again, I am doing this with the full support of Senator MACK and Senator GRAHAM. This grants what is called family permanent residency to the family of Elian Gonzalez—that would be Elian, Elian's father in Cuba, Elian's father's current wife in Cuba, Elian's father's son in Cuba or child in Cuba, Elian's two grandmothers and one grandfather, all of them—so they can now come to America, sit down as a family and resolve this matter. If they have to go to custody court, it takes it out of immigration and puts it into the custody court. This does not grant citizenship. It does not interfere in any way other than to say, let's do it in a custody matter, the same way as any other 6-year-old boy would have to do.

Permanent residency status will settle the status of Elian Gonzalez under immigration and nationality law and leave the case to be resolved in the Florida State courts in a custody matter, not an immigration matter.

Some ask: What is the difference between permanent residency and citizenship? Why are they doing this as opposed to citizenship? Frankly, a lot of my colleagues have expressed concern about citizenship. We want to make it palatable because of the confrontation that is beginning to brew now and may come to a head as early as tomorrow morning where we have a deadline of 9 a.m., where literally this boy could be dragged kicking and screaming from the arms of his uncle, put on a plane, and sent to Havana.

Do we want to see that in America tomorrow? Do we want to see that? That is a confrontation I don't want to see. It is not called for. We don't have to let it happen. This Senate could act today, but under the rules, we may have to act on Tuesday or Wednesday, if it is delayed. Apparently, some have indicated they want to delay it.

I wish to make it clear, it could be acted on if there weren't delays being called for. Permanent residency status would make Elian Gonzalez a resident alien. Resident aliens don't have the privileges of citizenship. They are not allowed to vote and can be deported for committing a crime. Their status is as a resident alien, subject to Federal laws regarding deportation provisions. A citizenship bill would grant the individual all the rights of citizenship: voting rights, no deportation, and all other rights associated with being a citizen.

Do I support that? I happen to support that. I would be glad to give Elian Gonzalez citizenship. I know a majority of my colleagues do not. I am looking out not for what BOB SMITH wants to do but I want to do what is right for Elian Gonzalez. I want Elian to have his day in court as any other child would have in a custody matter where relatives were trying to determine who should have custody.

At 4 p.m. today, Lazaro Gonzalez, his uncle, Elian's uncle in Miami, is going to meet with representatives of the INS. They are going to ask Lazaro, in this meeting at 4 o'clock, to give up all rights to this boy, all rights to keep the boy in the country pending a possible appeal to the U.S. Supreme Court. If Lazaro Gonzalez says, ''No, I will not give up those rights,'' then as early as 9 a.m. tomorrow, Elian Gonzalez's parole status will be revoked and the boy could be sent back to Cuba without Elian's appeal being heard by the Eleventh Circuit Court of Appeals.

Very seldom do we come down on the floor with an issue as urgent as this. This is an outrage. This is urgent. I have heard some people say: We don't want to vote on this thing. We should not have to vote on this. We don't want to deal with it. It is too hot to handle. We are not going to vote on this.

Whatever way they vote, I am not trying to tell Senators how to vote. I am asking for a vote. I think the Senate should say to the United States of America, to Fidel Castro, and to the Cuban American community, that we don't want to see this confrontation—and frankly, to Janet Reno—at 9 a.m. tomorrow or 9 a.m. on Friday or 2 o'clock on Saturday or Sunday or next week or next month. I don't want to see on my television screen pictures of Elian Gonzalez being dragged from his home in Miami and placed on that airplane crying and screaming and kicking. I don't want to see that. Not only

do I not want it to happen, I don't want to see it happen, either.

It doesn't have to happen. We can stop it. But if we wait and we delay and delay, and we don't send this message to the Attorney General that we mean business, it will happen. She has backed the family into a corner. Why, I will never know, but she has. We can stop it right here. We can stop it. I want my colleagues to know that if we don't vote and this happens, then it is on our conscience. We can stop this; we have the capacity to do it.

The INS and Justice Department to this day have not spoken to Elian Gonzalez.

Isn't it interesting? I spoke to him. I met with him for 2 hours. Diane Sawyer has spoken to him. She spoke to him. Senator BOB SMITH spoke to him. He is available. But Janet Reno can't speak to him. Do you know why? He doesn't have any rights. I say to anybody out there who has a 6-year-old child—and I have had three in my time, but they are long past 6 now, and they were pretty smart—at 6 years old, you know what is going on.

Do you know what happened to this little boy? I bet it didn't happen to too many boys anywhere in the world. He saw his mother die, slip under the waves and drown. The last words that came out of her mouth to the other survivors were: Please get Elian to America. That is my dying wish.

He didn't come here on a yacht. He wasn't escorted in some rich boat somewhere and brought to the shores and kidnapped. He was found drifting at sea for 3 days, surrounded by sharks. He survived, and his mother wanted him to be here. His mother had custody. She died. She can't speak for him. Do you know what? If she had lived—this is the irony—this would not be before the Senate. It would not be before the INS. They would have 13 months to work this out. He would be allowed to stay. So because his mother died, Elian is now being punished. So Diane Sawyer can talk to him, BOB SMITH can talk to him, but the Attorney General can't be bothered with it because Elian has no rights.

Are we in the Senate going to stand by and tolerate that? Do we want that on our conscience? I hope not. We need a vote on Senator MACK's bill for citizenship, if you wish, or on my bill on permanent residency status, if you wish. It doesn't matter to me. I want to have the vote on what we can get the most votes on so we can win, so that Elian wins, so that the process wins.

This is a little boy we are talking about, who endured more than most children would ever endure collectively throughout the world. I hear all the stuff about it is a family matter. Do you know what? It is a family matter, and we make it a family matter if we pass this resolution because then the family can come here from Cuba, if they care about this little boy. No restraints, no restrictions. Just come and sit down with Elian's family here in America, with the Cuban family, and work it out. If you can't work it out, then go to custody court in Florida, where this matter should be played out.

Without this vote—and I will repeat it for clarity—if we don't take a vote on this, Elian Gonzalez likely will be dragged kicking and screaming from the arms of his Uncle Lazaro and sent off to Cuba. Without this vote, that will happen, most likely. Or another alternative—perhaps worse—is violence, because people are up in arms about this, and they have a right to be. They have been very restrained.

I am proud of the Cuban American community for the way they have conducted themselves in this matter. But we don't need to let this kind of confrontation happen. Do you remember Waco? Janet Reno is doing the same thing again. So we need a vote. Now, if we vote and we vote no, at least you were heard; you are on record. The American people can say, Senator SMITH, or Senator so and so, this is how you voted. We heard you and you voted however you voted; we know how you felt about it.

At least have the courage to cast your vote on this matter.

My legislation grants Elian's family in Cuba permanent residency status. For the record, it includes Juan Miguel Gonzalez, Elian's father, for permanent residency status in America; Nelsy Carmenate, Juan Miguel's wife; Jianny Gonzalez, Juan Miguel Gonzalez's son; Mariella Quintana, Elian's paternal grandmother; Raquel Rodriguez, Elian's maternal grandmother; and Juan Gonzalez, Elian's grandfather. It grants all of them permanent residency. Does it mean that if they come to America, they have to stay? No. But it means if you care about Elian, then you have to come to America and talk to the family here.

I have been told by members of Elian's extended family that Juan Miguel Gonzalez, Elian's father, had expressed an interest in coming to the U.S. a few months before Elian was supposed to arrive.

The cold war is over, they say. It is over every place, I guess, but in the Senate because we want to say that Elian doesn't have any rights and we want to let Fidel Castro dictate what happens. Why would we want to let Fidel Castro determine the fate of Elian Gonzalez? Let Juan Gonzalez come here. If Castro cares, let the Gonzalez family come here. We are not going to keep them. They can stay if they want and they can go home if they want. We just want them to come and meet with the family here in Miami.

I am deeply concerned about this arbitrary deadline. I repeat it again for emphasis: I am very concerned about this 9 a.m. deadline. I am very concerned that such a deadline would be imposed because it is inflammatory to remove this parole status of Elian Gonzalez.

The goal in introducing this bill is to get the Justice Department and the INS out of the case and turn it over to the Florida courts and make it a case for custody, so that any 6-year-old boy—if you think of America today, there are custody cases going on right now as we speak. And to say this child doesn't have any rights—how about a child abuse case? Children are interviewed by psychiatrists and psychologists all the time under allegations of child abuse. In custody battles and divorces, they hear from children in custody battles. They are heard every day. Yet Elian can't be heard because of this decision—a regrettable decision—by the Attorney General.

I am going to end with a plea to the Attorney General: Please remove the arbitrary 9 a.m. deadline. Let the courts hear Elian Gonzalez's appeal. This is America. We have courts to resolve custody issues. It is not an immigration issue. He didn't immigrate here. He didn't immigrate into this country. He didn't emigrate from Cuba. He left Cuba. He wanted to get out of there and so did his mother. His mother died, and you are punishing him because she died. The other two people who survived—and I met with them as well—are adults, and they are here for 13 months. They are here. No problem. But Elian doesn't have any rights. Find a place in the law that says there is any age limit. At what age does he have rights? Is it 6, 7, 8, 9, 13, or 14? Find it in the law, Madam Attorney General. It is not in there.

We have courts to resolve these matters. Let the Eleventh Circuit Court of Appeals hear Elian's case before you attempt to send him back to Castro's open arms. Don't make the 6-year-old boy be paraded through the streets of Havana by Fidel Castro. Please, remove the arbitrary deadline. Let the Senate be heard. We will be heard, I hope, as early as Tuesday, perhaps Wednesday or Thursday—whenever we can work this through.

I appreciate the cooperation of the majority leader, who has been very helpful in this matter. I am grateful for that. But there are certain things he can't control. Senators have rights to delay, and that is what is happening. Please, I say to the Attorney General, don't try to impose that deadline. Remove it and let reason prevail.

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FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Continued

UNANIMOUS CONSENT AGREEMENT

Mr. SMITH of New Hampshire. Mr. President, on behalf of the leader, I ask unanimous consent that, notwithstanding rule XXII, the following Senators be recognized for debate on the pending flag desecration legislation for the designated times, and following the use for yielding back of time, the joint resolution be read the third time and a vote on passage occur, all without any intervening action or debate. Those Senators are as follows: Senator BYRD

for up to 60 minutes; Senator LEAHY for up to 60 minutes; Senator HATCH for 60 minutes; Senator DASCHLE for up to 15 minutes; Senator LOTT for the final 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. GREGG). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, we Americans are patriotic, and there are few acts more deeply offensive to us than the willful destruction of our flag. The flag, after all, is a unique symbol of national unity and a powerful source of national pride.

But the flag does not just represent the country and its history; in a very real sense it is a part of that history. Like the Constitution, the flag was handed down to us by the country's Founding Fathers, for it was the Second Continental Congress that, in 1777, established the Stars and Stripes as the national flag. From Tripoli in 1805 to Iwo Jima in 1945 to the Moon in 1969, the flag has been raised to commemorate some of America's proudest moments.

Millions of American men and women have marched off to battle behind that flag.

I see the flag there. It is just to the right of the Presiding Officer here in the Chamber. What a beautiful sight—that flag!

Millions more have sworn allegiance to the flag and ''to the republic for which it stands.'' And, while historians may dispute this point, schoolchildren to this day are taught to revere Betsy Ross for having sewn the first flag. Anyone who doubts either the flag's place in the country's history or the tremendous emotional ties that it inspires needs only to listen to the words of our national anthem, in which Francis Scott Key recalls with pride the sight of the Stars and Stripes flying proudly over Fort McHenry after a heavy bombing by British forces in 1814. Key's words are so familiar that we may scarcely think of them when we hear or sing them, but they are a deeply moving tribute to our flag.

In contemplation of the moment which is approaching when the Senate would again be confronted with a constitutional amendment concerning the desecration of the American flag, I have spent hours in discussions with constitutional scholars, with members of my staff, and in researching court decisions. I know of few subjects that have come before the Senate that have given me greater anguish. I know that the strong sentiment in West Virginia and throughout the country supports the amendment. I have voted for such a constitutional amendment in the past, but, based upon my deep and searching consideration of this matter, I have changed my mind and I will vote against S. J. Res. 14. In fact, it was my sad duty, on yesterday, to inform the members of The American Legion, gathered together here in Washington, that I could not be with them this time. I hated that I had to disappoint them. Some will fault me for having changed my position, and I can understand this, yet, as James Russell Lowell once said, ''The foolish and the dead alone never change their opinion.''

In fact, one of the greatest events of all time was brought about by the changing of one man's opinion 2000 years ago. Before he became the Great Apostle, Paul, who was then called Saul, was a persecutor of Christians. But after Saul was converted—he changed his opinion, his viewpoint, and his life. The Apostle Paul had a compelling influence on the future course of history. In Paul's case, God spoke to him and lifted his literal and psychic blindness. I do not contend that my change of viewpoint is in any way on the same scale of Paul's, or that such momentous results will follow, of course, but his story does remind us that one can be blinded to the truth by misplaced passion.

Mr. President, I yield to no-one in my respect, honor, and reverence for Old Glory. Nor do I yield to anyone in my commitment to those veterans who, for the benefit of all Americans, have given so much in defense of our country and in defense of our flag. Yet, despite my love for the flag, and despite my commitment to our Nation's veterans, I regret that I cannot support this well-intended amendment. I cannot support it because I do not feel that it belongs in our Constitution; because I believe that many instances of flag desecration can be prosecuted under general laws protecting public or private property, laws which do not require any constitutional amendment; I cannot support the amendment because flag burning, though loathsome, is hardly pervasive enough to warrant amending the Constitution; I cannot support the amendment because I fear that the primary effect of this amendment would be more, not fewer, incidents of flag destruction; and because I feel that, rather than rushing into a constitutional amendment, we might be better served by allowing the Supreme Court the opportunity to revisit this issue.

What do I mean, Mr. President, when I say that this measure does not ''belong'' in the Constitution? Let me start by being clear about what I do not mean. I do not mean that protecting the flag is a trivial or unimportant goal of government. Nor do I mean that the flag deserves anything less than our complete reverence and our complete devotion. What I do mean, quite simply, is that a ban on flag desecration does not fit into—would, in fact, be out of place in—the skeletal document which lays out the basic organization and structure of the national government, determines federal-state relations, and protects the fundamental liberties of the people, all of us.

I think my meaning will be clearer if we take a closer look at the purposes that constitutional amendments are intended to serve. The Framers gave this matter some thought in their deliberations at Philadelphia in 1787. They considered and they rejected resolve No. 13 of the Virginia Plan offered by Gov. Edmund Randolph of that State, resolve 13 which would have permitted ''amendment of the Articles of Union whensoever it shall seem necessary,'' and which stated ''that the assent of the National Legislature ought not to be required thereto.'' They rejected that. Indeed, several delegates to the Convention, among them Charles Pinkney of South Carolina, opposed any provision for Constitutional amendments to the Constitution. Recognizing, however, that occasional revisions might be necessary, the Convention finally agreed upon a compromise that deliberately made it difficult to amend the Constitution by requiring successive supermajorities. Article V sets up a cumbersome two-step process to amend the Constitution. It is cumbersome because the framers intended it to be cumbersome. The first step is approval either by two-thirds of Congress meaning both Houses or—and this has never been done—by a convention called for by two-thirds of the states. The second step is ratification by three-fourths of the states.

Given the hurdles set up by Article V, it should come as no surprise that so few amendments to the Constitution have been approved. There are twenty-seven in all, and the first ten were ratified en bloc in 1791—209 years ago. In the two hundred and nine years since ratification of the Bill of Rights, there have been just 17 additional amendments. Think of that. If we disregard the 18th and 21st Amendments, marking the beginning and end of Prohibition, we are left with only 15 amendments in 209 years!

The 18th amendment was wiped out after 15 years by the 21st amendment. These mark the beginning and end of Prohibition.

So, as I say, we are left with actually only 15 amendments in 209 years. Just think of it. In 209 years, despite all of the political, economic, and social changes this country has experienced over the course of more than two centuries; despite the advent of electricity, which lights this Chamber, and despite the advent of the internal combustion engine; despite one civil war and two world wars and several smaller wars; despite the discovery of modes of communication and transportation beyond the wildest fancies of the most visionary framers, this document, the Constitution of the United States, has been amended only 15 times. If you want to count the 21st amendment, 16 times would be the total number.

Truly, the Constitution is an extraordinary work of wisdom and foresight on the part of the framers. George Washington and James Madison may be forgiven for referring to the product of their labor as ''little short of a miracle.'' Gladstone may well have gotten

it right when in 1887 he declared the Constitution to be the most wonderful work ever struck off at a given time by the brain and purpose of man.

As for those 15 amendments I have just mentioned, these can generally be divided into two roughly equal categories. One category consists of those amendments that deal with the structure and organization of the three branches of Government, the laying out of the three separate branches—the legislative, the executive, the judiciary. The checks and balances, these include the 11th amendment. Of course, those were included in the original Constitution, the separation of powers, in the first, second, and third articles—the legislative, executive, and judicial.

As to the amendments, the 15 amendments plus the first 10, these include the 11th amendment, preventing the Federal courts from hearing suits against States by citizens of other States; the 12th amendment, regarding the election of the President and the Vice President; the 17th amendment, establishing the direct elections of Senators; the 20th amendment, regulating Presidential terms and related matters; the 22nd amendment, limiting a President to two terms; the 25th amendment, regarding Presidential succession; and the 27th amendment, deferring congressional pay raises until after an intervening election.

There is very little need for me to attempt to justify the inclusion of these provisions in the Constitution. However we may feel about them personally, their subject matter, the structure of the Federal Government, fits in perfectly with that of articles I through IV.

There is good reason to suspect the framers themselves thought that most, if not all, amendments would address structural matters. In No. 85 of the Federalist Papers, Alexander Hamilton expressed it this way: A thorough conviction that any constitutional amendments which ''may, upon mature consideration, be thought useful, will be applicable to the organization of the government and not to the mass of its powers.''

Hear that again: Hamilton expressed a thorough conviction that any constitutional amendments which ''may, upon mature consideration, be thought useful, will be applicable to the organization of the government, and not to the mass of its powers.''

In Hamilton's mind, any amendments would deal with the structure, the organization, of the Government.

The second category consists of those constitutional amendments that narrow the powers of government and expand or protect fundamental personal rights. These include the 13th amendment banning slavery, the 14th amendment, which extended citizenship to all persons ''born or naturalized in the United States and subject to the jurisdiction thereof'' and guaranteed all citizens certain basic protections, and the 15th, 19th, 23th, 24th, and 26th amendments, each of which extended the vote to new groups of citizens.

Clearly, the flag desecration amendment fits into neither category. For constitutional purposes, it is neither fish nor fowl. It does not address a structural concern; it does not deal with Federal relations between the National and State governments—in other words, the Federal system; it extends, rather than narrows, the powers of government; and it does not protect a basic civil right.

Look at your Constitution. Look at your Constitution and the amendments thereto which, to all intents and purposes, are part of the Constitution. You will see that the Constitution overall narrows the powers of government; it does not extend those powers. Indeed, some opponents of this amendment that is before us argue that it restricts personal liberty.

The 13th amendment forbidding slavery may be viewed as the only amendment regulating the conduct of individuals. The 13th amendment was the product of a bitter, fiercely contested Civil War, the War Between the States, and it was necessary to end one of the most loathsome and shameful institutions in our Nation's history. This, the 13th amendment, was an exceptional amendment. It was necessitated by exceptional circumstances.

There was, of course, one notable attempt to regulate individual conduct via a constitutional amendment. I have already referred to that, the 18th amendment, instituting Prohibition, which also deviated from the model of constitutional amendments I have laid out—with disastrous results. Like the flag desecration amendment, the 18th amendment sought to restrict private conduct in the name of a greater social good. Like the flag desecration amendment, the 18th amendment had a commendable goal. Nonetheless, the 18th amendment was a mistake and it took us 15 years to rectify it. True, the mistake was rectified in 1933, but the damage was already done. The 21st amendment ended Prohibition, but it could not erase the preceding 15 years in which a constitutional provision—not a statute, a constitutional provision, a portion of the highest law in the land—was routinely ignored and violated. You see, once that 18th amendment was riveted into the Constitution, it took 15 years to unlock it, to undo it, to repeal it.

Prohibition not only made criminals and scofflaws of countless Americans, it also placed them in violation of the Constitution. I can remember the revenue officers, when they came to the coal camps and when they scoured around the hills and the mountains looking for the moonshine stills. I can remember those revenuers. That was a terrible mistake, and, while the blemish to the Constitution has since faded, the lesson may not have been learned.

Thus, a constitutional amendment against flag burning may very well prove to be counterproductive, just as did the Prohibition amendment. If this were to happen, our Constitution would be diminished and flag burning would continue—would continue.

In the final analysis, it is the Constitution—not the flag—that is the foundation and guarantor of the people's liberties. Respect for that Constitution should not be undermined by amendments, however well intentioned, that cannot be enforced. I fought the constitutional amendment to balance the budget for the same reason. I said it could not, would not—would not be enforced, and that as a result of lack of enforcement, the people's faith in the Constitution would be undermined. I say the same thing here. It will not be enforced.

It is like the Commandment that says: ''Thou shalt not kill,'' but killing goes on every day right here in the Nation's Capital.

''Thou shalt not steal,'' but stealing continues.

I have come to believe strongly that constitutional amendments, as Madison said, should be saved ''for certain and extraordinary occasions.'' I am not saying the Constitution should never be amended. I am not saying that. Madison was not saying that either. But Madison said that constitutional amendments should be saved for ''certain and extraordinary occasions.''

Critics may accuse me of being overly conservative, but I believe I am right. I have learned from study and from my own recent experience with the proposed constitutional amendment to balance the budget that tinkering with the careful system of checks and balances and the separation of powers contained in the Constitution, can have far-reaching and sometimes unexpected consequences. When it comes to revising the most basic text in our Federal system, when it comes to improving upon the handiwork of Washington and Madison and Hamilton and James Wilson and Roger Sherman and Gouverneur Morris and Benjamin Franklin and others at the convention; when it comes to setting a pen to the sacred charter of our liberties that my colleagues and I have sworn at the desk to uphold and defend—then, yes, I am conservative.

While I do not rule out the possibility that I might offer an amendment some day, as I have done in the past—I have learned a lot in these last years in the Senate—they should be reserved, as Madison said, for compelling circumstances when alternatives are unavailable.

Polls are no substitute for reasoned analysis and independent thought. Polls were very much in evidence during the balanced budget amendment debate, and we see the same thing here today. Who would oppose a balanced budget? Those of us who voted against the balanced budget amendment did not oppose a balanced budget. We were opposed to what that amendment would do to the Constitution of the United States; what it would do to the

faith and confidence of the American people in their Constitution.

Who would oppose protecting the flag? Nobody here certainly. But the Senate, in particular, was intended by the framers to be an oasis of cool, deliberate debate, free from the hasty and heated rhetoric that characterizes so many political exchanges.

The writers of the Constitution were remarkable men. Such a gathering probably never before sat down within the four corners of the Earth. That was the real miracle that took place in Philadelphia, that those minds, and many of them were young—Franklin was 81, but Pinckney was 29; Gouverneur Morris was 35; Madison was 36; Hamilton was 30—that so many brilliant minds sat down in one place at a given moment in time. The clock of time had struck. Had it been 5 years earlier, they would not have experienced to the full the flaws of the Articles of Confederation, so they would not have been ready. Had it been 5 years later, they would have seen all of the ills, the extremes of the French Revolution, the deaths at the guillotine. They would have been repelled in horror by what happened there, the excesses. These were the miracles: the right place, the right time, and the right men.

The framers of the Constitution were indeed remarkable men, and their words are often as wise and relevant today as they were two centuries ago. Thus, Madison wrote in Federalist 49 that ''a constitutional road to the decision of the people ought to be marked out and kept open, for certain great and extraordinary occasions.''

Currently, there appears to be no such ''great and extraordinary'' occasion that calls for a 28th constitutional amendment.

Madison also warned against the reference of constitutional questions to the people too often. ''Do not do it too often,'' he said. ''Do not send amendments to the American people too often.''

In the Federalist 49, he said:

> . . . as every appeal to the people would carry an implication of some defect in the government, frequent appeals would, in great measure, deprive the government of that veneration which time bestows on everything, and without which perhaps the wisest and freest governments would not possess the requisite stability.

Madison further said:

> The danger of disturbing the public tranquility by interesting too strongly the public passions is a still more serious objection against a frequent reference of constitutional questions to the decision of the whole society. . . . But the greatest objection of all is that the decisions which would probably result from such appeals would not answer the purpose of maintaining constitutional equilibrium of the government.

That was James Madison warning us against sending to the American people constitutional amendments too often.

Flag destruction is, fortunately, only a rare occurrence. While our culture may have become increasingly coarse and vulgar at times—and it certainly has, there is no question about that—most Americans respect the flag and most Americans voluntarily refrain from abusing it.

I do not want to give the same attention-seekers who defile the flag the opportunity to defy the Constitution as well. By one act, they would then be able to desecrate and defy the flag and at the same time to defy—defy, defy—the Constitution of the United States. This is more than a matter of symbolism; this is a question of respect for the founding document of this Republic and the supreme law of the land.

Any disrespect for the Constitution is a repudiation of the most basic principles and laws of the country. And now you say let's put into the Constitution some verbiage that cannot be enforced, that will not be enforced; cannot be. It will be defied by some.

Let me say that again. Any disrespect for the Constitution is a repudiation of the most basic principles and laws of the country. We are talking about the supreme law of the land. The law here can be changed—passed today and changed before the beginning of the next Congress next year. But not a constitutional amendment. Once it is welded into the Constitution, it will take years to repeal it, to take it out, to remove it, as we saw in the case of amendment No. 18, the prohibition amendment.

I shrink from the possibility of providing a tiny minority of rabble-rousers with the ammunition to fire upon the most important and beloved document in the country.

As I suggested a bit earlier, we already made the mistake once before of inserting into the Constitution a restriction on private conduct that could not be enforced. The Constitution suffered terribly under Prohibition. It would also have suffered under a balanced budget amendment, another unenforceable and litigation-inducing provision that many of my colleagues wished to insert into the Constitution. Just as I opposed the balanced budget amendment out of a desire to protect the Constitution from further abasements, so, too, I must oppose a flag desecration amendment. It, too, would be unenforceable.

If one provision of the Constitution proves to be unenforceable, what about the other provisions?

Just as I am resolved to protect both the Constitution and the flag, I am determined that we not make martyrs of those villains who would sully—who would sully—the Stars and Stripes. Why should we let these malefactors portray themselves as courageous iconoclasts, sacrificed at the altar of public complacency and intolerance? It is possible, I believe, to craft statutory protection for the flag that can withstand a court challenge. The amendment in the form of a substitute that was offered by Senator MCCONNELL, the Flag Protection Act of 1999, could, in the opinion of the American Law Division of the Library of Congress, withstand such scrutiny. In the words of that opinion, ''subsections (b) and (c) appear to present no constitutional difficulties, based on judicial precedents, either facially or as applied.'' Further, the opinion notes, ''Almost as evident from the Supreme Court's precedents, subsection (a) is quite likely to pass constitutional muster.'' The opinion closes by noting, ''In conclusion, the judicial precedents establish that the bill, if enacted, while not reversing Johnson and Eichman, should survive constitutional attack on First Amendment grounds.''

The first case to which I just referred, of Texas v. Johnson, arose from an incident during the 1984 Republican Convention in Dallas, Texas, in which Gregory Lee Johnson participated in a political demonstration and burned an American flag while protestors chanted. Johnson was convicted of desecration of a venerated object in violation of a Texas statute, and a State Court of Appeals affirmed the decision. However, the Texas Court of Criminal Appeals reversed the decision, holding that burning the flag was expressive conduct for which the State could not, under the First Amendment, punish Johnson in these circumstances. The Supreme Court, in a 5–4 decision, upheld the lower court's decision.

But in the dissent by Chief Justice Rehnquist, Justice White, and Justice O'Connor, they noted, ''the Texas statute deprived Johnson of only one rather inarticulate symbolic form of protest—a form of protest that was profoundly offensive to many—and left him with a full panoply of other symbols and every conceivable form of verbal expression to express his deep disapproval of national policy.'' The Justices also observed, ''Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution, or flag burning.''

After the Johnson decision, Congress passed the Flag Protection Act of 1989, criminalizing the conduct of anyone who ''knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon'' a United States flag, except conduct related to the disposal of a ''worn or soiled'' flag. Subsequently, several people, among them Shawn D. Eichman, were prosecuted in District Courts. In each case, the appellees moved to dismiss the charges on the ground that the Act violated the First Amendment. The District Courts, following the precedent set by the Johnson case, held the Act unconstitutional as applied and dismissed the charges. The Supreme Court, again in a 5–4 decision, upheld the decision.

However, in the dissent authored by Justice Stevens, with whom the Chief Justice, Justice White, and Justice O'Connor joined, the justices noted

that ''it is equally well settled that certain methods of expression may be prohibited if (a) the prohibition is supported by a legitimate societal interest that is unrelated to the suppression of ideas the speaker desires to express; (b) the prohibition does not entail any interference with the speaker's freedom to express those ideas by other means; and (c) the interest in allowing the speaker complete freedom of choice among alternative methods of expression is less important than the societal interest supporting the prohibition.''

Given the closeness of the votes in Johnson and Eichman—given the presumption against amending the Constitution whenever other alternatives are available—and given the powerful arguments made by Chief Justice Rehnquist and Justice Stevens in their dissents—perhaps the better course of action is to allow the Court sufficient time to reconsider its views on this controversial topic.

The Court has already changed its composition since the Eichman decision eight years ago. Four of the Justices who decided that case, including three who voted with the majority, have been replaced. Who can say whether a new court will find itself swayed by the persuasive arguments that Mssrs. Rehnquist and Stevens have put forth? Instead of our adding a new, 28th Amendment to the Constitution, would it not be preferable for the Court, on closer inspection of the issue, to realize the error of its ways?

Like many Americans, I was shocked by the Johnson and Eichman decisions overturning statutory protection for the flag. Now, that shock has subsided, and while I still question the correctness of those decisions, I no longer believe that a constitutional amendment is the best response to these horrific acts. The intervening years have allowed me to rethink my initial reaction to the Supreme Court's decisions, and while my love for the flag has not waned, neither have my respect for and devotion to the Constitution. If anything, the spate of proposed constitutional amendments in recent years—chief among them the misguided balanced budget amendment—and my continued studies of constitutional history have only increased my love for this magnificent document and my determination to prevent its abuse.

Every time I read it—as with every time I read the Bible—I find something, it seems, that is new and intriguing and awe-inspiring.

I have always promised my constituents that I will represent them to the best of my ability and with an open mind and an honest heart. Today, head and heart have convinced me to reconsider my beliefs. As Benjamin Franklin, the oldest man at the Constitutional Convention, put it, in addressing his fellow conferees at Philadelphia as they prepared to sign the Constitution—this is what he said—''For having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise.''

That has happened to me on several occasions. Certainly, it is true in the present instance.

While I salute the patriotism of those who support this measure—I salute them—I hope that they will pause to consider its unintended but inevitable ramifications. Rather than inviting a surge in flag destruction; rather than spurring years of legal wrangling; rather than adding to our Constitution a provision that addresses a problem that occurs only infrequently, let us step back.

Let us reconsider the matter. Let us rethink what we are proposing.

Our Founding Fathers intended that amending the Constitution should be a difficult and laborious process—time consuming; cumbersome—not to be undertaken lightly. It sets a dangerous precedent, one that I have come to appreciate fully in recent years, to tinker with the careful checks and balances established by the Constitution. When it comes to our founding charter, history demands our utmost prudence.

Every heart in this Chamber thrills at the sight of that flag, thrills at the rays of sunlight that play upon those stars and stripes, as we ride down or walk down a street on the Fourth of July. The flag! There is no other flag like it! None.

But what gives each of us freedom of speech? What gives each of us the right to say what we want to say? What gives us that right? Not that flag—but the Constitution of the United States!

What gives the fourth estate that sits in those galleries up there—the press—what gives the press freedom to print, to televise, to broadcast? What gives this country freedom of the press? Not Old Glory, not that flag—but the Constitution of the United States!

What gives my coal miners from West Virginia the right to come to these Capitol steps and to speak out and to thunder their criticism of the President of the United States or of the Congress of the United States, while Old Glory floats above the dome in the blue sky? What gives those miners that right? Not the flag, not Old Glory, soaring in the heavens—but the Constitution of the United States!

What gives the truckers, what gives the farmers, what gives any group the right to come to Capitol Hill and to assemble and to petition the Government to obtain a redress of grievances? Not the flag—but the Constitution of the United States!

There is the source of the right—there is the source—not in the dear old flag. The flag is the symbol of the Republic, the symbol of what the Constitution provides, but it is not the flag that provides it. It is the Constitution of the United States. That is why today I speak out against the amendment before the Senate, because it is that Constitution that provides us with the rights which all Americans enjoy, regardless of race, regardless of color, regardless of national origin, regardless of age or sex. It isn't that flag.

I love it. How many times do we go the last mile of the way with a friend or a relative who sleeps beneath the closed lid of a steel coffin draped with the American flag? It is something to remember. He may have been a soldier, a sailor, a marine. He didn't die for that flag. He died for what that flag represents. And the instrument that provides what that flag represents is the Constitution of the United States.

It is the real stuff!

I think I am right to have changed my mind. I want to say again that I changed my mind because of long and serious study, not only of the Constitution of the United States, but also of the Articles of Confederation which was the first Constitution of the U.S., my study of the Federalist Papers, my study of the history of our country, the history of the colonies, the history of England, the struggles of Englishmen, and my studies of the ancient Romans. Because of these studies, in the beginning with the respect to the constitutional amendment to balance the budget and then with respect to the line-item veto, which I hate with a passion, and which the Supreme Court of the U.S. overthrew, I came to know more about the Constitution, about American constitutionalism, about the history of the Constitution, about the ratifying conventions, than I ever knew before. And it is the result of that long and assiduous study of constitutionalism in America, constitutionalism that had its roots not just at the Constitutional Convention of 1787, but in the states before the Constitution, and in the colonies before the states, and in the Biblical covenants before the colonies; roots that go back 1,000–2,000 years. I have come to this conclusion, and I believe that I can best serve my country today by voting against this amendment.

The flag lives because the Constitution lives, without which there would be no American Republic, without which there would be no American Senate, without which there would be no United States of America, only the balkanized States of America. Without that Constitution, there would be no American liberty, no American flag.

That flag is the symbol of our Nation. In a way, we might say that that flag is the symbol of all we hold near and dear. That flag is the symbol of our Nation's history. That flag is the symbol of our Nation's values. We love that flag. But we must love the Constitution more. For the Constitution is not just a symbol, it is the thing itself!

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. LEAHY. 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. LEAHY. Mr. President, one of the privileges of serving in the Senate is the chance to hear debates—some good, some not so good. Periodically, we hear greatness in speeches. The Senate just heard greatness.

I think all Senators would agree, whether they are for or against this constitutional amendment, that when the history of this debate is written, when the history books are written, the speech of the distinguished senior Senator from West Virginia, Mr. BYRD, will be in that recounting. This is the type of speech that students of constitutional history, students of the Constitution itself—and this Senator wishes there were more—will look to, and they will read and reread.

We sometimes forget that every 6 years, those of us who are fortunate to serve here, to serve more than once, take a very specific oath of office. I can think of times when various people have administered this oath, usually the Vice President of the United States. But I recall watching the distinguished senior Senator from West Virginia administer that oath on a couple of occasions in his role as President pro tempore of the Senate.

There was one big difference when he administered it than when all the various Vice Presidents, Republican or Democrat, administered it. The difference is, they had a card before them and they read the oath. The Senator from West Virginia didn't need a card before him to do it. The Senator from West Virginia would stand there, tell them to raise their right hand, and he would administer the oath. There was no prompting. There was no teleprompter. There was no card. There was no book. There was the mind that carries the history of the United States Senate there, when he would do it.

I mention that oath because we swear we will uphold the Constitution, we will protect the Constitution. There could be no more solemn duty. If we are protecting the Constitution of this country, we are protecting the country itself. In this debate, that really is the issue.

I have said over and over again, I do not want to see the first amending of the Bill of Rights in over 200 years. I think we know from our history there have been times when we have amended the Constitution. We did it to provide, after the tragedy of the death of President Kennedy—I was not serving here at that time; the distinguished Senator from West Virginia was—a means of succession of Vice President. And in this era of the nuclear age and all, it is good we have that. But these are matters of enormous consequence. These are matters that can go to the very survival of our Nation and that make it possible, actually necessary, to amend the Constitution.

Let us not amend it simply because it is a matter of passing political favor.

I have spoken too long, and I do not wish to embarrass my friend. I have had the honor of serving with him for just over 25 years. There is hardly a day goes by that I do not learn something from the distinguished Senator from West Virginia. Today the Nation learned from the Senator.

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

Mr. LEAHY. I am happy to yield to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, let me briefly comment on the remarks made by the senior Senator from West Virginia. I know from having visited with him about this subject over some long while that he found this to be a difficult subject, not a simple subject, not an easy issue to resolve. I felt the same way about this issue. He spoke about the U.S. Constitution at great length today and all Members of the Senate will learn from that speech.

I have told my colleagues previously that on the 200th birthday of the writing of the Constitution I was one of the 55 Americans who went into that room where the Constitution was written 200 years prior to that, when 55 men went into that room and wrote a Constitution. Two-hundred years later, 55 people—men, women, minorities—went into that room. I was privileged to have been selected to be one of them. I have told the story before and people may get tired of hearing it, but I sat in that room—I come from a town of about 270 people, a small ranching area of Southwestern North Dakota. I sat in that room—the assembly room in Constitution Hall—200 years after the Constitution was written, the document that begins, ''We the people.''

In that room, George Washington's chair is still in front of the room, where he sat as he presided over the constitutional convention, and Ben Franklin sat over on this side, and there was Madison and Mason; Thomas Jefferson was in Europe, but he contributed through his writings to the Bill of Rights. I thought to myself that this is a pretty remarkable country where a fellow from a town of about 270 people can participate in a celebration of this sort.

From that moment, I have been troubled by the proposition that some convey so easily of wanting to change the U.S. Constitution. I mentioned yesterday that we have had, I believe, 11,000 proposals to change the Constitution, 11,000. Among those, for example, was a proposal to have a President from the North during one term and then the requirement that the next term of the Presidency be filled by a President who comes from the southern part of the U.S. That was one idea.

Fortunately, the Constitution is hard to amend. Since the Bill of Rights, only 17 times have we amended this document, and then in almost every case, it was to expand freedom and liberty. So I have had great difficulty with this issue. I love the flag and what it stands for. I am devoted to the flag and the Constitution and the principles on which this country was founded. I know the Senator from West Virginia is as well. I wanted to say how much I and my colleagues, I am sure, appreciate his presentations to the Senate not just today but on a recurring basis, reminding us of the timeless truths about who we are and about who we have been, about the rich and majestic history of our country and the principles that have allowed us to progress to the point now of the year 2000 as the oldest successful democracy in history.

So I want to say thank you. As I say, this is a very difficult issue. I came to the same conclusion, that I did not feel I could amend the U.S. Constitution in this manner. It doesn't mean that I don't believe we ought to find a way, short of changing the Constitution, to provide sanctions for those who would desecrate America's flag. I just have not been able to make the leap of saying, yes, let's change the framework of the Constitution. I thank the Senator from West Virginia for his enormous contribution today.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the senior Senator from Vermont and the senior Senator from North Dakota for their remarks. I also thank them for the courage they have displayed time and time again in protecting this founding document. I thank them for the inspiring leadership that the rest of us have had from watching them and listening to them. They, indeed, have done a tremendous service to the country, to the Senate, and to the Constitution. I thank them both from the bottom of my heart.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business, the time not charged under cloture.

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

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PRESCRIPTION DRUG COSTS

Mr. GORTON. Mr. President, good health is one of life's greatest blessings. Over the last 25 years, there has been a tremendous change for the better in the delivery of health care. New drugs help to prevent heart disease and provide better treatments for cancer, allergies, depression, and many other debilitating conditions. In short, prescription drugs can help people live longer, lead healthier, happier, more productive lives—and can help lower the overall cost of health care. We all applaud.

The United States leads the world in the development of new drugs. Almost half of the new drugs developed in the last 25 years were created in the USA.

But new drugs are expensive to develop. Only one of every five candidate medicines will turn out to be effective, be approved by the FDA and make it to

drug store shelves. Last year, the drug industry spent $24 billion on research and development. U.S. taxpayers also invest $18 billion every year in the National Institutes of Health, which provides grants for basic health research. Drug companies that are willing to take on the risk of developing new treatments receive tax credits for their research and development costs.

Yet when American consumers pick up their prescription at the drugstore they pay again for research and development in the form of higher prices. Why? Every other developed country imposes some form of price control. Those countries pay for the cost of manufacturing the drug, which is normal, and maybe some profit; but they don't even come close to paying a fair share of the research and development costs of new drugs developed in the United States.

So when some Americans get sick, they can't afford the medicine they need to stay healthy. Instead they go without or they ration medicine. If they are able to travel, Americans cross the borders to Canada or Mexico to buy for much less, the prescriptions they need to stay healthy.

I was curious to know just how much my constituents were savings by traveling to Canada. My office recently conducted an informal study comparing the prices of the top ten most commonly prescribed prescription drugs in several Washington state retail drug stores to the price paid in a typical Canadian pharmacy. I was astounded by the results: on average prices are 64% lower in Canada.

Here are a few examples: The average cost of 30 pills of Zocor, which used to treat high cholesterol, is $76 in our state, in Canada it costs $38; Premerin, an estrogen replacement therapy used by many women, is $26 in our state and $10.50 just across the border; and a popular new allergy treatment, Claritin, is just $34 in Canada but almost $80 in Washington State.

During last week's break, I spent time talking with seniors, doctors, hospital administrators, and others about the cost of prescription drugs. All expressed their concern about the growing amount spent on medicine and the ability of people to continue to have access to the medication that keeps them healthy.

While this debate has properly focused a lot of attention on uninsured seniors and their daily struggle to pay for needed medications, the costs of prescription drugs affect every American—even those with health insurance coverage. Drug spending is a growing part of our overall health care costs. The rising cost of prescription drugs is one of the biggest problems facing health plans, hospitals and others in the health care field.

Obviously, American drug companies have to pay for this huge amount of research and development and the years that it takes to get these drugs licensed. But, what I am outraged about is a set of foreign policies that means that Americans who by drugs that were developed in America pay substantially more for those drugs than the same manufacturers sell—them for in Canada or Mexico. I think that is unconscionable. Those countries are riding on our research and development.

The cost issue is one important part of the debate as we talk about modernizing the Medicare program to include a prescription drug benefit. I do think that Medicare should be updated and that prescription drugs should be covered under the program. Expanding this benefit, however, must be done responsibly—it must not jeopardize the solvency of the current program and that benefits now available to seniors. It is also fairly contentious. Most agree that we should add a drug benefit to Medicare, however, good people have honest disagreements about the best way to do it. Addressing cost is something we can do now.

It is no fair to the American consumer to let other countries get away with policies that make drug companies sell their products cheaper in their country because they don't want to pay for any of the development costs. It's not right, and I will work actively to see that Americans are not overcharged.

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

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

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FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Continued

Mr. LEAHY. Mr. President, in 1791, the State of Vermont, the State that I am honored to represent, was admitted to the Union. Kentucky followed. Congress then saw fit to change the design of the American flag for a time to include 15 stars and 15 stripes, one for each State. It was this flag, the one recognizing the addition of Vermont to the Union, that flew over Fort McHenry in 1814, and inspired Francis Scott Key to write the Star Spangled Banner.

Along with Vermonters and many others I find that flag inspirational, as I do the American flag with 48 stars under which my family fought in World War II. I remember the great pride my wife and I felt seeing the current American flag with 50 stars being carried in formation at Paris Island when my youngest son became the newest member of the U.S. Marine Corps.

Fifty years after that famous battle that inspired our national anthem in Baltimore's harbor, President Abraham Lincoln visited that city as this country confronted its greatest test. It was a time in which this nation faced grave peril from a civil war whose outcome could not yet be determined. Many flags flew over various parts of the United States and our existence as a nation was in doubt. President Lincoln used the occasion to reflect on a basic feature of American democracy.

As Professor James McPherson recently reminded us, Lincoln observed: ''The world has never had a good definition of the word liberty. And the American people just now are much in need of one. We all declare for liberty, but using the same word we do not mean the same thing.''

Through the course of this debate, it has seemed to me that all of us here in this chamber would champion liberty. If any of us were asked, we would say: Of course we do. When I listen to the debate, I have to conclude that Lincoln's wish for a definition on which all of us would agree remains very elusive.

Ultimately, the debate over this amendment turns on the scope we think proper to give to speech which deeply offends us. For Congress to limit expression because of its offensive content is to strike at the heart of the First Amendment. Justice Holmes wrote that the most imperative principle of our Constitution was that it protects not just freedom for the thought and expression we agree with, but ''freedom for the thought that we hate.'' He also wrote, that ''we should be eternally vigilant against attempts to check the expression of opinions that we loathe.''

Justice Robert Jackson made this point with unsurpassed eloquence in a 1943 decision, West Virginia State Board of Education v. Barnette. Unlike that small handful of wartime decisions upholding flag burning statutes on which the proponents try to base their claim of an expansive judicial tradition before the Johnson case, the Supreme Court, even in 1943, during the difficult days of World War II, recognized the fundamental tradition of tolerance that makes this country strong. The Supreme Court in a very difficult decision, at the height of world War II held that State school boards may not compel their teachers and students to salute the flag. Justice Jackson wrote:

> To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.
>
> We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.
>
> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

What unifies our country is the voluntary sharing of ideals and commitments. We can do our share toward that end by responding to crude insults with a responsible action that will justify respect and allegiance that has been freely given. Justice Brennan wrote in Johnson:

> We can imagine no more appropriate response to burning a flag than waving one's own.

That is exactly how the American people respond.

Respect cannot be coerced. It can only be given voluntarily. Some may find it more comfortable to silence dissenting voices, but coerced silence can only create resentment, disrespect, and disunity. You don't stamp out a bad idea by repressing it; you stamp it out with a better idea.

My better idea is to fly the flag at home, not because the law tells me to; not because there is something that says this is what I have to do to show respect; I do it because, as an American, I want to.

I am immensely proud of being one of the two Senators who has been given the opportunity to represent the State of Vermont. I fly that flag out of pride. Frankly, I am an ornery enough Vermonter that if there were a law that said as a Senator I had to fly that flag, I would not do it. I do it because I want to do it.

It is with the same sense of pride that I saw my son march in uniform with that flag flying. It is the same sense of pride when I see that flag flying over this Capitol Building every day when I drive to work.

The French philosopher Voltaire once remarked that liberty is a guest who plants both of his elbows on the table. I think what he meant by that is that liberty is sometimes an unruly, even an unmannerly and vulgar guest. Liberty demands we be tolerant even when it is hard to do so.

Our freedoms in this country are protected by the constitutional guarantee that dissent must be tolerated whether it is expressed in polite and deferential tones or in a crude and repugnant manner. We are a mature enough political community to know what every child knows: Unlike sticks and stones, words and expressions need not hurt us. It certainly does not justify the loss of rights that protect the liberties of us all.

Especially despicable gestures are hard to tolerate, but we do so because political expression is so central to what makes America great and what protects the rights of each of us to speak, to worship as we choose, and to petition our Government for redress.

As I have said before, I have taken such pride in going to countries with dictators, countries that require a law to protect their flags and their symbols, and in saying: We do not need such a law in our country because in this great Nation of a quarter of a billion people, the people protect our symbols, not because they are forced to do so but because they want to do so.

I was brought up to believe the first amendment is the most important part of our democracy. It allows us to practice any religion we want or no religion if we want. It allows us to say what we want, and the Government cannot stop us.

What does that mean? It means we are going to have diversity—diversity in religion, diversity in thought, diversity in speech, diversity that is guaranteed and protected in this Nation. And when you guarantee and protect diversity, then you guarantee and protect a democracy, because no real democracy exists without diversity. When you exclude and stamp out diversity, then I guarantee, you stamp out democracy, whether it is the Taliban or any of the totalitarian governments of history. If diversity, dissent, and free speech are stamped out, democracy goes with them.

American democracy has succeeded because we have found a way to live with that unruly guest with his elbows on our table of which Voltaire spoke, and to acknowledge acts which are disrespectful and crude and may, nonetheless, be lawful.

We protect dissent because we love liberty, not because we oppose liberty, but because we love it. The very impiety of these acts puts us to the test as votaries of liberty.

Wendell Phillips, the great New England abolitionist, wrote:

> The community which dares not to protect its humblest and most hated member in the free utterance of his opinion, no matter how false and hateful, is only a gang of slaves.

No man disagreed more vehemently with Wendell Phillips on the burning issues of their day than Senator John C. Calhoun of South Carolina. Yet Senator Calhoun came to much the same conclusion in a speech on the Senate floor in 1848—more than 150 years ago. He said:

> We have passed through so many difficulties and dangers without the loss of liberty that we have begun to think that we hold it by divine right from heaven itself. But it is harder to preserve than it is to obtain liberty. After years of prosperity, the tenure by which it is held is but too often forgotten; and I fear, Senators, that such is the case with us.

I represent a State that has a proud tradition of defending liberty, a State that encourages open debate. We are the State of the town meeting. You have never heard open debate, whether as a Member of this great body or the other legislative body, until you have been to a Vermont town meeting. There is debate, there are expressions, there is heat, and there is often light.

I am proud that in 1995, the Vermont Legislature chose the first amendment over the temptation to make a politically popular endorsement of a constitutional amendment regarding the flag. The Vermont House passed a resolution urging respect for the flag and also recognizing the value of protecting free speech ''both benign and overtly offensive.'' Our Vermont Attorney General has urged that we trust the Constitution, not the passions of the times.

But Vermont's actions are consistent with our strong tradition of independence and commitment to the Bill of Rights. Indeed, Vermont's own constitution is based on our commitment to freedom and our belief that it is best protected by open debate. In fact, Vermont did not join the Union until the Bill of Rights was ratified and part of this country's fundamental charter.

We are the 14th State in this Union. But we waited because we were so protective of our own liberty. At one time, we declared ourselves an independent republic. We wanted to make sure our people had their liberties protected. We in Vermont waited until the Bill of Rights was part of the Constitution.

Following that tradition, this Vermonter is not going to vote to amend the Bill of Rights for the first time since it was adopted, and certainly not going to be the first Vermonter to do that.

Vermont sent Matthew Lyon to Congress. He cast the decisive vote of Vermont for the election of Thomas Jefferson when that election was thrown into the House of Representatives. He was the same House Member who was the target of a shameful prosecution under the Sedition Act in 1789 for comments made in a private letter. He was locked up.

Vermont showed what they thought of the Sedition Act. They showed what they thought of trying to stifle free speech. Vermont said: Fine, Matthew Lyon is in jail. We will still reelect him to Congress. And, by God, we did. Why? Because we are saying: Do not trample on our right of free speech.

Vermont served the Nation again in the dark days of McCarthyism when I think probably one of the most remarkable and praiseworthy actions of any Vermont Senator, certainly in the 20th century—the outstanding Vermont Senator, Senator Ralph Flanders—he stood up for democracy in opposition to the repressive tactics of Joseph McCarthy. When so many others ran for cover in both parties—both Republicans and Democrats—Senator Ralph Flanders of Vermont, the quintessential Republican, conservative, a businessman, came to the floor of the Senate and said enough is enough, and asked for the censure of Senator McCarthy.

Vermont's is a great tradition that we cherish. It is one that I intend to uphold.

The New York Times had it right earlier this week when it wrote in its editorial, on Monday:

> If the Senate truly respected the Constitution it is sworn to uphold, it would not be trifling with the Bill of Rights and its precious guarantee of freedom of speech. Yet that is exactly what the Senate is doing as it considers the so-called flag desecration amendment—a mischievous addition to the Constitution that would weaken the right of free expression by allowing federal laws banning physical desecration of the flag.

The Washington Post also opposed this amendment in a recent editorial.

It noted that flag burning is ''only one among many types of offensive expression that the First Amendment has protected throughout American history.'' Then they added:

The principle that ''Congress shall make no law'' restricting speech loses much of its power when exceptions begin turning the ''no'' into ''only a few.'' The political points senators win by supporting this amendment are not worth the cost.

The first amendment says: ''Congress shall make no law.'' It does not say: Congress shall not make a bunch of laws or Congress shall not make some laws or Congress shall not make little laws versus big laws restricting speech, or Congress should not make laws on Monday versus Friday restricting speech.

It says: ''Congress shall make no law.''

I remember being at an oral argument in the U.S. Supreme Court when I was a young law student, and Hugo Black was saying: I read the Constitution, which says ''Congress shall make no laws'', to mean ''Congress shall make no laws.'' I find it pretty clear.

The Chicago Tribune said this:

The amendment is a gross overreaction to a non-problem. Incidents of flag burning are exceedingly rare, and they do no harm beyond causing legitimate disgust among patriotic Americans. Disgust, however, is not an adequate reason to take the extraordinary step of altering the nation's founding document—and altering it to curtail one of our most fundamental liberties.

So many times I read editorials from the Washington Times, especially those that say that Congress takes, too often, a liberal bend. The Washington Times today said this in their editorial—and they oppose this amendment—they said they oppose it because ''it would be the only standing constitutional amendment to expand—not curtail—the power of the federal government.''

They went on to say:

Laws reflect a nation's culture and Constitution. Both govern a people's relationship with the government. Sometimes, however, the two collide and the nation's leaders must decide between expressing the culture through law or abiding by constitutional restraints that limit government powers to do so. . . . The founders adopted the first 10 amendments, now called the Bill of Rights, as more than simply limits on Government's power, but rather an enumeration of rights on which Government could not trample.

Think of that. They are not saying, here are some extra powers we have in the Government. Rather, they are saying no to the Federal Government. These are rights you cannot step on. These are rights that belong only to the American people. These are rights that do not belong to a government. They do not belong to the Congress, to the executive branch, or the judicial branch. They belong to all of us, today a quarter of a billion proud Americans.

The Washington Times went on to say:

Conservatives in the Senate should take this opportunity to burn a flag—the white flag the faint-of-heart seem to fly on every tough issue. It is time to say, ''We trust the American people with their flag''—with a vote against this constitutional amendment.

That is what I say: Trust the American people. The vast majority of the people in this great country are patriotic. They respect the symbols of our Government. There isn't a rash of flag burning around the Nation. You don't see people running out to do it because we respect our flag, we respect our Nation, and we don't need a law to tell us to do that. In fact, that respect is diminished if we are told we have to respect the symbols of our Government rather than doing it from our heart.

Through this debate this week, some proponents of the constitutional amendment expressed their view that this is a nation in moral decline and that amending the Constitution to punish flag burning is thereby justified. I disagree. I would not put down the United States that way. I believe this Nation is strong. I believe there is far more civic virtue to the American people than some credit. I know that is the case in my State of Vermont. I know it when I go on line each week with the children of our State in grade schools and high schools around Vermont answering their questions. I sense a civic pride. I do not sense a moral decline. I sense a great nation moving into an even greater century.

I am not a fan of what in some quarters passes for culture nowadays, but let us not have a constitutional amendment to lash out at crude cultural influences. Let us discuss the issue of civic virtue. In fact, we in the Senate play a role, an important one, in setting the level of civic virtue in this Nation. So maybe a good place to start would be with ourselves and with our institution. It is not just what we say here that is important; it is what we do here.

Instead of telling the American people, the rest of the American people beyond the 100 here, what they can and cannot do, maybe we should talk about what we do and how we do it. We honor America when we in the Senate do our jobs, when we work on the matters that can improve the lives of ordinary Americans.

I began this debate by urging the Senate to conclude action on the juvenile crime conference. I urged the Senate to vote on increasing the minimum wage, to confirm judges our courts and people need. We have 77 vacancies today. I urged the Senate to pass a Patients' Bill of Rights and privacy legislation and other legislation that can make a difference today. Then we set an example for the Nation. As this debate concludes and after we vote on this, let us return to that hope and message.

Ours is a time of relative peace and prosperity. We should praise that. Because of that, it is certainly not the time, if there is any, to tinker with the fundamental framework that has helped make this country the land of opportunity and diversity and vitality it has been for more than 200 years.

The proposed amendment to the Constitution would do harm to the first amendment—protections that gird us all against oppression, especially oppression of momentary majority thought. It violates the precept laid down more than 200 years ago that ''he that would make his own liberty secure must guard even his enemy from oppression.'' It undercuts the principle that a free society is a society where it is safe to be unpopular. A nation may lose its liberties in an instant of imposed orthodoxy.

I am sure many of us have read the letter written in 1787 by Thomas Jefferson in which he observed:

If it were left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.

For me, presented with the stark choice between an undefiled flag and an undefiled Bill of Rights, I, too, must choose the latter.

If somebody were to cruelly desecrate the flag I proudly fly at my home, then I would replace that flag. I would buy a new flag. But if somebody misplaces, changes, or diminishes the Bill of Rights that protects me, protects the other 99 Senators, that protects a quarter of a billion Americans, I can't replace that. I can't go to the store and buy a new Bill of Rights. I cannot start the process of 200 years ago over again. I cannot go back and say, because we have spent 200 years growing and maturing as a nation in protecting our rights under the Bill of Rights, now we can ignore all that because we have changed the Bill of Rights.

Don't diminish it. There are a lot of things that are unpopular, but we protect them. I think of the debate when I was a young prosecutor. Decisions would come down saying you had to warn criminal suspects of their rights—first the Escobedo case and then the Miranda case. I remember people, both in law enforcement and outside, saying we have to amend the Constitution. Some said we had to impeach the whole Supreme Court. We have to amend the Constitution. How dare they say these criminals must be warned of their rights? We want to be warned of our rights because we are not criminals. But the guilty accused have to be warned of their rights? What a terrible idea.

We got through that. What happened? Training of law enforcement got a lot better. The police got a lot better, the courts got a lot better, the prosecutors got a lot better, and our Nation got better. Today there are still people who are arrested or stopped by the police who are totally innocent, and they have their rights. They can stand on those rights. How many times have we said: I am an American; I have my rights? Well, it is true. We have wonderful rights in this country. That is why we are the strongest democracy in the world. Let's not diminish those rights.

Ours is a powerful constitution, all the more inspiring because of what it allows and because we protect each other's liberty. Let us be good stewards. Let us leave for our children and our children's children a constitution with freedoms as great as those bequeathed to us by the founders, patriots and hard-working Americans who preceded us. If we do that, successive generations will bless us, they will praise us, we will have a stronger nation.

I thank my colleagues for their attention and courtesy and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, we have had a productive and educational debate concerning our proposed constitutional amendment to protect the flag. We have considered—and defeated by overwhelming votes—two significant amendments which were aimed at the heart of this amendment. A clear majority of the Senate has its mind made up on this resolution, and it is proper that we are now preceding to a vote.

The events of the last three days could cause one to question the depth of feeling my colleagues have for their argument that this flag protection constitutional amendment would erode free speech rights guaranteed by the first amendment. Many of these same Senators have denounced flag desecration and voted for statutes which would allegedly protect the flag. In 1989, the Congress responded to the Supreme Court's decision in Texas v. Johnson, which held that State flag protection statutes were unconstitutional, by enacting the Flag Protection Act. Ninety-one Senators—let me repeat, 91 Senators—voted in favor of that statute, which provided that:

> Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the ground, or tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both.

That was the statute that 91 Senators in this body in 1989 voted for.

Clearly, 91 Senators believed in 1989 that flag desecration should be stopped; that people who knowingly mutilate, deface, physically defile, burn, or trample upon any flag of the United States should be prevented from engaging in this sort of conduct. Clearly, 91 Senators believed in 1989 that prohibiting flag desecration would in no way erode free speech rights guaranteed by the first amendment, and voted for the bill in response to a Supreme Court decision that had said otherwise.

I remember those arguments. We can do this by statute. We have had the same arguments in this debate, all of which are just as specious as they were back then.

Yet, of those 91 Senators who voted to outlaw flag desecration in 1989 to prohibit this form of expressive conduct, 18 who are still here will vote against the flag protection constitutional amendment. In other words, of the more than 30 opponents of the proposed constitutional amendment, 18 voted in 1989 to prohibit flag desecration.

Let me read directly from the joint resolution, the constitutional resolution:

> The Congress shall have power to prohibit the physical desecration of the flag of the United States.

In other words, we want to give them the power so that they can, again, vote for their beloved statute. They can't vote for it now because it would be declared unconstitutional again. I think the limited version presented here, the McConnell statute, which would not do much to begin with, is likewise unconstitutional.

The point was that 18 of those who will vote against the flag protection constitutional amendment today, at least 18 of the more than 30 opponents of this proposed constitutional amendment, voted in 1989 to prohibit flag desecration.

Just yesterday we voted on whether to adopt the Flag Protection Act of 1999. That is a more narrow flag desecration statute offered by Senator MCCONNELL. Now some Senators voted against Senator MCCONNELL's amendment because they do not believe flag desecration is a problem in our society, that it is too trivial of an issue for the Senate even to consider. Other Senators, including myself, voted against the McConnell amendment because we believe that under the Supreme Court precedents, and given the present composition of the Court, it would be struck down as the other statutes were. Yet 36 Senators voted in favor of the McConnell amendment, a statute prohibiting flag desecration. Clearly, these 36 Senators do not believe that prohibiting flag desecration will erode free speech rights guaranteed by the first amendment. Of these 36 Senators, 30 have indicated they will vote against the flag protection constitutional amendment today.

I must ask these Senators: Do you believe in flag protection or not? Or are you just playing political games? If they do believe in flag protection, they should vote for this constitutional amendment, which is the only constitutional way of protecting our flag. If not, they should have the courage to repudiate the votes they cast yesterday, in 1995, and in 1989, and to admit that they do not want to prohibit flag desecration in any way. They can't have it both ways unless they are just playing politics. I would never accuse anybody in this body of doing something as denigrating as playing politics.

Some of my colleagues contend our country has achieved greatness in its two centuries of existence because they say we value tolerance over all else. Yes, we are tolerant of everything that is rotten and we are intolerant of many things that are good. They say if we pass this constitutional amendment and then adopt legislation prohibiting flag desecration, we will become Iran, Iraq, North Korea, Libya, Cuba, and a host of other repressive and dictatorial regimes that do ban desecration of their respective flags. They even suggest we will become like South Africa during apartheid or like Nazi Germany if we protect our flag. This argument is not only specious, it is absolutely ridiculous. It is insulting.

Indeed, I must say their argument is full of historical revisionism. The United States of America prohibited desecration of the American flag during the first two centuries of its existence. If this constitutional amendment is adopted and implementing legislation is passed, the United States of America will not somehow become an intolerant, repressive, dictatorial police state. No, the United States of America's laws will be just as they were for over 200 years before this lousy decision by five people on the Supreme Court, versus four, showing it was hotly contested. Even they weren't sure what they were doing.

I find that a sense of elitism is creeping into the Senate. In fact, I don't fear it, I know that is the case. We have amongst us people who seem to think the Senate has more important things to do than to listen to, and act on, the views of the overwhelming majority of American citizens who want the flag protection constitutional amendment. I find this elitism profoundly troubling. As a matter of fact, all we are asking is for this body to give a two-thirds vote, as the House did, so we can submit this to the people in the respective States and let them decide once and for all whether or not they want to protect the flag.

The American people do not believe that the flag of the United States of America is just a piece of cloth or just another symbol. The American people know that the flag is the embodiment of our heritage, our liberties, and indeed our sovereignty as a nation, as Madison indicated—the author of the Constitution. The American people are deeply offended and morally outraged when they see the flag humiliated and the Government powerless to defend it.

I have heard both sides of this debate cite leaders in the military, and I am sure that some of these people who are opposed to our amendment today are good people. But let me quote Gen. Norman Schwarzkopf, commander of U.S. and allied forces during the gulf war. He wrote:

> The flag remains the single, preeminent connection to each other and to our country. Legally sanctioned flag desecration can only serve to further undermine this national unity and identity that must be preserved.

There are tens of thousands of veterans living in our country today who have put their lives on the line to defend our flag and the principles for which it stands. Those are the fortunate ones who were not required to make the ultimate sacrifice. For every one of those, there is someone who has traded the life of a loved one in exchange for a flag, folded at a funeral. Let's think about that trade—and about the people who made that trade for us—before deciding whether the flag is important enough to be addressed by the Senate.

Let's think about the meaning of majority rule before we dismiss the feelings of the American public. Would it really trivialize the Constitution, as some of these critics suggest, to pass an amendment that is supported by the vast majority of Americans? The Constitution itself establishes the process for its own amendment. It says that the Constitution will be amended when two-thirds of the Congress and three-fourths of the States want to do so. It does not say that this procedure is reserved for issues that some law professors, or even some Senators, think are important. If government by the people means anything, it means that the people can decide the fundamental questions concerning the checks and balances in our government. It means the people can choose whether flag desecration is against the law. The people have said they want Congress to protect the American flag.

Because the flag amendment reflects the will of the people, I believe passage and ratification of this amendment is ultimately inevitable. It may not pass the Senate today, but it will pass the Senate. The votes in the past few years demonstrate that momentum—as well as the fulfillment of duty—is on our side. In 1989, 51 Senators voted for the amendment. That was it, 51. In 1990, there were 58 votes in favor. In 1995, 63 Senators voted for the amendment. And, today, we hope we will at least get that many. We have had some reversals, as you have seen. But the trend of support will continue until we get the 67 needed to pass this resolution and send the constitutional amendment to the States for ratification. I personally will not stop fighting for the flag amendment until it passes the Senate with the requisite two-thirds vote.

I came up the hard way. I had to earn everything I have, and I have earned it the hard way. I learned a trade as a young man. I worked as a janitor to get through school. I have never been part of the elite, and I wouldn't be there if I could be. I have to tell you, this place is filled with elitism among those who are voting against this amendment today.

Frankly, I get a little tired of the elitism in this country. It is throughout our country, and it is elitism that is allowing the savaging of our values to occur today in this country. It is the elite who are basically upholding things that force us to be tolerant, as they say, of some of the very offensive acts that occur in our society. They say we should be tolerant, not to do anything about people who defecate on our flag or urinate on our flag or burn our flag with contempt or trample on it. They don't seem to see any real problem with that, although they condemn it vociferously without doing one doggone thing about changing this culture and letting the American people know we are going to stand for something.

What better thing can you stand for, other than your families—and this is part of standing for families in my book—what better thing to stand for than standing up for this national symbol that unites us and brings us together? Just think about it.

In conclusion, the flag amendment is the very essence of government by the people because it reflects the people's decision to give Congress a power that the Supreme Court has taken away on a 5–4 vote. The four who voted against the five—in other words voted to uphold the right of the Federal Government and the States to ban desecration of the flag—those four fought very hard for their point of view. They happen to be right.

I urge all my fellow Senators to do the right thing for the American people. I urge everybody in America to hold us responsible for not doing so. I am asking the folks out there in America to start getting excited about this. If we could pass this amendment through the Senate, since the House has already done it, I guarantee we would create the biggest debate on values this country has seen in years in every one of our 50 States. If we did that, that alone would justify everything we are talking about today, let alone standing up for the greatest symbol of any country in the world today. I think we ought to do it. I hope my fellow Senators will do the right thing and vote for this resolution so the people, through their State legislatures, can decide for themselves whether or not they want their elected representatives to enact a law prohibiting the physical desecration of the American flag.

We know we do not have the votes today, but we are not going to stop until this amendment is approved. Sooner or later we will get enough people here who feel strongly enough about this to get the constitutional amendment passed. I venture to say, if we could pass this constitutional amendment, at least 38 States—and, frankly, I think all 50 States would ratify this amendment—I believe the people out there would ratify this amendment and we would have more than 80 percent in the end, and people would feel very good about it.

I know one thing, those seven Congressional Medal of Honor recipients who were standing with us yesterday as we had a press conference on this, it would make their lives, as it would for all these veterans throughout this country who have sacrificed for you and me that we might be free. I would like to see that happen. If it does not happen today, don't worry, we will be back because we are not going to quit until we win on this amendment. When we do, it will be a great thing for this country.

I want to thank the dedicated staff of the Senate Judiciary Committee for their hard work on this important proposed constitutional amendment—S.J. Res. 14. In particular, I would like to commend Alex Dahl, Catherine Campbell, Kyle Sampson, and Ed Haden. These fine lawyers and professional staff spent countless hours getting us to this point. I also want to thank the committee's chief counsel, Manus Cooney, for his assistance and counsel. On the minority side, let me acknowledge Bruce Cohen for his professionalism and spirited opposition.

Many other staffers were helpful including Jim Hecht and Stewart Verdery of our leadership staff. I think these staffers know that this debate was an important one and one of significance.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. LEAHY. 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. MCCAIN. Mr. President, I rise today in support of Senate Joint Resolution 14. It is with great honor and reverence that I speak in support of this resolution, a bipartisan constitutional amendment to permit Congress to enact legislation prohibiting the physical desecration of the American flag.

Let me explain my support by recalling the sacrifice for flag and country of a prisoner of war I had the honor of serving with.

I spent 5½ years at the Hanoi Hilton. In the early years of our imprisonment, the North Vietnamese kept us in solitary confinement of two or three to a cell. In 1971, the North Vietnamese moved us from these conditions of isolation into large rooms with as many as 30 to 40 men to a room. This was, as you can imagine, a wonderful change. And it was a direct result of the efforts of millions of Americans, led by people like Ross Perot, and Nancy and Ronald Reagan, on behalf of a few hundred POW's, 10,000 miles from home.

One of the men who moved into my cell was Mike Christian. Mike came from Selma, Alabama. He didn't wear a pair of shoes until he was 13 years old. At 17, he enlisted in the U.S. Navy. He later earned a commission. He became a Naval aviator, and was shot down and captured in 1967. Mike had a keen and deep appreciation for the opportunities this country—and our military—provide for people who want to work and want to succeed.

The uniforms we wore in prison consisted of a blue short-sleeved shirt trousers that looked like pajamas and rubber sandals that were made out of automobile tires.

As part of the change in treatment, the Vietnamese allowed some prisoners to receive packages from home. In some of these packages were handkerchiefs, scarves and other items of clothing. Mike got himself a piece of white cloth and a piece of red cloth and fashioned himself a bamboo needle. Over a period of a couple of months, he sewed the American flag on the inside of his shirt.

Every afternoon, before we had a bowl of soup, we would hang Mike's shirt on the wall of our cell, and say the Pledge of Allegiance. I know that saying the Pledge of Allegiance may not seem the most important or meaningful part of our day now. But I can assure you that—for those men in that stark prison cell—it was indeed the most important and meaningful event of our day.

One day, the Vietnamese searched our cell and discovered Mike's shirt with the flag sewn inside, and removed it. That evening they returned, opened the door of the cell, called for Mike Christian to come out, closed the door of the cell, and for the benefit of all of us, beat Mike Christian severely.

Then they opened the door of the cell and threw him back inside. He was not in good shape. We tried to comfort and take care of him as well as we could. The cell in which we lived had a concrete slab in the middle on which we slept. Four naked light bulbs hung in each corner of the room.

After things quieted down, I went to lie down to go to sleep. As I did, I happened to look in the corner of the room. Sitting there beneath that dim light bulb, with a piece of white cloth, a piece of red cloth, another shirt and his bamboo needle, was my friend Mike Christian, sitting there, with his eyes almost shut from his beating, making another American flag. He was not making that flag because it made Mike Christian feel better. He was making that flag because he knew how important it was for us to be able to pledge our allegiance to our flag and our country.

I believe we have an inviolable duty to protect the right of free speech—one of our most precious inalienable rights and the linchpin of a healthy democracy. I do not believe, however, that guaranteeing respect for our national symbol by prohibiting ''acts'' of desecration impinges on political ''speech.''

As long as citizens are free to speak out on any matter and from whatever point of view they wish, as our forefathers intended, it does not seem burdensome to me that we accord some modicum of respect to the symbol of those precious freedoms for which so many of our countrymen have laid down their lives.

Some view these efforts to protect the flag as political demagoguery or empty symbolism. I see the issue differently. The flag represents each and every one of us, regardless of race, religion or political diversity. Tolerating desecration of the flag is silent acquiescence to the degeneration of the broader values which sustain us as a free and democratic nation—the ramifications of which are far more profound than mere symbolism.

For these reasons, I support this constitutional amendment to ban flag desecration. I voted for such language in previous Congresses, but unfortunately, we have always fallen short of the 67 affirmative votes necessary for approval.

Whenever we send our young men and women into harm's way, we must remember that these same men and women have taken a solemn oath which this flag symbolizes. Let us honor their commitment and honor our great nation. I urge my colleagues to support the flag protection amendment.

Mr. LEVIN. Mr. President, I cannot support the proposed constitutional amendment.

The American flag is the premier icon of our national freedom. It is an irreplaceable reminder of liberty, sacrifice, and patriotism. To deliberately desecrate or burn a flag is an insult to anyone who has fought to defend it. But to deliberately weaken the First Amendment rights of all Americans cannot be the answer to those who attack a symbol of freedom.

We love our flag for obvious reasons, and true Americans treat it with respect. A person who destroys such an important symbol should face the scorn of all decent women and men. But we should not allow the misguided actions of a few individuals to jeopardize the rights and freedoms of all Americans.

The Supreme Court has ruled that such an attack on the flag is a protected form of speech under the First Amendment to the Constitution.

If we pass this amendment, and the States ratify it, we alter the Bill of Rights for the first time in our nation's history. For more than 210 years, the Bill of Rights—which protects our most basic freedoms—has served us well. Although I love the flag, I also love the Bill of Rights and the Constitution. When we pledge allegiance to the flag, in the same breath, we pledge allegiance to the Republic for which it stands.

Mr. President, Senator John Glenn, a true American hero, reflected these concerns in his testimony before the Judiciary Committee. He said:

> [I]t would be a hollow victory indeed if we preserved the symbol of our freedoms by chipping away at those fundamental freedoms themselves. Let the flag fully represent all the freedoms spelled out in the Bill of Rights, not a partial, watered-down version that alters its protections.
>
> The flag is the nation's most powerful and emotional symbol. It is our most sacred symbol. And it is our most revered symbol. But is it a symbol. It symbolizes the freedoms we have in this country, but it is not the freedoms themselves.

General Colin Powell has said:

> I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.

We should not alter the basic charter of our liberties just to address the few incidences of flag burning in this country. Despite the attention it receives, flag burning is relatively infrequent. According to one expert, there have been only 200 reported incidences of flag burning in the history of our nation. That amounts to less than one case per year. The Congressional Research Service has listed 43 flag incidents between January 1995 and January 1999.

Even if this constitutional amendment were adopted, and the physical desecration of the flag were prohibited, it would not necessarily yield the intended results: the preservation of our glorious symbol.

As the Port Huron Times Herald suggested on June 26, 1999, flag desecration may not necessarily be flag burning, but the trivialization of the flag:

> How glorifying is it to see the Stars and Stripes emblazoned on paper napkins destined to be smeared with ketchup and barbecue sauce and tossed in a trash can?
>
> How respectful is it to wrap ourselves in Old Glory beach towels? Sip our coffee from red, white and blue mugs? Start our car from a flag-emblazoned key chain?
>
> We shouldn't worry about people burning the flag. It just doesn't happen. We should worry about trivializing a glorious symbol into something as meaningless as a paper napkin.

I oppose the proposed constitutional amendment because it would amend our Bill of Rights for the first time, but I do support a statutory prohibition on flag desecration. The McConnell-Conrad-Dorgan statutory approach is preferable because it provides protection of the flag through enactment of a statute, and subsequently, does not weaken our First Amendment freedoms.

If we love the flag, we will not only preserve the sanctity of the cloth, but the freedoms for which it stands. No matter how abhorrent the action of flag burning may be, I see great danger in amending the Bill of Rights and curtailing freedoms enumerated in the Constitution, the very documents that give our flag its meaning.

Mr. MURKOWSKI. Mr. President, I rise as an original co-sponsor of S.J. Res. 14, a resolution proposing that the Constitution be amended to permit Congress to enact statutes to protect against the physical desecration of the American flag. Although it is rare that I support amending our Constitution, in this instance the Supreme Court has made clear that a federal statute is incapable of protecting the national symbol of America.

There is no doubt in my mind that every single Member of the Senate abhors the idea that someone would desecrate the American flag. Yet the vote

on this amendment will be far from unanimous. That is because many of my colleagues believe that adoption of this amendment somehow represents an attack on the First Amendment's guarantee of freedom of speech. In my view, this amendment in no way threatens the freedoms embodied in the First Amendment.

The freedom of speech that is guaranteed in the first amendment of the Constitution is not unlimited. The Supreme Court has long recognized that the law must strike a balance between society's and government's interest and the interests of the individual. More often than not, the Court has come down on the side of the individual. However, the Court has recognized that society's interest in public safety outweighs an individual's right to freely shout ''Fire'' in a crowded theater. The Court has balanced society's interest in national security with a speaker's interest in disclosure of state secrets and has upheld restrictions on such speech.

By this amendment, we are not challenging the first amendment's guarantee of freedom of speech. Anyone in America is guaranteed the right to criticize nearly every aspect of American society and American government. Nothing in this amendment precludes such speech.

Instead, this amendment speaks to the issue of desecrating the symbol of this country. A symbol that is recognizable throughout the world as the symbol of this 224 year old democracy. A democracy that has asked its men and women to fight all over the world to preserve democracy and freedom against tyranny.

When in 1989 the Supreme Court by a 5–4 decision struck down a Texas Flag desecration statute, Justice Stevens dissented and eloquently stated why the Court had reached the wrong conclusion about the First Amendment in this case. Let me quote Justice Stevens:

> The Court is . . . quite wrong in blandly asserting that respondent ''was prosecuted for his expression of dissatisfaction with the policies of this country, expression situated at the core our First Amendment values.'' Respondent was prosecuted because of the method he chose to express his dissatisfaction [burning an American Flag] with those policies. Had he chosen to spray-paint—or perhaps convey with a motion picture projector—his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the Government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset. Though the asset at stake in this case is intangible, given its unique value, the same interest supports a prohibition on the desecration of the American flag.

Would anyone disagree with Justice Stevens' suggestion that the first amendment does not permit an individual to desecrate the Lincoln Memorial by spray painting his political views on the Memorial? Surely that would be a criminal act and no one would suggest that the spray painter's first amendment rights had somehow been invaded.

Yet, I ask the question: What is the difference between barring someone from desecrating the LINCOLN Memorial and barring someone from desecrating the American flag? Why are the marble and mortar of the Memorial more important than the intangible values represented by the American Flag? Does it make a difference that the American taxpayer paid for the construction and upkeep of the Memorial and therefore as public property an act of desecration is actionable?

I do not think that the payment of taxes to construct and maintain the Memorial should make a difference. Are we to compare the payment of taxes to construct a Memorial with the sacrifice of the hundreds of thousands of men and women who fought in wars over two centuries to preserve the democratic ideals embodied in our Constitution? I think not.

As I said earlier, I am not a frequent supporter of amending the Constitution. I would prefer that we adopted a statute to prevent flag desecration. But those who argue for a statute ignore the fact that 11 years ago Congress adopted a statute—the Flag Protection Act—which outlawed desecration of the flag. That Act was adopted in response to the Supreme Court's decision striking down the Texas statute and along with that state law, the state flag protection laws of 47 other states. Unfortunately, one year later, the Supreme Court struck down the Flag Protection Act, again by a 5–4 vote.

So the only realistic way that we can outlaw flag desecration is by adopting a Constitutional Amendment. Let the people of the 50 states decide whether our flag deserves such protection. I urge my colleagues to support S.J Res. 14.

Mr. LIEBERMAN. Mr. President. I rise today to explain my vote on the Flag Amendment. This is one of the most difficult votes I will have to cast during my tenure in the United States Senate. Words cannot fully express the anger I feel towards those who desecrate the American Flag. The Flag is a symbol of what is great about our country. It is the standard we rally around in war and in peace, in mourning and in celebration and, ultimately, in life and in death. It unites us in our past and in our future. When someone desecrates the Flag, they in a sense strike at all of those things.

It is because I find desecrating the Flag to be so abhorrent and despicable an act, that I will, as I have in the past, support using any statutory means possible to prohibit Flag desecration. But after thinking long and hard about this issue, I have decided that I will again vote against this constitutional amendment. Although I recognize that a statute cannot do the whole job, I cannot vote to amend the Constitution's Bill of Rights for the first time ever in a manner that would restrict, rather than expand, individual liberties. In my view, however great a symbol the Flag is, our Constitution and its Bill of Rights are all that and more. More than a symbol of liberty, they are liberty's real guardian and its true protector. They are not only what unites us, but also what keeps our more than 200-year-old experiment in self-government working. They are the best the Founders of this great nation left to us—a lasting testament to the Framers' brilliant insight that for any people to remain truly free and capable of self-government, that there must be some limits to what the State can do to regulate the speech and political behavior of its citizens. The Flag is an important symbol, but the Bill of Rights is what the Flag symbolizes. We must be extremely cautious in altering the freedoms that this great document guarantees, lest we diminish the ideals for which our Flag stands.

My former colleague Senator John Glenn—an individual whose patriotism and love of country none could doubt—expressed this view well when he submitted a statement to the Judiciary Committee last April. He explained:

> The flag is the nation's most powerful and emotional symbol. It is our most sacred symbol. And it is our most revered symbol. But it is a symbol. It symbolizes the freedoms that we have in this country, but it is not the freedoms themselves. That is why this debate is not between those who love the flag on the one hand and those we do not on the other. No matter how often some try to indicate otherwise, everyone on both sides of this debate loves and respects the flag. The question is, how best to honor it and at the same time not take a chance of defiling what it represents.

As General Colin Powell also recently so well put it: ''I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.''

Of course I do not believe that our Constitution or its Bill of Rights must remain forever unaltered. But the importance of the Bill of Rights requires us to establish an exceedingly high threshold for agreeing to any amendment. For me, that threshold lies at the point where an amendment is shown to be necessary to address some extreme threat to the Republic or redress some outrageous wrong. In this case, abhorrent though Flag desecration may be, it simply does not meet that threshold.

I know that this is an issue that many feel passionately about. Many of my constituents have brought their views on this issue to me, and I would like to take just a couple of minutes to address some of the arguments they have made.

I have heard it argued that a vote for this amendment is merely a vote to let the People—through their state legislatures—decide the issue. Those who make this argument point to polls showing that as much as 75 to 80 percent of the American public support

the amendment. It frankly is unclear whether support is all that high. I have seen polls showing that a majority of Americans opposed the amendment when they knew that it would be the first in our nation's history to restrict our First Amendment freedoms of speech and expression. But more importantly, a decision on an issue as important as this one should not be made on the basis of polling. It is precisely because of the caution the Framers meant us to use in amending the Constitution, that they required supermajorities of both Houses of Congress as well as of the State legislatures to give their assent before our nation's foundational document could be altered. The Senate was never meant to serve as a rubber stamp in this process, and so I owe it to the People of Connecticut, who have elected me to use my best judgment, to carefully consider issues before me, and to vote the way I believe to be correct.

Some also have suggested that it is not this Amendment that would be changing the Bill of Rights or the First Amendment—that it was instead the Supreme Court that did that when, in 1989, it overturned 200 years of precedent and found Flag desecration to be protected by the First Amendment. The history of this issue is more complicated than that. Most importantly, it's just not correct to say that the Supreme Court reversed 200 years of precedent. The first state Flag statute apparently was not enacted until the end of the 19th Century, and there was no federal Flag statute until 1968. Moreover, it's not really fair to say that the Supreme Court reversed any of its precedents in 1989, because before the 1989 Texas v. Johnson case, the Supreme Court never addressed this issue head on. In fact, in a number of cases throughout the 20th Century dealing with people who treated the Flag in a manner that offended others, the Supreme Court repeatedly either held the conduct to be protected by the First Amendment or found other reasons to overturn the convictions. For that reason, despite dicta in some of these cases distinguishing them from pure Flag desecration, the dissent in Johnson had to acknowledge that ''Our prior cases dealing with flag desecration statutes have left open the question that the Court resolves today.'' 491 U.S. 397, 432.

I must conclude that, abhorrent and despicable as I find desecrating the Flag to be, I cannot vote to support this amendment. In the end, Flag desecration is hateful and worthy of condemnation, but I just cannot conclude that it threatens the Republic. For that reason, although I stand ready to support any statutory means possible to curtail desecration of the Flag, I just cannot support amending our nation's foundational document to address it.

Mr. CRAIG. Mr. President, I join in this debate with mixed feelings.

On one hand, I am very frustrated we are here yet again, as we have been year after year for so long, trying to secure approval for this very important amendment so that it can be sent to the states for ratification. Time after time, we have come within just a few votes of success. But, for whatever reason, those few votes have eluded us, and we have had to go back to square one and begin the legislative process again.

So I cannot approach this debate without a good measure of frustration.

But on the other hand, the very fact that we are here again debating this measure is reassuring. It is proof positive of the American people's continuing belief in the importance of flag protection.

Imagine that. In spite of all the editorials about the erosion of ideals, in spite of all the speeches, some on this very Senate floor, about the loss of values in America, in spite of the dire predictions about moral decline—in spite of all that, there is a strong and growing grassroots movement demanding protection of our Nation's most important symbol: our flag.

Why would we even hesitate to answer that call?

Millions of our fellow citizens are telling us that the sight or mention of our flag still has the power to awaken the spirit of the American patriot. State legislatures are clamoring for the opportunity to protect the symbol of our national aspirations and values.

To those of my colleagues who are searching for signs of spring in a winter of moral decay, let me say: look no further. Here is the sign. This is the call. Now is the time to take a stand and support this amendment.

I do not minimize the fears of those on the other side of this debate. However, it is worth remembering that the U.S. Supreme Court has not hesitated to draw constitutional lines around the kinds of speech that are protected or not protected by the First Amendment. They have found that in some cases, certain interests may outweigh the citizen's right to free expression. As a result, laws may be enacted to restrict those kinds of speech, such as ''fighting words'' or obscenity.

The Court chose not to exempt the behavior that came under scrutiny in the flag case. Frankly, I think they could have, and should have, reached a different result. But my point is that the Congress need not shrink from applying its own judgment to balancing the interests involved. In my opinion, flag protection serves a number of compelling interests but would not prevent the expression of a single idea or message. I do not think the First Amendment must be or would be compromised by protecting the flag from desecration.

Even so, it is also worth noting that what we do here today is only the first step in a long process. This amendment must be ratified by the states, and only after that will Congress fashion an actual flag protection statute. Even if some of my colleagues are uncertain about how to go about crafting legislation to protect the flag, I hope they will all agree that it is appropriate to pass this resolution and give the American people the opportunity they have demanded to consider this issue in the legislatures and town halls and across the kitchen tables of this great country.

Yesterday morning, I had the honor of addressing our Nation's veterans. As I stood before them, I thought of the long line of patriots throughout our history who have defended our flag—some with the supreme sacrifice. Suddenly, the legal hairsplitting and fearmongering over this issue seemed both trivial and insulting.

Millions of Americans understand, as these veterans do, that the flag is more than a scrap of cloth. It weaves people of diverse cultures together to form our Nation, just as surely as its threads are woven into a pattern that stands for freedom throughout the world. It deserves protection and can be protected without endangering any of the fundamental ideals it symbolizes.

Today, we can send a signal that we understand, that we agree, that we honor the values that the American people have attached to our flag. I hope all our colleagues will join in voting in favor of this resolution and moving the flag protection constitutional amendment to the states for ratification.

Mr. BINGAMAN. Mr. President, I rise to speak briefly on S.J. Res. 14, an amendment to the Constitution of the United States.

As my colleagues know, I will vote against this resolution just as I have voted against previous attempts to pass anti-flag desecration amendments during my tenure in the Senate. However, I take a back seat to no one in my respect for the flag, for what it stands for and, most importantly, for the hundreds of thousands of brave men and women of our armed services who sacrificed so much to defend this Nation, our Constitution, and, yes, or flag. I abhor the desecration of the flag as a form of expressing views about America or a policy of our government. That is why I supported an amendment by Senator MCCONNELL that would prohibit most, if not all, incidents of flag desecration by statutorily banning the desecration of a flag if it is done with the intent to incite or produce imminent violence or breach of the peace, or if the flag belongs to the United States Government or the act occurs on lands reserved for the use of the United States.

In the end, however, it is our Constitution and not the flag which gives us our freedoms. And chief among those freedoms, indeed the fundamental and most important freedom, is the right to speak freely against the government, against a government official or against a government policy. The speech of an individual may be distasteful to the majority, as is the case when someone burns a flag or when the KKK is allowed to march in our cities,

but our Constitution was established to protect the rights of the minority. For when the majority is allowed to rule without a check and balance, tyranny is not far behind.

I don't doubt that the vast majority of Americans oppose, as do I, the desecration of our flag, but we were elected to preserve and protect the Constitution of the United States and I simply do not see how we defend the Constitution by chipping away at its very foundation.

Mr. President, there are many reasons to oppose amending the first amendment for the first time in our Nation's history and for this particular purpose. As several of our colleagues have pointed out, we are not experiencing an epidemic of flag burning in the country. But we likely will, if this amendment passes and Congress goes on to ban acts of desecration.

I also share the concerns raised yesterday by my friend from Vermont, Senator LEAHY, that while the Senate takes 3 or 4 days to debate this amendment, we have not taken the time to address other issues that are extremely important, especially to our Nation's veterans and to our Armed Forces. One example is S. 2003, of which I am a cosponsor and that begins to address the issue of the Federal Government keeping its promises to our veterans in the area of health care. I wish the Senate would take up and pass S. 2003 but we can't seem to find time to do that. Likewise, I recently introduced legislation that would compensate the remaining survivors of the Bataan Death March for the incredible suffering they endured on behalf of their country. I would like to see the Senate take up and pass that legislation but we haven't.

Mr. President, I think our Constitution and Nation are strong enough to handle a few miscreants who want to burn a flag. I think the drafters of the Constitution envisioned that it would survive speech which the majority finds offensive. I believe that a vote against this amendment is a vote for the Constitution and for the most important principle embedded in that document, the right of every American to free speech.

Ms. MIKULSKI. Mr. President. I oppose the burning of our Nation's flag. I oppose it today as I always have. I am deeply concerned about the desecration of the United States flag because of what it says about our culture, our values and our patriotism.

Our flag is the lasting symbol of America. To me, every thread in every American flag represents individuals who have laid down their lives in the name of freedom and democracy.

Yet I cannot support an Amendment to the United States Constitution which would, for the first time in our nation's history, narrow the reach of the First Amendment guarantee of freedom of speech. Instead of expanding the rights of Americans, this Amendment would constrict the freedoms which we fought so hard to win.

Instead, we should enact legislation that accomplishes the same goal—without trampling on our fundamental American rights. I have voted several times for legislation that would have provided protection of the flag through a statute, rather than a Constitutional amendment.

Senator MCCONNELL offered an alternative that sought to create a statutory solution that could have passed the muster of the Supreme Court. The McConnell amendment would have provided for fines or imprisonment for anyone who destroys a flag with the intent to incite violence or breach of peace. This amendment would have protected both our flag and our Constitution. I'm disappointed that it did not pass.

Our flag is a symbol of the principles that have kept our country strong and free. When we think of our flag, we think of everything that is good about this country—patriotism, courage, loyalty, duty and honor. Our responsibility is to live up to these standards—and to foster a new sense of citizenship and a new sense of duty.

We should honor our flag by rekindling these principles—not by amending our Constitution.

The PRESIDING OFFICER (Mr. DEWINE). Who yields time?

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Florida.

Mr. MACK. Mr. President, I intend to speak on another issue. I ask unanimous consent to speak as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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IN SUPPORT OF A PRIVATE RELIEF BILL FOR ELIAN GONZALEZ-BROTONS

Mr. MACK. Mr. President, I come to the floor of the Senate to speak about an incident that occurred just before Thanksgiving Day 1999, when a mother who so loved her son that she tried to bring him to the shores of the United States of America from Cuba. Had she succeeded, she would have joined her family members already in the United States. Instead, she met with tragedy in the Florida straits. The mother died. The five-year-old boy survived. Now, we are being forced to consider young Elian's future.

Today, the freedom sought by a mother for her son is being mocked. Elian Gonzalez finds himself in the middle of a struggle between his Miami family and the Department of Justice, an agency unwilling to consider what is in the best interest of the child, an agency continually impairing a fair presentation of the merits of this case.

I ask my colleagues to open their minds and their hearts and listen to why the current process being used by the DOJ and the INS represents a grave injustice and denies a decision that should be based upon Elian's best interest. Remember when Elian first arrived, the INS stated that the matter was a custody decision for a Florida state family court. Forty-eight hours after Castro threatened the United States, the decision flipped, and continues to bend to Castro's will. Now the administration wants to rush an appeals process to send him back to a country that Human Rights Watch states has ''highly developed machinery of repression.''

In the past week, the Department of Justice has put unrealistic demands on the family of Elian to expedite the appeal of the federal district court decision. The Department of Justice has repeatedly threatened to revoke Elian's parole and remove the child to Cuba if the family fails to agree to their demand that both sides have an appellate brief prepared in one week. These unprecedented tactics short-circuit and dismantle the judicial process in which an appellate is typically allotted a minimum of 30–60 days to prepare a brief. This is plain and simple—Elian's family's civil rights are being denied.

This past Monday, the family under great pressure filed a motion with the Eleventh Circuit to expedite the appeals process, and still, the government's threats have continued. In a letter sent to the family at 10 p.m. on Monday night, the government demanded that the family's attorneys appear for a meeting on Tuesday morning at 9 a.m. with INS officials to discuss the revocation of Elian's parole. The government has continually dictated the terms of all meetings and has bulldozed over the right of Elian and his Miami family.

Today, the Department of Justice has summoned Elian's great-uncle, Lazaro Gonzalez, to a meeting where he is expected by the INS to sign a unilateral demand ''to comply with the instructions of the INS,'' yet the INS has failed to provide the attorneys and the family with what those instructions will be. After all this child has been through, is it too much to ask how the government plans on removing him from the only home he now knows? Should his family agree to having INS agents come to his Miami home and take him? Probably not. But one thing is for sure: they should know the details of what they are agreeing to.

Keep in mind that this same agreement, if signed, destroys any shred of dignity left in our judicial process. It demands that the family's attorneys have a brief prepared to submit to the Supreme Court within 5 days of the appellate court decision, a time line virtually impossible to meet.

In its effort to dictate terms for the family's appeal, the government has betrayed the very integrity for which the Attorney General is charged with defending—equal protection under the law and the right to pursue justice in a free America. In the past week, I've heard justice department officials say they are taking more aggressive action against the family because they want

to prevent them from invoking more ''legal maneuvers.'' These ''legal maneuvers'' happen to be the legal rights of Americans—properly exercised in the middle of an appeals process. These ''legal maneuvers'' are tools in which all Americans are empowered to seek a fair hearing in the United States of America. I find it unconscionable that the justice department would so blatantly express their desire to dictate terms and influence the outcome of this case.

My reason for coming to the floor today is express my sheer frustration and anger in the manner in which the DOJ and the INS has handled this case. The recent acts of these two agencies demonstrate that the administration is no longer interested in resolving this case in a fair, unbiased way. The offer by the Department of Justice is a deeply flawed offer, one that no American would ever accept, one that no person in America should ever have to accept. Elian's mother sacrificed her life for the freedoms of America, freedoms she never had in Cuba, freedoms she never thought our country would deny her son in his moment of need. We should all, despite our views on this issue, be deeply ashamed at any attempt to short circuit justice in order to reach a resolution in the quickest possible way.

In the United States, we stand up to injustice in the world by zealously guarding our laws. We consistently and rightly argue that our strength and power come from our commitment to America's principles: freedom, justice, democracy and the protection of basic human rights. We are a nation founded upon these principles and we remain strong because we defend them. Mr. President, today and throughout the course of Elian's stay in the United States the INS and our Attorney General have not stood up for the one thing they are supposed to defend—justice for all.

Mr. President, I yield the floor.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 5 minutes.

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

The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2311 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Continued

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I will take whatever time may be required and use my leader time.

Mr. President, the debate over the last two days has been deeply moving. When we began this debate, I thought to myself how much I would prefer it if we were talking about veterans' health care, prescription drugs, or raising the minimum wage.

But, I stand corrected. This debate has proved meaningful and proved that our reputation as the deliberative body is earned.

I thank especially the distinguished Senior Senator from Vermont, the Ranking Member of the Judiciary Committee, Senator LEAHY for his fine stewardship of this debate. As always Senator LEAHY has offered much wisdom and demonstrated much skill as he managed this amendment.

This afternoon, as we close this debate I want to draw my colleagues' attention to the statements of Senator ROBERT BYRD and Senator CHUCK ROBB. Both men gave eloquent statements about how they came to their decision to oppose this constitutional amendment. These statements moved me and I dwell on them because they represent my views so well. For neither of these men, was their decision easy. I have come to believe, however, that it is not in easy decisions that you find the measure of a Senator—it is the hard decisions that distinguish the men and women we remember long after they leave this place.

Senator BYRD, in his usual way, reminded us why the Bill of Rights has never been amended in our history. Why? Because it was our founders' design. They set the bar for passage of a constitutional amendment high because they strongly believed that the Constitution should be amended in only the rarest of circumstances. And that has been the case. As Senator BYRD points out, setting aside the amendments involving prohibition, the Constitution has been amended only 15 times in 209 years.

As Senator BYRD noted, ''In the final analysis, it is the Constitution—not the flag—that is the foundation and guarantor of the people's liberties.'' Thus, Senator BYRD conceded that, as much as he loves the flag, and as much as he salutes the patriotism of those who support this measure, he must oppose the amendment. His sentiments reflect so well the struggle I have felt over the years when we have considered this amendment in the past.

I, like other veterans, love the flag that has united us at so many critical times. I cannot understand why anyone would burn the flag simply to call attention to a cause. But as Senator ROBB reminded me—it was to protect the rights of such an unpopular dissenter that I once wore a military uniform. Senator ROBB noted that there will always be another flag to hold high, when one is defiled, but there will be no other Constitution—should we defile it.

Senator ROBB held dying men in his arms in Southeast Asia. He understands the sacrifices men and women will make to save this democracy. This afternoon, as we cast this vote, I am proud to stand with him, to stand with Senator BYRD, to stand with Senators BOB KERREY and JOHN KERRY, and others, to fight here—today—to preserve the principals and ideals these patriots fought for.

As Senator BYRD said today: ''From Tripoli in 1805 to Iwo Jima in 1945 to the moon in 1969, the flag has been raised to commemorate some of America's proudest moments.'' By honoring and preserving the Constitution, we ensure that this symbol—our flag—continues to represent a country devoted to democracy and free speech.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, could I inquire about the time remaining?

The PRESIDING OFFICER. The majority leader has 15 minutes.

Mr. LOTT. Is that the only time left before the vote?

The PRESIDING OFFICER. No. Senator LEAHY has 21 minutes. Senator HATCH has 31 minutes.

Mr. LOTT. Thank you, Mr. President.

Mr. President, I yield to Senator HATCH for a request.

Mr. HATCH. Mr. President, I am prepared to yield the remainder of our time, if the minority will yield the remainder of its time. Senator LOTT will be the last speaker.

Mr. LOTT. Mr. President, I believe it was the plan for the leaders to yield the remainder of time. I believe Senator DASCHLE did that. After all time had been used on both sides, I would be the final speaker, and then we would go to a recorded vote. We indicated we would vote sometime around 4:30.

I ask Senator LEAHY, are we prepared to yield back time on both sides at the conclusion of my remarks?

Mr. LEAHY. Mr. President, it is my understanding that the Senator from Utah was going to yield back his time.

Mr. LOTT. That is correct.

Mr. LEAHY. Has the Democratic leader yielded his time?

Mr. LOTT. He completed his remarks and has yielded the remainder of his time.

Mr. LEAHY. Of course, I understand that in the normal course the distinguished leader would be given the right to make final remarks.

I yield my time.

Mr. LOTT. Thank you very much.

Mr. HATCH. I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

The majority leader is recognized.

Mr. LOTT. Thank you, Mr. President.

Mr. President, I commend those who have been involved in the debate on this very important issue over the past 3 days. It is occasions such as this when I think the Senate quite often rises to the greatest height, but it should, because we are debating very important issues here, symbols of our freedom and our democracy, the Constitution, the flag.

I am pleased we have had this discussion. I think the American people want the Senate to act in this area. Now we are prepared to vote.

I rise in support of Senate Joint Resolution 14, the constitutional amendment to protect the flag of the United

States. What we have before the Senate today is a very simple measure. I have had some discussion with some individuals from outside Washington who asked, how long and how complicated is it? It is not long. It is very simple.

It reads in full:

The Congress shall have power to prohibit the physical desecration of the flag of the United States.

That is the entire amendment.

During most of the history of our Republic, the provision expressed in this amendment would have been noncontroversial. Indeed, prior to the Supreme Court's 5–4 decision in Texas v. Johnson in 1989, 48 States and the Federal Government had laws protecting our most basic national symbol, the flag. The Supreme Court's decision in 1989 reflected a fundamental misunderstanding, a misunderstanding of the law, of our history, and of basic common sense.

Those who oppose this amendment argue that defacing the flag somehow represents speech that must be protected under the first amendment of the Constitution. I think people have a pretty good understanding of what speech is—at least outside of Washington—and what type of activity is protected under our Constitution. I imagine there are some close situations where there is room for disagreement, obviously, but I don't think that is the case here.

We live in a free society where individuals are free to express their views. People can express dissatisfaction with their government, and they do; with the laws, and they do; and even with the flag. They can express those disagreements. While the speech in which some of our fellow citizens choose to engage can at times be repulsive and offensive or even dangerous, we do respect the fundamental right of individuals to express their ideas. No one is suggesting it should be otherwise.

In my opinion, burning the flag is not speech, it is conduct of the most offensive kind. Protecting the right of individuals to destroy property has no relation to the question of whether people are free to speak or to write or to campaign or to petition against the leaders of their government. I strongly reject the notion that those who support this amendment lack concern or respect for our traditions of free speech or for the notion that people should be free to criticize their government. This amendment simply will not hinder those basic freedoms.

Certainly, Senator HATCH, who has led the debate on this side, and many other Senators who will vote for this have great respect for our traditions of free speech and for the Constitution. But they think this is an issue that rises to the level of being considered as an amendment.

This measure does not change the first amendment nor does it alter our historical respect of free speech. It merely restores the original understanding of our Constitution, an understanding that led nearly every State and the Federal Government to maintain for decades laws protecting the flag.

As we consider this amendment, it is essential to remind ourselves that our rights, our constitutional guarantees, do not exist in a vacuum. They exist for a reason—namely, to further our great experiment in self-government and a constitutional republic. They exist to help us thrive as individuals and as a nation.

The American flag is a sacred, basic, fundamental symbol of our Nation's ideals—the symbol of those goals and values for which we have asked our young men and women to fight and die. It is a symbol that causes citizens to rise in pride and to salute. It is a symbol men and women have followed. It is a symbol men have carried into battle. It does represent those basic tenets in which we believe in this country.

Some argue that allowing the desecration of this most vital symbol somehow shows our strength and self-assurance as a nation. I disagree. I think it reflects a perversion of liberty and a misunderstanding of our system of government. Allowing the desecration of our national symbol is not a sign of strength, it is a sign of self-indulgence, as we have in so many areas of our society today, of a nation that does not take seriously the obvious point that our rights coexist with responsibilities and limitations.

The flag is unique. When we went to the Moon, we didn't take some other sign of military might, some billboard, some expression of our great wealth. No, instead we planted the flag, the same flag that was raised over Iwo Jima, the same flag we lower to half mast at times of national tragedy, the same flag we drape over the coffin of our American heroes and our veterans. Surely protecting such a symbol is not only consistent with our deepest traditions but essential to preserve the society that has developed and fostered those traditions.

I sympathize with those who express concern that a constitutional amendment is an extraordinary event and should not be taken lightly. It never is. We have had some tremendous debates over the years on constitutional amendments. Most of them were defeated, but, on occasion, some have passed and they have proven to be good for the advancement of our country.

Had the Supreme Court interpreted the Constitution appropriately, we would not be forced to take this serious and unusual step. However, the Supreme Court's failure to act responsibly on this issue leaves us no other means to protect this symbol for which so many Americans have sacrificed their lives and to which they have pledged their sacred honor.

Some Members of this body claim that these goals can be accomplished through statute. I can say frankly that I wish it would be so but I don't believe it can be so. Make no mistake, the Supreme Court has stated over and over and over again that its interpretation of the first amendment trumps any statute Congress may pass.

If we truly wish to protect the flag—and I know an overwhelming number of Americans do—we have no choice but to vote for a constitutional amendment.

There are those who belittle this amendment and our effort to protect the flag. They claim it is too narrow an issue, too small a problem, and that this is an issue not worthy of Congress' attention. I believe this issue is more important than any appropriation or any new set of regulations for it goes to the heart of who we are as a people and what we are as a nation.

The United States is different from almost every other nation on Earth. Those who come to America don't share the same language, the same religion, the same ethnicity, the same history, or the same geography. Instead of those tangible similarities, Americans are united by intangibles—by our commitment to certain ideals. One of those ideals is the principle of free speech. But another is the devotion to our country and a commitment to work for its success. By asking Americans to respect the flag, we simply ask them to demonstrate that any protest, criticism, or complaint they may have is made with the best interests of the Nation at heart. The measure before the Senate today furthers that basic and essential principle upon which our Nation was founded.

Once again, we are being told that the Senate should reject this, that we know better. Yet look at what has happened. The States have voted overwhelmingly to protect the flag. Forty-eight States had laws protecting it before the Supreme Court decision.

Many State legislatures have called upon the Congress to send this amendment to the States. In fact, I think every State legislature has done that. The House of Representatives has passed a flag amendment by a large, overwhelmingly bipartisan vote. Now it is up to the Senate to do what we should. Are we saying we know better than the American people? That we know better than every State legislature in the Nation? That we know better than the House of Representatives? We know better? Why not allow the people, through their State legislatures, to have the final say? Why not pass this amendment, send it to the people, and let them make the final determination? I think they will make the right decision.

I think we should work together today on both sides of the aisle to pass this amendment and send it to the people.

I yield the floor.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 63, nays 37, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—63

Abraham	Fitzgerald	Mack
Allard	Frist	McCain
Ashcroft	Gorton	Murkowski
Baucus	Graham	Nickles
Bayh	Gramm	Reid
Bond	Grams	Roberts
Breaux	Grassley	Rockefeller
Brownback	Gregg	Roth
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Campbell	Helms	Shelby
Cleland	Hollings	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Johnson	Stevens
Crapo	Kyl	Thomas
DeWine	Landrieu	Thompson
Domenici	Lincoln	Thurmond
Enzi	Lott	Voinovich
Feinstein	Lugar	Warner

NAYS—37

Akaka	Edwards	McConnell
Bennett	Feingold	Mikulski
Biden	Harkin	Moynihan
Bingaman	Inouye	Murray
Boxer	Jeffords	Reed
Bryan	Kennedy	Robb
Byrd	Kerrey	Sarbanes
Chafee, L.	Kerry	Schumer
Conrad	Kohl	Torricelli
Daschle	Lautenberg	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 37.

Two-thirds of the Senators duly chosen and sworn not having voted in the affirmative, the resolution is rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, last fall I became the 21st or 22nd person in the history of this body to cast 10,000 votes. When somebody asked me about those votes, whether they were all important, I said: No, a lot of them were merely procedural votes that we all cast, but some were important. Some of those 10,000 were.

Certainly this vote, whatever number of votes I might be privileged to cast on the floor of the Senate, will go down as one of the most important votes, as it will for all Senators. Whether they voted for or against the amendment, it will be one of the most important votes they will cast in their career.

I take a moment to commend the Senate for its actions this afternoon. It protected the Constitution, the Bill of Rights, in particular our first amendment freedoms. This has been an emotional debate, as one would expect, about a highly charged political issue. I believe the Senate fulfilled its constitutional responsibility to both debate and then vote on this proposed 28th amendment to the Constitution.

I thank Senators on both sides of the aisle, Democrats and Republicans, and on both sides of this issue—those who voted, in my estimation, to protect the Constitution as it presently stands and those who used their constitutional right to vote to amend the Constitution. There were thoughtful and heartfelt statements on both sides.

The distinguished Senator from Wisconsin, Mr. FEINGOLD, who is ranking Democrat on the Constitution subcommittee, spoke eloquently on the floor, as he has in committee. He has been a leader on constitutional issues since he arrived in the Senate. I thank him for all he has done.

We heard from Senator KENNEDY. We heard from Senator MOYNIHAN, one of 11 Senators in this body who fought in World War II. We heard from Senator DODD, Senator DORGAN, Senator CONRAD, Senator DURBIN, Senator WELLSTONE, and so many others. All were thoughtful and constructive contributors to the debate.

In particular, I commend my dear and very special friend, TOM DASCHLE, Democratic leader, for his remarks closing this debate and also for his leadership throughout this debate.

Over the last 24 hours, we heard compelling statements—if I may single out a couple—from Senator BOB KERREY, Senator CHUCK ROBB, and Senator JOHN KERRY. Each of these men was an heroic veteran of the Vietnam war. Each was decorated for his bravery, and one had the highest decoration of this country, the Congressional Medal of Honor. Each of them rose to the defense of our freedoms. We have heeded their counsel. We have heeded their service, as we have our former colleague, Senator John Glenn, another American hero; Gen. Colin Powell, another American hero; our late colleague, Senator JOHN CHAFEE; and the many veterans who testified and contacted us urging that we preserve, protect, and defend the Constitution by not amending the first amendment to the Bill of Rights for the first time in the history of our great Nation.

I recognize the courage shown by the distinguished senior Senator from West Virginia, Mr. BYRD—Senator BYRD gave us a history lesson which will be studied long after all of us are gone—and the distinguished Senator from Nevada, Mr. BRYAN, who, during the course of consideration of this proposal, looked inside themselves, looked to the principles of this country and changed the position they had held before. I commend them for that. I thank them. Their legacy will include their dedication to the Constitution and their vote to uphold, protect, and defend it.

I thank Prof. Gary May, Keith Kruel, James Warner, Rev. Nathan Wilson, Prof. Robert Cole, the American Bar Association, People for the American Way, and the ACLU for their views.

I thank Maj. Gen. Patrick Brady and Lt. Gen. Edward Baca for their testimony opposed to the position I have taken today.

I commend Senate staff on both sides of the aisle, those for the amendment and those opposed. I think in this case I may be allowed to thank Bruce Cohen and Julie Katzman of my staff, who spent far more hours than this Senator had any right to ask them to spend on this in answering every question I ever asked, anticipating those I was not wise enough to ask, and always giving me good counsel. Bob Schiff, Andrea LaRue, Michaela Sims, and Barbara Riehle, they should be proud of their work and of the Senate's action today.

I would also like to thank my friend and Chairman, Orrin HATCH, who has fought so hard for this amendment over the years.

Mr. President, I see other Senators seeking recognition. I will yield the floor in one moment. Again, I thank all Senators on both sides of the issue for their dedication to this issue.

I yield the floor.

Mr. WARNER. Mr. President, we respect the comments of our colleague from Vermont. Recognition should also go to Senator HATCH. I realize Senator LEAHY also was about to speak on behalf of Senator HATCH. I want to recognize his efforts in working with the Senator from Vermont on this issue. The final vote was 63, and that is well beyond 50 percent of the Senate by which most issues are decided.

Mr. President, at this time, I notice the senior Senator from South Carolina on the floor. I ask unanimous consent that I be recognized following his presentation.

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

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MORNING BUSINESS

Mr. THURMOND. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

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THE PLIGHT OF ANDREI BABITSKY

Mr. KENNEDY. Mr. President, I welcome this opportunity to express my concern about Andrei Babitsky, the accomplished Russian journalist who still faces serious charges in Russia after being held captive first by Russian authorities, then by Chechens, and now again by Russian authorities.

Mr. Babitsky has worked for the last 10 years for the U.S. government-funded broadcasting service, Radio Free Europe/Radio Liberty. He is well-known as one of the most courageous reporters who has covered the conflict in Chechnya. The skill and courage he demonstrated in his coverage of the conflict are clearly the major reasons for his continuing plight.

Russian authorities repeatedly expressed displeasure with Mr. Babitsky's reporting of Russian troop casualties and Russian human rights violations against Chechen civilians in the weeks leading up to his arrest. On January 8, his Moscow apartment was ransacked by members of the Federal Security Service, the FSB, which is the successor organization to the KGB. They confiscated film alleged to contain photos of dead Russian soldiers in Chechnya.

On January 16, Mr. Babitsky was seized by Russian police in the Chechen battle zone. After first denying that he was in their custody, Russian authorities claimed that Mr. Babitsky had been assisting the Chechen forces and was to stand trial in Moscow.

On February 3, the Russian government announced that Mr. Babitsky had been handed over to Chechen units in exchange for Russian prisoners, a violation of the Geneva Convention to which Russia is a party. Subsequently, Russian authorities claimed to have no knowledge of Mr. Babitsky's whereabouts. As it turns out, he was taken to a so-called ''filtration camp'' for suspected Chechen collaborators, then held at an undisclosed location by Chechen forces loyal to Moscow.

On February 25, Mr. Babitsky was taken to the Republic of Dagestan and told he was about to be freed. But authorities said he was carrying false identity papers, and they arrested and jailed him. Mr. Babitsky says the papers were forced on him by his captors in Chechnya and used to smuggle him over the border.

Facing international pressure to account for Mr. Babitsky's whereabouts since his disappearance, Russian authorities flew Mr. Babitsky to Moscow and released him on his own recognizance.

The allegations of assisting Chechen forces and carrying forged identity papers still stand against Mr. Babitsky. If convicted, he faces at least two years in prison on the identity papers charges alone. The State Department would like to see this case resolved. Radio Free Europe/Radio Liberty is seeking to have all charges against Mr. Babitsky dropped, and I strongly support this effort.

Article 19 of the Universal Declaration of Human Rights guarantees the right to seek and to impart information through the media, regardless of frontiers. Taking into custody any reporter, and transferring him to the custody of hostile forces, is a serious human rights violation and behavior unbefitting a democracy.

I urge the newly-elected Russian President, Vladimir Putin, to demonstrate his commitment to the principles of democracy and respect for human rights and freedom of the press by seeing to it that the trumped-up charges against Mr. Babitsky are dropped.

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THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, March 28, 2000, the Federal debt stood at $5,733,741,907,422.83 (Five trillion, seven hundred thirty-three billion, seven hundred forty-one million, nine hundred seven thousand, four hundred twenty-two dollars and eighty-three cents).

Five years ago, March 28, 1995, the Federal debt stood at $4,849,996,000,000 (Four trillion, eight hundred forty-nine billion, nine hundred ninety-six million).

Ten years ago, March 28, 1990, the Federal debt stood at $3,051,947,000,000 (Three trillion, fifty-one billion, nine hundred forty-seven million).

Fifteen years ago, March 28, 1985, the Federal debt stood at $1,710,720,000,000 (One trillion, seven hundred ten billion, seven hundred twenty million).

Twenty-five years ago, March 28, 1975, the Federal debt stood at $508,988,000,000 (Five hundred eight billion, nine hundred eighty-eight million) which reflects a debt increase of more than $5 trillion—$5,224,753,907,422.83 (Five trillion, two hundred twenty-four billion, seven hundred fifty-three million, nine hundred seven thousand, four hundred twenty-two dollars and eighty-three cents) during the past 25 years.

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ELECTIONS IN SENEGAL

Mr. FEINGOLD. Mr. President, I rise today to congratulate the people of Senegal on their recent democratic presidential elections. On March 19, the citizens of Senegal selected a new leader, Abdoulaye Wade of the Senegalese Democratic Party, in run-off elections for the presidency. This election was not just for show. The Senegalese people were not simply going through the motions of political participation. Rather this was a remarkable moment in Senegalese and African history. After 40 years of Socialist Party rule, the Senegalese people peacefully and democratically took control of their country's destiny and chose to make a change.

I also want to acknowledge the behavior of incumbent President Abdou Diouf, who has held power for two decades. President Diouf lost the vote, but he won the respect of champions of democracy worldwide when he accepted the choice of the voters and gracefully congratulated Mr. Wade on his victory. The manner in which he leaves office will be one of the richest elements of his legacy.

Mr. President, so often the only news that Americans hear from Africa is news of war and oppression, of flood and famine, of disease and drought. As a member of the Senate Foreign Relations Committee's Subcommittee on Africa, I have often come to this floor to speak about abuses and conflicts in the sub-Saharan region. But I have also spent enough time learning about Africa to know that small victories are won each day—in cities and villages across the continent, individuals, families, and communities are making real progress in their quest for a better future. This month the people of Senegal won a truly great victory, and it is my pleasure to call this Senate's attention to their achievement.

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DEPOSIT INSURANCE FAIRNESS AND ECONOMIC OPPORTUNITY ACT

Mr. SANTORUM. Mr. President, Senator JOHN EDWARDS and I introduced S. 2293, the Deposit Insurance Fairness and Economic Opportunity Act. Also joining in this effort are Senators JESSE HELMS, FRANK MURKOWSKI, and KAY BAILEY HUTCHISON.

This bill is a continuation of an effort begun last year during consideration of S. 900, the now Gramm-Leach-Bliley Act. I offered an amendment on the Senate floor regarding the annual obligation that banks and thrifts pay into their respective deposit insurance funds to retire the debt on bonds issued by the Financing Corporation (FICO) in the late 1980s. This annual assessment for banks and thrifts totals nearly $800 million. This money is used to support the federal deposit insurance system consisting of the Bank Insurance Fund [BIF] and the Savings Association Insurance Fund (SAIF).

By law, banks and thrifts are required to contribute the equivalent of 1.25 percent of their deposits into the insurance funds for it to be considered capitalized. Presently, and for the last several years, these funds have met—and exceeded—that statutory requirement. For example, the SAIF steadily increased from 1.25 percent in 1996 to 1.45 percent in 1999. Similarly, the BIF rose from 1.34 percent in 1996 to 1.37 percent in 1999.

Over time, this situation has evolved where banks and thrifts are required to meet the annual obligation despite an overcapitalization of the insurance funds. In short, this is money that is leaving our communities that could be used for expanded lending in the areas of home buying, small business start-ups, and educational expenses. According to a former Federal Deposit Insurance Corporation [FDIC] Commissioner, every dollar available for capital can yield $10 in additional community lending. Therefore, it is projected that this bill could generate up to $8 billion in new loans each year.

To achieve the goals of requiring the banking community to meet their financial obligation to the funds; maintain the safety and soundness of the deposit insurance funds; and allow needed dollars to remain in our communities,

Senator EDWARDS and I have proposed the following in S. 2293: (1) Raise the designated reserve ratio of the deposit insurance funds from the current 1.25 percent of assets to 1.4 percent of assets. This will provide an enhanced buffer in the deposit insurance funds to ensure their continued safety and soundness; (2) Allow funds in excess of the 1.4 reserve ratio to be used to pay the annual FICO obligation; (3) Allow money to be returned to banks and thrifts on a pro-rata basis when the debt is retired on the FICO bonds in 2017. As mentioned before, the BIF and SAIF are overcapitalized, and continue to grow since the funds are invested in government bonds and generate investment income. The legislation specifies that only when both BIF and SAIF exceed the 1.4 reserve ratio can the excess be used to pay the annual assessment.

I believe the approach set out in S. 2293 is one of common sense. Congress required the two deposit insurance funds to be capitalized at a set level. The mandate was accepted and met by the bank and thrift industries, and growth in the fund has led them to exceed the original requirements. This legislation simply affirms that banks and thrifts must continue to meet their statutorily-required financial obligation, and if the deposit insurance funds are healthy and sound, then such excess dollars can be kept in their communities.

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SUPREME COURT CASE OF DOE VERSUS SANTA FE INDEPENDENT SCHOOL DISTRICT

Mr. THURMOND. Mr. President, among the greatest traditions in my state and in many parts of the country are high school football games on Friday nights. These are very important events each fall in the lives of students and their families in countless communities.

These athletic activities often include a simple, non-denominational prayer to set the tone for the evening, and to promote good sportsmanship and safety for the students. These prayers are beneficial to students and spectators alike. Recently, prayer at high school football games in a Texas public school district was challenged as unconstitutional. The Fifth Circuit Court of Appeals held in a divided opinion that this practice violated the establishment clause of the First Amendment. The case is being considered by the Supreme Court today, and it is my hope that the Court will reverse this misguided decision.

I have long believed that non-denominational prayer should be permitted in public schools. I believe that our society for years has been going too far in trying to create a complete separation between church and state. The fact is that religion has always been a central part in the lives of Americans, and each generation seeks to pass these values on to their children. The courts should recognize the role of religion, and not try to separate it from every aspect of public life. Indeed, the government should encourage the expression of religious beliefs by our young people. We should not require them to check their religion at the door when they enter the school house or any other public building.

When I open the Senate each morning, we have our Chaplain deliver an opening prayer. I think it is vital that we start each day with this prayer. Yet, there is no more public building than the United States Capitol. Our children certainly should not be denied this same benefit at football games.

In the case the Supreme Court is considering, it is entirely clear that the prayer is not controlled or sponsored by the state. The prayer is conducted during an extracurricular activity, not during school hours. Also, the prayer is not led or controlled by teachers or school administrators. Rather, the students choose whether they wish to have prayer at their football game and, if so, which student will lead the prayer. The students make the decisions.

I hope that the Supreme Court will decide that the school's policy of permitting student-led, student-initiated prayer at football games does not violate the establishment clause. Student prayers at these events are a vital part of these traditions, and I sincerely hope the Court will agree.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

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COMMENDING SENATOR THURMOND FOR HIS REMARKS ON SCHOOL PRAYER

Mr. WARNER. Mr. President, I commend our distinguished colleague from South Carolina for his excellent remarks. He speaks from the heart on that subject, as he does on all of his work in the Senate. It is a privilege for me and others to learn from him constantly.

Mr. THURMOND. I thank the Senator.

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ADDITIONAL STATEMENTS

DEDICATION OF WILLIE MAYS PLAZA AT PACIFIC BELL PARK

● Mrs. BOXER. Mr. President, it is a pleasure to alert my colleagues to the March 31 dedication of Willie Mays Plaza at the new Pacific Bell Park in San Francisco. This dedication is the first in a series of events leading to opening day on April 11, when the hometown Giants begin a new era against their old rivals the Los Angeles Dodgers.

The opening of the new park is cause for great excitement among baseball fans in San Francisco, in California and throughout the country. Situated a short distance from downtown and directly on the Bay, Pacific Bell Park is both an architecturally stunning building and a state-of-the-art baseball facility. Notably, it is the first privately financed professional ballpark in the United States in 35 years. And unlike the Giants former home at Candlestick Park, PacBell Park is for baseball only.

Willie Mays Plaza is located at the main entrance to the park at Third and King Streets. In recognition of Willie Mays' number, the official address of the stadium is 24 Willie Mays Plaza. In addition, the plaza features 24 palm trees and a nine-foot bronze sculpture of the hall of famer. This handsome public space is a fitting tribute to a living legend.

It is very appropriate that the Giants have chosen to honor Willie Mays in this way. Arguably the greatest all-around player to ever play the game, if Willie Mays is not synonymous with baseball, he is certainly synonymous with the Giants. He began his career with the team in 1951 and made the move to San Francisco with the club in 1957. All told he played 20 years in a Giants uniform. Over the course of his fabled career, he hit 660 homeruns, had 3,283 hits and 1,903 runs batted in. And if this were not enough, he scored 2,062 runs, stole 338 bases, earned 12 consecutive Gold Gloves and had a career batting average of .302. A true student of the game, it is small wonder that Willie Mays remains a hero to countless fans the world over.

After a brief stint with the New York Mets at the very end of his career, Willie Mays soon returned to the Giants. Since his retirement in 1972, he has never strayed far from the game or the organization. He is currently Special Assistant to Giant's President Peter Magowan. In this capacity, he is an ambassador for the team at all manner of civic and charitable events.

On the field and off it, Willie Mays has always embodied dedication, teamwork and the pursuit of excellence. In naming this prominent part of Pacific Bell Park in his honor, the San Francisco Giants are assuring that the Say Hey Kid's example will grace this city, this team and its loyal fans for many years to come.●

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TRIBUTE TO IOWA STATE UNIVERSITY AND DRAKE UNIVERSITY BASKETBALL TEAMS

● Mr. HARKIN. Mr. President, I wanted to take a moment to express my congratulations to and praise for the outstanding performance of both the men's and women's basketball teams at Iowa State University and the women's basketball team at Drake University this year. Drake concluded its season with a 23–7 record, while winning its fourth Missouri Valley Conference championship in the last six years and another automatic bid to the NCAA Tournament. Carla Bennet was named to the MVC All-Tournament team along with junior guard Kristin Santa. This year was Drake's seventh appearance in the tournament. The Bulldogs have advanced to the tournament four

times in the last six years, with appearances in 1986, 1984, and 1982 as well so they continue a long, proud tradition.

Both Iowa State teams finished as regular season champions of the Big XII conference, then followed up that feat with convincing wins at the conference championship tournament, entitling each team to an automatic bid in the 2000 NCAA basketball tournaments. The men's championship was the university's first since 1945, when the conference was still the Big 6, while it was the first women's conference title since varsity women's basketball started at Iowa State in 1973. So these are great accomplishments.

Their achievements are exemplified by the selections of Marcus Fizer as a first-team All-American from the men's program and Stacy Frese as a second-team All-American from the women's program, but each team is much more than just its stars. Both All-Americans are complemented by strong position players throughout their respective teams, and neither team would have reached this pinnacle without the enthusiastic support of Iowa State's fans. On the weekend of the Big XII championships, held in Kansas City, a substantial portion of the city of Ames migrated south for that event, filling the arenas with loyal wearers of cardinal and gold, the team colors.

As an Iowa State graduate myself, I want to salute their accomplishments, including their fine performances in the NCAA tournaments. Both teams were active in the tournament through last weekend, the men losing in the regional finals and the women in the regional semifinals. We have a long, proud tradition of excellent basketball teams in the state of Iowa at the high school and college level, and Iowa State's 1999–2000 men's and women's basketball teams and the Drake women's team have shown themselves worthy of joining that pantheon. They're both great teams, and they did Iowa proud.●

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CELEBRATING GREEK INDEPENDENCE DAY

● Mr. DURBIN. Mr. President, the annual March 25th celebration of Greek Independence Day commemorates the independence of Greece from 400 years of oppression under the Ottoman Empire. Greeks have made great contributions to the world in literature, philosophy, mathematics and government. The names of Homer, Socrates, Euclid and Alexander echo through the pages of world history. It was the Greek people who started the Olympic Games saying there was more honor in peaceful competition than in wars of conquest. The greatest gift Greek people have given the world, though, is a simple yet powerful idea that was born over 2,000 years ago. It is the idea that a nation's power lies in the hands of its people. The Athenian republic was the world's first democracy, a fact that all free nations must respect.

The bonds that join the United States and Greece are deep and long lasting. Our fore-fathers recognized the spirit and idealism of ancient Greece when drafting our Constitution. Forty-five years after our own revolution for independence, Greece freed itself with its own revolutionary struggle.

In every major international conflict of this century, Greece has been a proud ally of the United States. Honoring this day will pay special tribute to those Greek men and women who gave their lives for the common cause of freedom. Greek-Americans can especially take pride in their ancestors' sacrifice. The many Greek sons and daughters who have come to the United States have worked honorably in all areas of American life, including public service. Greek culture flourishes in American cities, adding to our country's rich diversity.

I hope Greece will resolve its differences with its Turkish neighbors over Cyprus. I hope all people in the region share in America's belief that this can be achieved through diplomacy instead of violence. Let us be mindful of the olive tree and the Olympic flame, the great symbols of Greece, and remember, too, that they are also symbols of peace.●

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THE PEACE CORPS' 40TH ANNIVERSARY

● Mr. KENNEDY. Mr. President, at a recent event at the John F. Kennedy Library in Boston, the Chairman of the Library Foundation, Paul G. Kirk, Jr., and the new Director of the Peace Corps, Mark Schneider, spoke of the importance of the Peace Corps as it launched its year-long, 40th anniversary celebration. Mr. Schneider announced a new initiative to expand the role of Peace Corps volunteers in bringing information technology to the task of reducing poverty in developing countries. He also outlined a plan to expand the Peace Corps' efforts to raise global awareness about HIV, the virus that causes AIDS.

It is fitting that this occasion was held at President Kennedy's library. In March 1961, President Kennedy launched the Peace Corps as a new idea to demonstrate that a new generation of Americans was moving into positions of leadership in the United States, and they intended to serve the cause of peace around the world.

The Peace Corps today continues its vital and thriving mission, with 7,400 volunteers serving in 77 countries, including recent missions in South Africa, Jordan, Mozambique and Bangladesh. In the past four decades, more than 150,000 Americans have served as Peace Corps volunteers in 134 countries, promoting peace, education, economic development and international cooperation.

Mr. President, I commend the significant current role of the Peace Corps in involving U.S. citizens in world affairs, and making the world a better place by their efforts. I ask consent that the addresses by Mark Schneider and Paul Kirk be printed in the RECORD.

The material follows:

REMARKS OF PAUL G. KIRK, JR.

Thank you, Jim. Good evening. I know this is a special occasion for all of you, but I want you to know that it is an equally special evening for those of us associated with the Kennedy Library. Like each of you, I am also a volunteer in an important cause. And in my responsibilities as Chairman of the Board of Directors of the John F. Kennedy Library Foundation, few privileges are as significant as having the honor to welcome home so many Peace Corps Volunteers to the nation's memorial to President Kennedy.

Senator Kennedy and Mark Schneider agreed that this Library, whose mission it is to honor John Kennedy's public life and career and to perpetuate his passion for service, is the most appropriate site at which to begin the celebration of the 40th Anniversary of the Peace Corps. And I congratulate you and I am delighted to welcome you all on behalf of the Kennedy Family, our Board of Directors and our dedicated staff.

Here in New England, as you know, we enjoy many seasons. At this time of year, we look forward to the springtime—a season when nature's energy bursts forth, when promise and hope are renewed—when opportunities seem limitless—and when a spirit of confidence and optimism make all of us, regardless of our age, feel younger than our years.

If it could be said that politics also has seasons, 40 years ago there began a season in our history that proved to be—and remains today—the height of America's political springtime—as the nation, renewed in energy, hope and idealism, responded to the patriotic call to service of the newly elected, youthful 35th President of the United States.

If, as I believe, his 1000 days were ''the height of America's political springtime'', then it must be said that the planting and the subsequent flowering of the Peace Corps epitomizes all that is the very best in the lasting legacy of that season of service.

On March 1, 1961, 6 weeks after his inauguration, upon signing the Executive Order establishing the Peace Corps, President Kennedy said he was convinced that ''We have in this country, an immense reservoir of men and women—anxious to sacrifice their energies and time and toil to the cause of world peace and human progress.''

He acknowledged that ''life in the Peace Corps will not be easy,'' but he also promised it would be ''rich and satisfying.''

''. . . (E)very young American who participates in the Peace Corps—who works in a foreign land''—he said, ''will know that he or she is sharing in the great common task of bringing to man that decent way of life which is the foundation of freedom and a condition of peace.''

40 years later, thanks to your service and what you continue to do, his words have a timeless quality.

Tonight, you begin your 40th Anniversary celebration at a Library and Museum that celebrates scholarship and service in John Kennedy's memory each day it opens its doors. His history and yours are preserved here for scholastic research.

We seek to perpetuate his inspiration and yours by the various activities and programs which take place here: the Profile in Courage Award, the Distinguished Foreign Visitors Programs, the forums and symposia promoting public discourse on the issues of our time, the 1st Pres. Debate of general election

2000 which we will co-host with the University of Massachusetts-Boston, the John F. Kennedy Library Corps a youth based community service and leadership program modeled after the Peace Corps itself.

Your own service in the Peace Corps and your presence here tonight speak the mission of the Kennedy Library. At a time when citizen participation, even voting, in the world's greatest democracy, is embarrassingly low, reminding others of the importance of service is at the core of our message.

No group can take greater pride in having lived President Kennedy's mantra that ''each individual can make a difference, and all of us must try'' than Peace Corps Volunteers. We are honored by your presence, and the country is honored by the difference you have made by your service, and we hope you'll return next year to wind up your anniversary celebration in the tone and spirit and at the place where it begins tonight.

In addition to marking your 40th Anniversary, tonight could also serve as the 30th Reunion of Mark Schneider and myself. As you know, Mark is the second returned Peace Corps Volunteer to head the agency. Upon his return from El Salvador, 30 years ago Mark and I began working together in the Washington office of Senator Ted Kennedy. Mark came to Massachusetts for the Senator's 1970 campaign and tonight could probably tell you as much about the issues and demographics of this state as could the head of our Chamber of Commerce.

From those days to this, Mark has demonstrated the idealism, energy and leadership qualities reflecting the very best in a career of public service. In key posts at the Department of State, Pan American Health Organization, and at USAID, Mark's values, his leadership and commitment made a difference in the lives of hundreds of thousands of families in other lands who will never know his name.

I can tell you that the Peace Corps is in the hands of the best of individuals under the direction and leadership of a man whose name and values I know well and respect greatly. Please join me in a rousing New England Peace Corps welcome for the Peace Corps' able Director, Mark Schneider.

Mark, as a way of sharing and renewing and celebrating all that was begun by President Kennedy 40 years ago, on behalf of all of us here who seek to remind future generations of his inspiration and to perpetuate his challenge for sacrifice and service, I present this bust of John Kennedy to you, as Peace Corps Director, from the Kennedy Library and Foundation.

It is our hope that this bust will be displayed in the Director's Office not only commemorating this occasion and this Anniversary year but also reminding those in years to come that Peace Corps Volunteers will forever remain the best products of ''the height of America's political springtime''.

REMARKS OF MARK L. SCHNEIDER

I would like to begin by saying on behalf of all our Volunteers serving around the world and all of the thousands of returned Volunteers who continue to serve our communities here at home that we are deeply honored to celebrate the third annual Peace Corps Day at the John F. Kennedy Memorial Library. I cannot think of a more appropriate place to celebrate one of President Kennedy's most enduring legacies than this wonderful library .

I would like to express our deep gratitude to Brad Gerratt of the Kennedy Library, and Paul Kirk of the Kennedy Library Foundation, for their generous invitation and cosponsorship of this event. Let me also thank Doane Perry and the Boston Area Returned Peace Corps Volunteers for also cosponsoring the activities planned for Peace Corps Day in Boston today and tomorrow.

I also would like to say a special thanks to Senator Edward Kennedy, who could not join us but sends his best wishes. As some of you may know, I had the honor of working as a member of Senator Kennedy, who could not join us but sends his best wishes. As some of you may know, I had the honor of working as a member of Senator Kennedy's staff some years ago. It is a privilege for me to call him both a friend and a mentor. Our country owes Senator Kennedy an enormous debt of gratitude for his years of distinguished public service, his enduring commitment to working people in our society, and his continuing support for the Peace Corps. The work still goes on. The hope has endured and the dream will never die.

Let me welcome all of the returned Volunteers in the audience and thank you for helping us celebrate Peace Corps Day. When President Kennedy signed the Executive Order establishing the Peace Corps on March 1, 1961, he said, ''. . . we have, in this country, an immense reservoir of [such] men and women—anxious to sacrifice their energies and time and toil to the cause of world peace and human progress.'' And you have proved him right.

Over the years, more than 7,000 thousand Peace Corps Volunteers have been recruited from Massachusetts and its many institutions of higher education. Indeed, just a few weeks ago, we released a list of the top 25 colleges and universities that have produced the most Peace Corps Volunteers currently serving overseas. Massachusetts can take great pride in the fact that Boston University and UMASS/Amherst were among those top 25 schools. Tufts, Williams and Brandies were among the top ten of small colleges and universities. Massachusetts also can take pride that it elected the first former Peace Corps Volunteer to the United States Senate in 1978, the late Sen. Paul Tsongas, who had served in Ethiopia. His daughter, Ashley, is carrying on the Peace Corps tradition, also serving in Africa.

I am delighted to be with you here at the Kennedy Library to give you a brief update on what is happening at the Peace Corps, to talk about Peace Corps, to talk about Peace Corps Day, and to announced a special initiative for the Peace Corps in the 21st century.

In my view, this is an exciting time to be associated with the Peace Corps. Let me tell you just a few of the many reasons why I say this.

Today, there are more than 7,000 Peace Corps Volunteers serving in 77 countries. In the last month, I have had the chance to visit with some Peace Corps Volunteers in Guatemala, Honduras, El Salvador, Guinea, Togo, Ghana and Bulgaria. I am pleased to report that they are doing outstanding development work to improve the lives of people in their communities.

In Guinea, I met with Volunteers who had worked with an NGO and the public health ministry helping to end female genital mutilation, and who convinced an entire area to give up the practice when the women excisers were given an alternative way to earn income. Another Volunteer who had been stung by a bee turned that experience into a women's micro enterprise project that is exporting honey to neighboring countries. I also saw teachers who were helping prepare the next generation of leaders. In Togo, I saw a Peace Corps Volunteer working with a local NGO where skits kept 300 high school students mesmerized as they learned of the killing nature of HIV/AIDS and how to prevent its transmission.

In Ghana, I met Melinda Patterson from Watertown, Connecticut. She is helping her community, Mafia-Dove, build a school. She has also organized a women's water and sanitation committee to introduce clean water and latrines into their community to break the transmission cycle of water-borne diseases that needlessly kill thousands of Ghanaian children under the age of five, each year. I had a special introduction to that community when I was greeted by a celebration there last week. A deputy chief from the EWE tribe formally welcomed me, and as loin-clothed dancers performed, the water-sanitation committee women placed a beaded peace bracelet on my arm and sprinkled it with good luck powder. They understand well the balance between tradition and modern technology and were helpful that the new electric power mainline nearby would reach their community soon.

Across Ghana, Volunteers are working with small businessmen, teaching thousands of high school students and collaborating with their local communities to promote eco-tourism and protect bio-diversity, from protecting the last hippopotamus, to securing national park status for a unique monkey preserve.

My pride in the work of Volunteers was matched by that of the country's leaders. The Ghanaian Vice President—as did almost all leaders I met—recalled the name of a volunteer who had taught him math two decades earlier. He said that Peace Corps Volunteers, then and now, go to the most distant and difficult communities, places where some of his own countrymen will not live. The Volunteers provide an example of service, of sacrifice. He said we all need to learn that you have to ''die a little bit'' to help the country progress.

In Bulgaria, where the historic transition to democracy is barely a decade old and where environmental awareness is just awakening, I met Jeremy West, a forestry volunteer from North Carolina working in the beautiful town of Etropole, nestled against snow-capped mountains. In an open town meeting, the mayor and council approved Jeremy's plans, developed with local teenagers, to turn the former communist party headquarters into an environmental resource center where young people will help spotlight the area's bio-diversity and the threat of pollution.

The Peace Corps is alive and well and keeping faith with its legacy. That is why it remains one of the most effective, best-known and widely accepted international volunteer organizations in the world. Each year, we continue to receive more than 100,000 inquiries from people interested in serving in the Peace Corps. We have strong bipartisan support in Congress, and earlier this year, President Clinton proposed a $30 million increase for our budget.

Those funds are crucial if we are to keep pace with the bi-partisan decision of the Congress, approved last May, to support President Clinton's proposal to restore the Peace Corps to 10,000 Volunteers.

We also are strengthening our ties to Returned Peace Corps Volunteers. After their overseas service, many returned Volunteers continue to serve their own communities through countless volunteer activities. And we thank those of you who help us recruit new Volunteers. Over the next 12 months, we look forward to working with returned Volunteers here in Boston and across the country, as well as with the National Peace Corps Association and other friends of the agency, on plans to celebrate our 40th anniversary in 2001.

Peace Corps Day was started three years ago to shine a spotlight on the agency, the development work of our Volunteers around the world, and the continuing service that returned volunteers across the country bring

to their communities here in the United States. And it's been an extraordinary success.

I am pleased to report that tomorrow, according to our best estimates, nearly 12,000 returned Peace Corps Volunteers and educators will lead classroom presentations to more than 500,000 students in our nation's classrooms on Peace Corps Day. These presentations enable young people to learn about what it is like to live in another country, to learn another language, and adapt to a new culture.

Tomorrow, I will visit Woodrow Wilson Elementary School in Framingham, where State Senator David Magnani and I will talk about our own Peace Corps experiences in Sierra Leone and El Salvador. I also will make a trip to Maria Royston's classroom at the Placentino Elementary School in Holliston. Maria, who is here with us tonight, served as a Peace Corps Volunteer in Cameroon. She, another returned Volunteer, Tasha Ferraro, and I will speak with her students and then make an international telephone call to a Peace Corps Volunteer who is serving as a teacher in the west African nation of Burkina Faso. This Volunteer, Molly Shabica, who hails form Providence, helps bring the world back home throughout the year by participating in the Peace Corps' outstanding program, World Wise Schools, which links more than 7,000 teachers here at home to Peace Corps Volunteers serving overseas.

As returned Volunteers speak about their Peace Corps experience, I think the visits they make to classrooms in their communities tomorrow will promote an even larger purpose for our nation's young people: these returned Peace Corps Volunteers stand as examples of the ideal of service. Over the years, virtually every American who has taken the oath to become a Volunteer, and returned home after two years, transforms that oath into a lifetime pledge of public service. This ideal is at the heart of the Peace Corps, and it is what has motivated more than 150,000 of our citizens to answer President Kennedy's call to serve our country and the world.

So I want to thank every returned Volunteer who is participating in Peace Corps Day here in New England and in cities and towns across our country. They are continuing that legacy.

Since I became Director of the Peace Corps, I have thought a lot about what our Volunteers have accomplished over the last 39 years, and what they are doing today in this new and exciting century. We have established a great legacy and tradition of service. Our Volunteers do much to strengthen the ties of friendship and international understanding between Americans and the people of other countries.

If there has been a change over the past four decades, I believe it may be the following. Today's Peace Corps Volunteers have a unique capacity to produce an even greater development impact than their predecessors. They possess new skills and talents that can help the communities where they serve, bridge the digital divide. Our Volunteers can bring the power of information technology to enable hundreds of thousands of people in developing countries learn more, live healthier lives, and earn more income.

Most of our Volunteers who are serving in the Peace Corps are comparative experts in information technology, and many of them already are pioneering computer access in some of the poorest communities in the world.

For instance, Peace Corps Volunteers are helping to set up a cyber cafe in Senegal and a millennium computer literacy project in Ghana for small businesses, that has won international awards. One innovative education Volunteer in Kenya powered his laptop with abandoned solar panels so he could surf the Net in order to help prepare his lesson plans for his students.

A few weeks ago during my trip to Central America, I met an outstanding senior Volunteer who had spent 40 years as a marketing executive at the Goodyear tire company. He served two years as a business Volunteer in Ukraine. Today, he is in his second tour as a business Volunteer in Guatemala, where he is working with a small company that helps Mayan women's cooperatives expand their markets and improve their products. He taught them how to make a web page that now is advertising their traditional fabrics in the E-commerce marketplace.

In Bulgaria, I met Allison Rainville, Angela Roe, and Heidi Berbee. Allison from North Andover, Massachusetts, is teaching English to students in the town of Bourgas. But she also is working with the Bulgarian Red Cross to provide basic computer training to Red Cross workers. Angela, from Stockbridge, Georgia, is working on community economic development and she is helping her business students link into the Internet for the first time and teaching them how to make their own web page. Heidi, from Minnetonka, Minnesota, is teaching students to use the Internet for research and is giving some of her female students an opportunity to learn about government by e-mailing mayors to ask them about their jobs.

These are just several examples of how Volunteers are using technology to help their communities develop and prosper. But I believe that more can be done. History has taught us that whenever technological advances are made—whether it is electricity, telephones, or modern modes of transportation—the poor tend to benefit last. Globalization is having the same impact. As the developed world moves forward every day with even new advances in technology, the poorest countries and the poorest communities in each country are left farther behind, largely because of lower educational levels. Our Volunteers, with their computer skills and presence in some of the smallest towns can help alter that reality.

That is why I am announcing today a new initiative that will expand the role that our Volunteers play in bringing the power of information technology to the task of poverty reduction. I am asking the Peace Corps' staff at our headquarters and at our overseas posts to place a new and more coordinated focus on technology and develop specific Volunteer projects that will expand the use of information technology, computers, and the Internet in developing countries.

For instance, we will see what more our Volunteers can do to help micro-entrepreneurs explore new markets through technology. Volunteers can work with farmers to use information technology for improving agricultural practices. They can help local health workers use technology to monitor immunization programs for children. Peace Corps Volunteers and teachers can find new ways to bring the Internet into more classrooms. They can work on a wider basis with municipal governments, non-governmental organizations, environmental groups, and youth organizations to bring the power of technology to bear on local problems.

This technology initiative will, in my view, simply give Volunteers the green light to innovate, in bridging the digital divide, while remaining true to the core mission that President Kennedy set out for the Peace Corps—to help the people of the developing world help themselves.

Information technology is not a development panacea to solve the many challenges that confront the world's poorest countries. But it can contribute to new solutions. Nor am I suggesting that the Peace Corps can or should become the financier for computers. That is the task of others.

But the technology skills of Peace Corps Volunteers can, where appropriate, play a significant role in introducing technology to their overseas communities. Our Volunteers can serve as advisers, collaborators, and facilitators for their communities and their counterparts. In that way, the many technology projects that are financed by other organizations can become accessible to students and businesses that are not in the main square of capital cities, but at the end of the road in distant villages.

I also would like to challenge America's information giants to expand their cooperation to respond to computer projects that Volunteers, in collaboration with their students, communities and counterparts, are beginning to develop around the world.

After my trip these last two weeks, I feel even more strongly about two other issues that I also would like to highlight today. Both are global in nature but each impacts with greatest urgency in Africa.

First, I come here with a great sadness, concern and determination to do something more about the horrendous destruction being caused by HIV/AIDS in Africa. The spread of AIDS is inflicting a terrible and devastating toll on millions of innocent people and preventing many countries from consolidating their gains in economic and social development. Last year, ten times as many people died of AIDS in Africa as were killed in all the continent's wars combined. It will soon double child mortality and reduce life expectancy by 20 years.

The magnitude of the HIV/AIDS devastation is hard to comprehend fully. UNAIDS and other international health organizations report that of the 33.4 million cases of HIV/AIDS reported worldwide; 23.5 million of them are in Africa. There are 7.8 million AIDS orphans, and while the average infection rate in sub-Saharan Africa among adults is 8%, it ranges in some countries up to 26%. Africa has 10% of the world's population and 70% of the world's HIV/AIDS. Already, an estimated 13.7 million Africans have lost their lives to AIDS.

There is no greater humanitarian crisis. There is no greater development obstacle. There is no greater political challenge than adopting effective HIV/AIDS prevention and control strategies in Africa.

For that reason, I was pleased that the country directors in Africa all agreed to explore how to incorporate a health education component on HIV/AIDS into every program. Almost all of our programs in health do. Now we must take the next step. We simply have to find additional ways to assist the countries where we serve to do even more in their efforts to reduce the spread of AIDS.

Secondly, three decades ago, Peace Corps Volunteers played an important role in the successful international effort to eradicate smallpox. More recently, they have made significant contributions to the world's efforts to eradicate Guinea worm.

Today, the World Health Organization, UNICEF, and Rotary International are embarked on a major project to eradicate polio by the year 2005. Given that many of our Volunteers serve in remote areas of their countries, Peace Corps will seek to become part of this international effort to eradicate polio. Some of our Volunteers already help organize immunization campaigns in their villages. We will be expanding these immunization efforts in countries where the threat of polio still exists, collaborating with national immunization efforts that are part of the global campaign. The Peace Corps would be making yet another enormous contribution to protecting children from the devastating impact of a preventable disease.

President Kennedy said in his second State of the Union, ''I sometimes think that we are too much impressed by the clamor of daily events. . . . Yet it is the profound tendencies of history and not the passing excitement that will shape our future.'' The Peace Corps has been addressing those profound tendencies of history over the past four decades. With your help, I have no doubt that Volunteers will continue to do so as we enter this 21st century.

So as I said a few moments ago, this is an exciting time to be a part of the Peace Corps. I am thrilled to be its Director and I am delighted that so many of you could be here with us to celebrate Peace Corps Day.

Thank you very much.●

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HOPE NETWORK, S.E. FIFTH ANNIVERSARY CELEBRATION

● Mr. ABRAHAM. Mr. President, I rise today to recognize Hope Network, S.E., an organization which will hold its Fifth Anniversary Celebration on April 9, 2000. Since it opened in 1994, Hope Network, S.E. has provided disabled and disadvantaged individuals of Oakland, Macomb, and Wayne Counties not only with places to live, but, more importantly, with communities to live in.

Hope Network, S.E. is a member organization of the Hope Network, which employs more than 2000 people and operates from more than 130 different locations throughout the state of Michigan. The mission of Hope Network is to enhance the dignity and independence of people who have disabilities and/or are disadvantaged. The foundation of its efforts is the belief that every individual is created in the image of God and therefore has intrinsic worth and dignity.

The primary goal of Hope Network, S.E. is to provide the highest quality of living for people with disabilities. This is done by respecting the dignity and independence of these individuals, by giving them the opportunity to offer input and make decisions about their own personalized plan of service. The success of Hope Network, S.E. lies in this process, for it is a process which encourages disabled individuals to become involved in community and social activities.

Part of the Fifth Anniversary Celebration is an art show and auction. The pieces of art on display were created at The Art Experience, a gallery in Oakland County which offers art therapy for mentally ill individuals. Its biggest client, not surprisingly, is Hope Network, S.E. Employees of Hope Network, S.E. transport individuals, men and women who usually do not like to stray far from their homes, twenty-five miles to The Art Experience. I am told that it is a place where disabilities, though they do not disappear, are briefly forgotten.

Mr. President, I applaud Hope Network, S.E. Executive Director Pat Crandall, and her many employees and volunteers, for five years of successful service to Oakland, Macomb and Wayne Counties. Their dedication and selfless efforts have touched numerous lives and indelibly left their mark on these communities. On behalf of the entire United States Senate, I wish Hope Network, S.E. a happy fifth anniversary. I hope that the coming years are as successful as the first five have been.●

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WAYNE METRO DIVISION OF THE OFFICE OF JUVENILE JUSTICE HONORS MS. DIANE RANSOM-MCGHEE

● Mr. ABRAHAM. Mr. President, I rise today in honor of Ms. Diane Ransom-McGhee, who on March 31, 2000, will be honored by the Wayne Metro Division of the Office of Juvenile Justice for twenty-seven years of service to the families and children of the State of Michigan. Early in her life, Ms. Ransom-McGhee decided that she wished to work in the field of Human Services, and over the past twenty-seven years she has continually demonstrated not only a love for helping people, but also impressive leadership capabilities.

Ms. Ransom-McGhee has worked at a number of organizations in the Detroit metropolitan area: from 1972 to 1979 she worked at the Wayne County Department of Social Services, from 1979 to 1986 she worked as a Child Welfare Specialist at the State of Michigan Children Youth and Services, from 1988 to 1989 she worked as the Director of the Monte Vista Reception Center, from 1989 to 1994 she worked as a Clinical Director in the State of Michigan Burton Youth Reception Center, from 1994 to 1997 she worked as the Administrative Director of Wayne Metro Day Treatment Services for juvenile delinquents, and in 1997 she returned to Burton Youth Reception Center to serve as its Director.

In addition to her work in the Human Services field, Ms. Ransom-McGhee has a number of outside interests. She is a board member of the State of Michigan Judiciary Detention Association; she is a Youth Counselor Consultant of the Girl Scouts of America; she is an Advisor Consultant of the National Association for the Advancement of Colored People Youth Council, she is a sponsor of the N.A.A.C.P. Black College Tour and Mentorship program; and she is a Youth Minister and Sunday School teacher at the New Hope Missionary Baptist Church.

Ms. Ransom-McGhee has received several awards for her dedication to her work and to her community. In 1996, she received the Pastoral Community Service Award. In 1997, she received the Director of the Year Award from the State of Michigan Office of Juvenile Justice. And in 1998, the city of Southfield, Michigan, awarded her with its Community Pride Award.

On April 1, 2000, Ms. Ransom-McGhee will assume new duties as Assistant Division Director at the Wayne County Juvenile Detention Center. Mr. President, I applaud Ms. Ransom-McGhee for her dedication to her job and her tireless work over the past twenty-seven years. She is a role model for us all. On behalf of the entire United States Senate, I wish her the best of luck in her new position.●

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SOUTHEASTERN MICHIGAN CHAPTER OF THE AMERICAN RED CROSS SEVENTH ANNUAL RHAPSODY IN RED MASQUERADE BALL

● Mr. ABRAHAM. Mr. President, on April 1, 2000, the Southeastern Michigan Chapter of the American Red Cross will hold its seventh annual Rhapsody in Red Masquerade Ball, a celebration which allows its patrons to enjoy themselves and to support one of the most noble causes our country has ever known at the same time. I rise today not only to honor this occasion, but also to bestow praise and thanks upon an organization that truly deserves both.

Since 1994, this annual gala has raised over one million dollars for the Southeastern Michigan Chapter. The Rhapsody in Red Masquerade Ball plays a significant role in allowing this chapter to continue its disaster relief efforts in Macomb, Oakland, and Wayne counties. The annual event also provides members of the community with an opportunity to recognize the tireless efforts of the administrative staff and the volunteers of the Southeastern Michigan Chapter, and to appropriately thank them for these efforts.

In 1999 alone, the Southeastern Michigan Chapter provided disaster relief to more than 6,000 individuals. More than 14,000 volunteers offered their time to the chapter, collectively working more than 500,000 hours. I am proud to say that, of the fifty states, Michigan ranks fourth in the nation for exporting volunteers into emergency zones, and the efforts and organization of the Southeastern Michigan Chapter undoubtedly play a role in this success. In addition, through its Blanket Days for the Homeless Campaign, an operation spearheaded by fourteen volunteers, the Southeastern Michigan Chapter collected over 13,000 blankets, which were then distributed to seventy homeless shelters in Wayne, Oakland and Macomb counties. Recently, in response to an increase in residential fires, the Southeastern Michigan Chapter maintained 24-hour Disaster Action Teams, formed from a pool of sixty-four trained volunteers.

Mr. President, as I was preparing this statement I was reminded once again of the essential role the American Red Cross plays in our communities. Born from the mythic efforts of Clara Barton during the Civil War, the organization currently has more than 1.3 million volunteers working underneath its banner, providing disaster relief services for victims of more than 66,000 disasters per year. More importantly, the American Red Cross still holds firm to the principles it was founded upon. Its mission remains to prevent and alleviate human suffering wherever it may

be found. That is why, when things are at their worst, it continues to be the American Red Cross and its volunteers that are there to make them better.

Mr. President, I applaud the administrative staff and volunteers of the Southeastern Michigan Chapter of the American Red Cross for their remarkable efforts. Every day they remind the people of Michigan that the spirit of Clara Barton is alive and well. On behalf of the entire United States Senate, I hope that the Red Rhapsody Masquerade Ball is a success for a seventh time.●

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IN RECOGNITION OF YOUTH CONNECTION, DETROIT, MICHIGAN

● Mr. ABRAHAM. Mr. President, I rise today to recognize Youth Connection, a strategic, non-profit prevention campaign with a ten-year goal of reducing youth violence, substance abuse and early sexual activity in Detroit, Michigan. The organization was founded to provide the youth of metropolitan Detroit with a sense of belonging to the present, and also with a sense of hope and inspiration for the future.

Presently, in coordination with Detroit Public Schools, Mt. Clemens Community Schools and the School District of Pontiac, Youth Connection is promoting an activity called Free 4 the Weekend, which encourages students within these districts to remain drug free during a designated weekend in April.

Mr. President, statistics tell us that eighty-seven percent of high school seniors report using alcohol. In addition, middle and high school students drink nearly thirty-five percent of all wine coolers consumed in the United States. These patterns have devastating consequences. Research shows that most youth misconduct and violence takes place after school between the hours of 3 p.m. and 8 p.m. It is my belief that by supporting and enhancing after school programs, expanding the ''Safe Night'' initiatives in partner communities, and expanding youth leadership programs and activities, we can enhance the quality of life for all metropolitan Detroit youth.

Mr. President, with Alcohol Awareness Month just a few days away, I applaud Youth Connection for encouraging the youth of metropolitan Detroit to remain sober. On behalf of the entire United States Senate, and also the State of Michigan, I would like to thank them for their efforts.●

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MESSAGES FROM THE HOUSE

At 11:41 a.m., a message from the House of Representatives, delivered by Ms. Niland, once of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 910. An act to authorize the Secretary of the Army, acting through the Chief of Engineers and in coordination with other Federal agency heads, to participate in the funding and implementation of a balanced, long-term solution to the problems of groundwater contamination, water supply, and reliability affecting the San Gabriel groundwater basin in California, and for other purposes.

H.R. 1279. An act to designate the Federal building and United States post office located at 236 Sharkey Street in Clarksdale, Mississippi, as the ''Aaron E. Henry Federal Building and United States Post Office.''

H.R. 2412. An act to designate the Federal building and United States courthouse located at 1300 South Harrison Street in Fort Wayne, Indiana, as the ''E. Ross Adair Federal Building and United States Courthouse.''

H.R. 3707. An act to authorize funds for the construction of a facility in Taipei, Taiwan suitable for the mission of the American Institute in Taiwan.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 269. Concurrent resolution commending the Library of Congress and its staff for 200 years of outstanding service to the Congress and the Nation and encouraging the American public to participate in bicentennial activities.

H. Con. Res. 292. Concurrent resolution congratulating the people of Taiwan for the successful conclusion of presidential elections on March 18, 2000, and reaffirming United States policy toward Taiwan and the People's Republic of China.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 5) to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

ENROLLED BILL SIGNED

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5. An act to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

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MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 910. An act to authorize the Secretary of the Army, acting through the Chief of Engineers and in coordination with other Federal agency heads, to participate in the funding and implementation of a balanced, long-term solution to the problems of groundwater contamination, water supply, and reliability affecting the San Gabriel groundwater basin in California, and for other purposes; to the Committee on Environment and Public Works.

H.R. 1279. An act to designate the Federal building and United States post office located at 236 Sharkey Street in Clarksdale, Mississippi, as the ''Aaron E. Henry Federal Building and United States Post Office''; to the Committee on Environment and Public Works.

H.R. 2412. An act to designate the Federal building and United States courthouse located at 1300 South Harrison Street in Fort Wayne, Indiana, as the ''E. Ross Adair Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 3707. An act to authorize funds for the construction of a facility in Taipei, Taiwan suitable for the mission of the American Institute in Taiwan; to the Committee on Foreign Relations.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 269. Concurrent resolution commending the Library of Congress and its staff for 200 years of outstanding service to the Congress and the Nation and encouraging the American public to participate in bicentennial activities; to the Committee on the Judiciary.

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MEASURES PLACED ON THE CALENDAR

The following concurrent resolution was read and placed on the calendar.

H. Con. Res. 292. Concurrent resolution congratulating the people of Taiwan for the successful conclusion of presidential elections on March 18, 2000, and reaffirming United States policy toward Taiwan and the People's Republic of China.

The following joint resolution was read the second time and placed on the calendar:

S.J. Res. 43. Joint resolution expressing the sense of Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru.

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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–8217. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft of proposed legislation relative to the National Park System; to the Committee on Energy and Natural Resources.

EC–8218. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled ''Community Access to Health Care Act of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–8219. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled ''Energy Employee Protection Amendments of 2000''; to the Committee on Health, Education, Labor, and Pensions.

EC–8220. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers'' (Docket No. 94F–0334, received March 27, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8221. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Polymers'' (Docket No. 98F–0567, received

March 27, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8222. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Secondary Direct Food Additives Permitted in Food for Human Consumption'' (Docket No. 99F–5523, received March 27, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8223. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers'' (Docket No. 99F–0298, received March 27, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8224. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers'' (Docket No. 99F–0126, received March 27, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–8225. A communication from the Secretary of Labor, transmitting, pursuant to law, the 1998 annual report of the Employee Retirement Income Security Act; to the Committee on Health, Education, Labor, and Pensions.

EC–8226. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report of Pay-As-You-Go Calculations; to the Committee on the Budget.

EC–8227. A communication from the Deputy Executive Secretary, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Refugee Resettlement Program: Requirements for Refugee Cash Assistance, and Refugee Medical Assistance'' (RIN0970–AB83), received March 27, 2000; to the Committee on the Judiciary.

EC–8228. A communication from the Assistant Secretary of Defense, Force Management Policy, transmitting, pursuant to law, a report relative to waivers granted to aviators who fail to meet the operational flying duty requirements; to the Committee on Armed Services.

EC–8229. A communication from the Assistant Secretary of Defense, Command, Control, Communications, and Intelligence, transmitting, pursuant to law, a report relative to software development; to the Committee on Armed Services.

EC–8230. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Veterinary Services User Fees; Export Certificate Endorsements'' (Docket #98–003–2), received March 27, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8231. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Poultry Meat and Other Poultry Products from Sinaloa and Sonora, Mexico'' (Docket #98–034–2), received March 27, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8232. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled ''Increase in Fees for the Federal Seed Testing and Certification Services'' (LS–99–06), received March 27, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8233. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1999–2000 Marketing Year'' (FV00–985–3 IFR–A), received March 27, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8234. A communication from the Regulatory Liaison, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled ''Fees for Official Inspection and Weighing Services'' (RIN0580–AA69), received March 27, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8235. A communication from the Regulatory Liaison, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled ''Fees for Rice Inspection'' (RIN0580–AA70), received March 27, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8236. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL #6568–8), received March 27, 2000; to the Committee on Environment and Public Works.

EC–8237. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Alabama'' (FRL #6568–6), received March 27, 2000 ; to the Committee on Environment and Public Works.

EC–8238. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Phase 2 Emission Standards for New Nonroad Spark-Ignition Handheld Engines At or Below 19 Kilowatts and Minor Amendments to Emission Requirements Applicable to Small Spark-Engines and Marine Spark-Engines'' (FRL #6548–2), received March 27, 2000; to the Committee on Environment and Public Works.

EC–8239. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's annual report for fiscal year 1999; to the Committee on Environment and Public Works.

EC–8240. A communication from the General Counsel, National Credit Union Administration transmitting, pursuant to law, the report of a rule entitled ''12 CFR Parts 701.21(c)(3); Organization and Operations of Federal Credit Unions'', received March 27, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8241. A communication from the General Counsel, National Credit Union Administration transmitting, pursuant to law, the report of a rule entitled ''12 CFR Parts 790; Description of NCUA; Requests for Agency Action'', received March 27, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8242. A communication from the General Counsel, National Credit Union Administration transmitting, pursuant to law, the report of a rule entitled ''12 CFR Parts 741.4; Insurance Premium and One Percent Deposit'', received March 27, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8243. A communication from the General Counsel, National Credit Union Administration transmitting, pursuant to law, the report of a rule entitled ''12 CFR Parts 701.34; Organization and Operations of Federal Credit Unions; Secondary Capital'', received March 27, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8244. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 2000–18), received March 27, 2000; to the Committee on Finance.

EC–8245. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transfer of Qualified Replacement Property to a Partnership'' (Rev. Rul. 2000–18), received March 27, 2000; to the Committee on Finance.

EC–8246. A communication from the Regulations Officer, Social Security Administration transmitting, pursuant to law, the report of a rule entitled ''CFR Corrections'' (RIN0960–AF04), received March 27, 2000; to the Committee on Finance.

EC–8247. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 1999; to the Committee on Governmental Affairs.

EC–8248. A communication from the Chief Counsel, Foreign Claims Settlement Commission, Department of Justice, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 1999; to the Committee on Governmental Affairs.

EC–8249. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation relative to the Highway Trust Fund; to the Committee on Commerce, Science, and Transportation.

EC–8250. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation relative to motor vehicle safety standards; to the Committee on Commerce, Science, and Transportation.

EC–8251. A communication from the Assistant Secretary, Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Export Administration Regulations Entity List: Removal of Entities'' (RIN0694–AB73), received March 27, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–8252. A communication from the Chief, Endangered Species Division, Office of Protected Resources, National Oceanic and Atmospheric Administration, Department of Commerce transmitting, pursuant to law, the report of a rule entitled ''Sea Turtle Conservation; Restrictions to Fishing Activities'' (RIN0648–AN45; Docket No. 991207322–9328–02), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8253. A communication from the Chief, Endangered Species Division, Office of Protected Resources, National Oceanic and Atmospheric Administration, Department of

Commerce transmitting, pursuant to law, the report of a rule entitled ''Sea Turtle Conservation; Shrimp Trawling Requirements'' (RIN0648–AN30; Docket No. 991207322–9322–01), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8254. A communication from the Chief, Endangered Species Division, Office of Protected Resources, National Oceanic and Atmospheric Administration, Department of Commerce transmitting, pursuant to law, the report of a rule entitled ''Sea Turtle Conservation; Shrimp Trawling Requirements'' (RIN0648–AN30; Docket No. 950427117–9378–11), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8255. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Inshore Fee System for Repayment of the Loan to Harvesters of Pollock from the Directed Fishing Allowance Allocated to the Inshore Component under Section 206(b)(1) of the American Fisheries Act'' (RIN0648–AN34), received March 21, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8256. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock Closure in Statistical Area 630 Outside the Shelikof Strait Conservation Area in the Gulf of Alaska'', received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8257. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Trawling in Stellar Sea Lion Critical Habitat in the Western Aleutian District of the Bering Sea and Aleutian Islands'', received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8258. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Closes B Season Pollock Directed Fishing in Statistical Area 610 of the Gulf of Alaska'', received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8259. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Extension of Effective Date of Red Snapper Bag Limit Reduction'' (RIN0648–AM73), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8260. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Emergency Interim Rule to Increase the Minimum Size Limit for Red Snapper in the Exclusive Economic Zone (EEZ)of the Gulf of Mexico from 15 inches (38.1 cm) to 18 inches (45.7 cm) for Persons Subject to the Bag Limit'' (RIN0648–AM71), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8261. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Pass Manchac, LA (CGD08–00–003)'' (RIN2115–AE47) (2000–0016), received March 23, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8262. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Pine River (Charlevoix, MI) (CGD09–00–001)'' (RIN2115–AE47) (2000–0014), received March 23, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8263. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Saint Pete Beach, FL (COTP Tampa 00–016)'' (RIN2115–AA97) (2000–0005), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8264. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (74); Amdt. No. 1982 {3–23/3–27}'' (RIN2120–AA65) (2000–0018), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8265. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (6); Amdt. No. 1983 {3–23/3–27}'' (RIN2120–AA65) (2000–0019), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8266. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (78); Amdt. No. 1981 {3–23/3–27}'' (RIN2120–AA65) (2000–0017), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8267. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Removal of the Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro; Removal {3–24/3–23}'' (RIN2120–ZZ24), received March 23, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8268. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Visual Flight Rules, Direct Final Rule; Request for Comments; FAA Docket No. 2000–7110 {3–24/3–23}'' (RIN2120–AG94), received March 23, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8269. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Terrain Awareness and Warning System; Docket No. 29312 {3–29/3–27}'' (RIN2120–AG46), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8270. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class D Airspace; Hobbs, NM; Direct Final Rule; Confirmation of Effective Date; Docket No. 99–ASW–32 {3–24/3–27}'' (RIN2120–AA66) (2000–0079), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8271. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Corsicana, TX; Direct Final Rule; Confirmation of Effective Date; Docket No. 2000–ASW–01 {3–24/3–27}'' (RIN2120–AA66) (2000–0078), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8272. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class D Airspace; Hobbs, NM; Direct Final Rule; Confirmation of Effective Date; Docket No. 99–ASW–32 {3–24/3–27}'' (RIN2120–AA66) (2000–0079), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

EC–8273. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class D Airspace; Alexandria England AFB, LA; Revocation of Class D Airspace, Alexandria Esler Regional Airport, LA; and Revocation of Class E Airspace Alexandria, LA; Direct Final Rule; Request for Comments; Docket No. 2000–ASW–10 {3–24/3–27}'' (RIN2120–AA66) (2000–0076), received March 27, 2000; to the Committee on Commerce, Science, and Transportation.

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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 Mrs. FEINSTEIN:

S. 2310. A bill to amend chapter 44 of title 18, United States Code, with respect to penalties for licensed firearms dealers; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. FRIST, Mr. HATCH, Mr. DODD, Mr. ENZI, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. REED, Mr. BIDEN, and Mr. DURBIN):

S. 2311. A bill to revise and extend the Ryan White CARE Act programs under title XXVI of the Public Health Service Act, to improve access to health care and the quality of health care under such programs, and to provide for the development of increased capacity to provide health care and related support services to individuals and families with HIV disease, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR:

S. 2312. A bill to amend title XVIII of the Social Security Act to provide for a moratorium on the mandatory delay of payment of claims submitted under part B of the medicare program and to establish an advanced informational infrastructure for the administration of Federal health benefits programs; to the Committee on Finance.

By Mr. SPECTER:

S. 2313. A bill to provide each Member of the Senate with an additional mail allowance sufficient to permit at least 1 mailing per fiscal year to each postal address in each county in the State of that Member where the Member holds and personally attends a

town meeting; to the Committee on Rules and Administration.

By Mr. SMITH of New Hampshire (for himself, Mr. MACK, Mr. GRAHAM, and Mr. MCCAIN):

S. 2314. A bill for the relief of Elian Gonzalez and other family members; read the first time.

By Mr. MOYNIHAN (for himself, Mr. REID, and Mr. BAUCUS):

S. 2315. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM:

S. 2316. A bill to authorize the lease of real and personal property under the jurisdiction of the National Aeronautics and Space Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN (for himself and Mr. CRAIG):

S. 2317. A bill to provide incentives to encourage stronger truth in sentencing of violent offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. CRAIG, and Mr. ROBB):

S. 2318. A bill to amend title 18, United States Code, to eliminate good time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire (for himself and Mr. ALLARD):

S. 2319. A bill to amend title XVIII of the Social Security Act to establish a voluntary Medicare Prescription Drug Plan under which eligible medicare beneficiaries may elect to receive coverage under the Rx Option for outpatient prescription drugs and a combined deductible; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. BREAUX, Mr. FRIST, Mrs. LINCOLN, and Ms. SNOWE):

S. 2320. A bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 2321. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for development costs of telecommunications facilities in rural areas; to the Committee on Finance.

By Mr. MCCAIN:

S. 2322. A bill to amend title 37, United States Code, to establish a special subsistence allowance for certain members of the uniformed services who are eligible to receive food stamp assistance, and for other purposes; to the Committee on Armed Services.

By Mr. MCCONNELL (for himself, Mr. DODD, Mr. JEFFORDS, Mr. ENZI, Mr. ABRAHAM, Mr. BENNETT, Mr. ROBB, Mr. WARNER, Mrs. MURRAY, Mr. GORTON, Mr. HUTCHINSON, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. REED, Mr. KERRY, and Mr. LUGAR):

S. 2323. A bill to amend the Fair Labor Standards Act of 1938 to clarify the treatment of stock options under the Act; read the first time.

By Mr. KOHL (for himself and Mrs. FEINSTEIN):

S. 2324. A bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies, and to add ballistics testing to existing firearms enforcement strategies; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 2325. A bill to amend title 49, United States Code, to ensure equity in the provision of transportation by limousine services; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 2326. A bill to amend the Communications Act of 1934 to strengthen and clarify prohibitions on electronic eavesdropping, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. STEVENS, Ms. SNOWE, Mr. KERRY, Mr. BREAUX, Mr. INOUYE, Mr. CLELAND, Mr. WYDEN, Mr. AKAKA, Mrs. BOXER, Mrs. MURRAY, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. REED, Mr. SARBANES, and Mr. SCHUMER):

S. 2327. A bill to establish a Commission on Ocean Policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HAGEL (for himself and Mr. KERREY):

S. Con. Res. 100. A concurrent resolution expressing support of Congress for a National Moment of Remembrance to be observed at 3:00 p.m. eastern standard time on each Memorial Day; to the Committee on the Judiciary.

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STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 2310. A bill to amend chapter 44 of title 18, United States Code, with respect to penalties for licensed firearms dealers; to the Committee on the Judiciary.

FIREARMS DEALER PENALTY FLEXIBILITY ACT OF 2000

● Mrs. FEINSTEIN. Mr. President, today I rise to introduce the first in a series of several bills I will be proposing to provide law enforcement with the tools they need to enforce our current gun laws.

Let me be clear—I do believe that our current laws need to be enhanced. Too many loopholes allow too many criminals to circumvent the laws already in place. To that end, I will continue to work on legislation to further restrict criminals' access to deadly firearms.

But it is also clear that we can do better in enforcing the laws already on the books. As a result, today I am proposing legislation that will tighten up the enforcement of our current laws. The legislation I have sent to the desk, the Firearms Dealer Penalty Flexibility Act of 2000, will provide the Treasury Department, and the Bureau of Alcohol, Tobacco and Firearms, the ability to punish dealers according to the severity of their crimes.

I urge my colleagues to join me in this effort, and I hope the National Rifle Association is listening, too. It is time for that organization to stop just talking about enforcing our current gun laws, and to start supporting legislation to help in that process. So today I challenge the NRA to support this bill and others like it. For too long, opponents of gun control have talked about enforcement, while at the same time working to tie the hands of those that enforce the laws. It is time to move forward.

Now let me describe just what this legislation would accomplish.

Mr. President, under current law there exists only one penalty for firearms dealers who violate the law—revocation of their license. If a dealer violates the law, the ATF is left with only two options—permanently revoke the dealer's license, or do nothing.

The problem, of course, is that not every violation merits the permanent revocation of a dealer's license. The current law is like having the death penalty for every crime—from jaywalking to murder. We have graduated sanctions in the criminal law because different crimes merit different punishment.

In most instances, the ATF is understandably reluctant to destroy a dealer's livelihood—and the dealers know this. As a result, thousands of violations every year go unpunished.

Last year, ATF conducted 11,234 examinations, and reported 3,863 violations.

Yet only 20 licenses were actually revoked.

Almost 4,000 violations, just 20 revocations.

And this may have actually been the appropriate response. Again, not every violation is deserving of revocation. Many of these dealers are simply businessmen, who may have made one or two simple mistakes. Taking away their livelihood would be inappropriately harsh.

But at the same time, ATF has informed me that there are other dealers out there who are taking advantage of the current system. These dealers know that if they commit a violation, they probably won't even get caught—after all, with more than 100,000 dealers and only a few hundred inspectors, the odds of catching a dealer in the act are slim. And even worse than that, these dealers know that even if they are caught, and even if ATF does discover a violation or even a pattern of violations, it is very unlikely that anything will be done.

According to ATF, only the most egregious or repeat offenders are punished.

Mr. President, it was clearly not the intent of Congress when passing laws to regulate firearms dealers in this country that dealers would be effectively immune from those laws.

The current situation leaves law enforcement with little choice—if ATF revokes the license of every dealer that commits a minor violation, the NRA would be up in arms. But if they do the right thing under current law and allow dealers to stay in business, they are criticized for failing to enforce the current law.

Well the bill I propose today would put an end to this quandary, and allow

the Treasury Department to impose the proper, proportionate penalties for the variety of violations currently on the books.

Specifically, this legislation, supported by the Administration, would do the following:

For willful violations of the law, this legislation would allow the Treasury Department to suspend or revoke a dealer's license, or to assess a fine of up to $10,000 per violation;

Those same penalties would be available for any dealer who willfully transfers armor piercing ammunition;

The legislation allows the Treasury Department to negotiate a compromise with a dealer at any time;

And the legislation outlines some clear, procedural protections for dealers—

A right to notice and opportunity for a hearing before any action is taken, so that the dealer may be made aware of the charges and seek to avert the action;

A right to written notice of any action taken, including the grounds upon which the action was based;

A right to a prompt hearing after a penalty is assessed, during which time the dealer can contest the outcome. This hearing must even be held at a location convenient to the dealer;

If the second hearing is not fruitful, the dealer has an additional right to appeal the decision of the Department to federal court, during which time any action is stayed.

Mr. President, these procedural safeguards prevent an aggressive agent from pursuing unfair penalties. There are at least three clear opportunities for an aggrieved dealer to make his or her case, including the right to appeal any decision to federal court.

As a result, I believe that this bill gives law abiding firearms dealers every opportunity necessary to protect themselves against unwarranted claims.

At the same time, this bill provides law enforcement with the variety of sanctions necessary to force true compliance with the laws already on the books. No more will rogue dealers flout the law knowing that no viable recourse is available to law enforcement.

Once this legislation passes, the punishment will finally fit the crime.

Mr. President, again I challenge the NRA and my colleagues to join me in moving this bill forward. We cannot continue to allow miscreant gun dealers to ignore the laws passed by this Congress.●

By Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. FRIST, Mr. HATCH, Mr. DODD, Mr. ENZI, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. REED and Mr. BIDEN):

S. 2311. A bill to revise and extend the Ryan White CARE Act programs under title XXVI of the Public Health Service Act, to improve access to health care and the quality of health care under such programs, and to provide for the development of increased capacity to provide health care and related support services to individuals and families with HIV disease, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

RYAN WHITE CARE ACT AMENDMENTS OF 2000

Mr. JEFFORDS. Mr. President, it gives me great pleasure to join my colleagues today in introducing the Ryan White Comprehensive AIDS Resources and Emergency Act Amendments of 2000; a measure that will reauthorize a national program of providing primary health care services for people living with HIV and AIDS. I especially want to commend Senators HATCH and KENNEDY for the leadership they have provided since the inauguration of the legislation establishing the Ryan White programs over a decade ago. I also want to commend Senator FRIST whose medical expertise played a critical role in key provisions of the bill and continues to be an invaluable resource to our efforts on the range of health issues that come before the Senate. Finally, I want to acknowledge Senator ENZI's recognition of the growing burden that AIDS and HIV is having on rural communities throughout the country and the need to address those gaps in services.

Since its inception in 1990, the Ryan White program has enjoyed broad bipartisan support. When I looked back to the last time the Ryan White CARE Act was reauthorized in 1996, I was heartened to see that the measure had garnered a vote of 97 to 3 on its final passage. I urge my colleagues to examine this bill we are introducing today and to join me in working toward its passage.

With this reauthorization, we mark the ten years through which the Ryan White CARE Act has provided needed health care and support services to HIV positive people around the country. Titles I and II have provided much needed relief to cities and states hardest hit by this disease, while Titles III and IV have had a direct role in providing healthcare services to underserved communities. Ryan White program dollars provide the foundation of care so necessary in fighting this epidemic.

Fortunately, we have experienced significant success over the last decade, and especially over the last five years. The General Accounting Office recently released a report that found that CARE Act funds are reaching the infected groups that have generally been found to be underserved, including the poor, the uninsured, women, and ethnic minorities. In fact, these groups form a majority of CARE Act clients and are being served by the CARE Act in higher proportions than their representation in the AIDS population. The GAO also found that CARE Act funds support a wide array of primary care and support services, including the provision of powerful therapeutic regimens for people with HIV/AIDS that have dramatically reduced AIDS diagnoses and deaths.

Mr. President, there have also been successes in the reduction of HIV/AIDS among women, infants and children. During the last reauthorization, Congressman COBURN and our colleague, Senator FRIST, focused our attention on the needs of women living with HIV/AIDS and the problems associated with perinatal transmission of HIV. Since then, the CARE Act has helped to dramatically reduce mother-to-child transmission through more effective outreach, counseling, and voluntary testing of mothers at risk for HIV infection. Between 1993 and 1998, perinatal-acquired AIDS cases declined 74% in the U.S. In this bill, I have continued to support efforts to reach women in need of care for their HIV disease and have included provisions to ensure that women, infants and children receive resources in accordance with the prevalence of the infection among them.

Another key success has been the AIDS Drug Assistance Program. New therapies and improved systems of care have led to impressive reductions in the AIDS death rate and the number of new AIDS cases. From 1996 to 1998, deaths from AIDS dropped 54% while new AIDS cases have been reduced by 27%. However, these treatments are very expensive, do not provide a cure, and do not work for everyone.

Much has occurred to change the course of the AIDS epidemic since the last reauthorization. A whole new class of therapeutic drugs called antiretrovirals have been developed and people are living longer and the rate of increase of the number of new AIDS cases has begun to level off. AIDS, HIV, the people it infects and families that it has affected are not in the news today as often as they have been in the past. But for too many of us, this lack of bad news has created a false sense of complacency. The epidemic of HIV continues to grow, to infect whole new groups of people, and to expand both within our urban areas and beyond to our rural communities.

While the rate of decline in new AIDS cases and AIDS deaths is leveling off, HIV infection rates continue to rise in many areas; becoming increasingly prevalent in rural and underserved urban areas; and also among women, youth, and minority communities. Local and state healthcare systems face an increasing burden of disease, despite our success in treating and caring for people living with HIV and AIDS. Unfortunately, rural and underserved urban areas are often unable to address the complex medical and support services needs of people with HIV infection.

The bill being introduced today was developed on a bipartisan basis, working with other Committee Members, community stakeholders and elected officials at the state and local levels from whom we sought input to ensure that we addressed the most important

problems facing communities of people with HIV infection. Earlier this month, I held a hearing before the Committee on Health, Education, Labor, and Pensions to learn whether the program has been successful and whether it needed to be changed. We received testimony from Ryan White's mother, Jeanne White, from Surgeon General David Satcher, from a person living with AIDS, as well as state and local officials familiar with the importance of this program. I especially want to commend Dr. Chris Grace of Vermont who testified as to the particular challenges of providing care to people living with HIV/AIDS in rural, and sometimes remote, parts of the country. It was clear from our witnesses' statements that, despite the successes, challenges remain.

To address these challenges, we have developed a bill that will improve access to care in underserved urban and rural areas. My bill will double the minimum base funding available to states through the CARE Act to assist them in developing systems of care for people struggling with HIV and AIDS. The bill also includes a new supplemental state grant that will target assistance to rural and underserved areas to help them address the increasing number of people with HIV/AIDS living outside of urban areas that receive assistance under Title I of the Act. Furthermore, these areas will be given preference for direct care grants and we have strengthened the AIDS Drug Assistance Program to supplement those states struggling to provide lifesaving drugs to their HIV/AIDS patients.

We have not changed the unique flexibility of CARE Act programs; it remains primarily a system of grants to State and local jurisdictions. States and EMAs will still decide how to best prioritize and address the healthcare needs of their HIV-positive citizens.

Today, there are few people who can say they have not been touched by this epidemic. Recently, I had the opportunity to visit with Jeanne White. We talked about the impact of this disease; about the loved ones it has taken, and the damage to the lives of those it has left behind—about the infected, and about the affected. We talked about her son Ryan, and about my good friend David Curtis of Burlington, Vermont, who testified before my committee in 1995, but who passed away just last year. As an advocate of the program and as a person living with AIDS, David helped me to understand the terrible impact of this disease. Ryan White and David and countless others, worked long and hard to ensure that all people affected by AIDS could receive both the care and compassion they deserve.

The AIDS epidemic, despite our success in developing treatments and providing systems of care, is still ravaging communities in this country. This program remains as vital to the public health of this nation as it was in 1990 and in 1996. As the AIDS epidemic reaches into rural areas and into underserved urban communities across the country, this legislation being introduced today will allow us to adapt our care systems to meet the most urgent needs in the communities hardest hit by the epidemic.

I intend to see this bill become law this year so that the people struggling to overcome the challenges of HIV and AIDS continue to benefit from high quality medical care and access to lifesaving drugs. We have made incredible progress in the fight against HIV/AIDS and I want to be sure that every person in America that needs our assistance, benefits from our tremendous advances.

Mr. President I ask unanimous consent that the text of this measure be printed in the RECORD.

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

S. 2311

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 ''Ryan White CARE Act Amendments of 2000''.

SEC. 2. REFERENCES; TABLE OF CONTENTS.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

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

TITLE I—AMENDMENTS TO HIV HEALTH CARE PROGRAM

Subtitle A—Purpose; Amendments to Part A (Emergency Relief Grants)

SEC. 101. DUTIES OF PLANNING COUNCIL, FUNDING PRIORITIES, QUALITY ASSESSMENT.

Section 2602 (42 U.S.C. 300ff–12) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C), by inserting before the semicolon the following: '', including providers of housing and homeless services''; and

(B) in paragraph (4), by striking ''shall—'' and all that follows and inserting ''shall have the responsibilities specified in subsection (d).''; and

(2) by adding at the end the following:

''(d) DUTIES OF PLANNING COUNCIL.—The planning council established under subsection (b) shall have the following duties:

''(1) PRIORITIES FOR ALLOCATION OF FUNDS.—The council shall establish priorities for the allocation of funds within the eligible area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant, based on the following factors:

''(A) The size and demographic characteristics of the population with HIV disease to be served, including, subject to subsection (e), the needs of individuals living with HIV infection who are not receiving HIV-related health services.

''(B) The documented needs of the population with HIV disease with particular attention being given to disparities in health services among affected subgroups within the eligible area.

''(C) The demonstrated or probable cost and outcome effectiveness of proposed strategies and interventions, to the extent that data are reasonably available.

''(D) Priorities of the communities with HIV disease for whom the services are intended.

''(E) The availability of other governmental and non-governmental resources, including the State medicaid plan under title XIX of the Social Security Act and the State Children's Health Insurance Program under title XXI of such Act to cover health care costs of eligible individuals and families with HIV disease.

''(F) Capacity development needs resulting from gaps in the availability of HIV services in historically underserved low-income communities.

''(2) COMPREHENSIVE SERVICE DELIVERY PLAN.—The council shall develop a comprehensive plan for the organization and delivery of health and support services described in section 2604. Such plan shall be compatible with any existing State or local plans regarding the provision of such services to individuals with HIV disease.

''(3) ASSESSMENT OF FUND ALLOCATION EFFICIENCY.—The council shall assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area.

''(4) STATEWIDE STATEMENT OF NEED.—The council shall participate in the development of the Statewide coordinated statement of need as initiated by the State public health agency responsible for administering grants under part B.

''(5) COORDINATION WITH OTHER FEDERAL GRANTEES.—The council shall coordinate with Federal grantees providing HIV-related services within the eligible area.

''(6) COMMUNITY PARTICIPATION.—The council shall establish methods for obtaining input on community needs and priorities which may include public meetings, conducting focus groups, and convening ad-hoc panels.

''(e) PROCESS FOR ESTABLISHING ALLOCATION PRIORITIES.—

''(1) IN GENERAL.—Not later than 24 months after the date of enactment of the Ryan White CARE Act Amendments of 2000, the Secretary shall—

''(A) consult with eligible metropolitan areas, affected communities, experts, and other appropriate individuals and entities, to develop epidemiologic measures for establishing the number of individuals living with HIV disease who are not receiving HIV-related health services; and

''(B) provide advice and technical assistance to planning councils with respect to the process for establishing priorities for the allocation of funds under subsection (d)(1).

''(2) EXCEPTION.—Grantees under subsection (d)(1)(A) shall not be required to establish priorities for individuals not in care until epidemiologic measures are developed under paragraph (1).''.

SEC. 102. QUALITY MANAGEMENT.

(a) FUNDS AVAILABLE FOR QUALITY MANAGEMENT.—Section 2604 (42 U.S.C. 300ff–14) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) QUALITY MANAGEMENT.—

''(1) REQUIREMENT.—The chief elected official of an eligible area that receives a grant under this part shall provide for the establishment of a quality management program to assess the extent to which medical services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection and to develop strategies for improvements in the access to and quality of medical services.

''(2) USE OF FUNDS.—From amounts received under a grant awarded under this part, the chief elected official of an eligible area may use, for activities associated with its quality management program, not more than the lesser of—

''(A) 5 percent of amounts received under the grant; or

''(B) $3,000,000.''.

(b) QUALITY MANAGEMENT REQUIRED FOR ELIGIBILITY FOR GRANTS.—Section 2605(a) (42 U.S.C. 300ff–15(a)) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (5) through (8), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) that the chief elected official of the eligible area will satisfy all requirements under section 2604(c);''.

SEC. 103. FUNDED ENTITIES REQUIRED TO HAVE HEALTH CARE RELATIONSHIPS.

(a) USE OF AMOUNTS.—Section 2604(e)(1) (42 U.S.C. 300ff–14(d)(1)) (as so redesignated by section 102(a)) is amended by inserting ''and the State Children's Health Insurance Program under title XXI of such Act'' after ''Social Security Act''.

(b) APPLICATIONS.—Section 2605(a) (42 U.S.C. 300ff-15(a)) is amended by inserting after paragraph (3), as added by section 102(b), the following:

''(4) that funded entities within the eligible area that receive funds under a grant under section 2601(a) shall maintain appropriate relationships with entities in the area served that constitute key points of access to the health care system for individuals with HIV disease (including emergency rooms, substance abuse treatment programs, detoxification centers, adult and juvenile detention facilities, sexually transmitted disease clinics, HIV counseling and testing sites, and homeless shelters) and other entities under section 2652(a) for the purpose of facilitating early intervention for individuals newly diagnosed with HIV disease and individuals knowledgeable of their status but not in care;''.

SEC. 104. SUPPORT SERVICES REQUIRED TO BE HEALTH CARE-RELATED.

(a) IN GENERAL.—Section 2604(b)(1) (42 U.S.C. 300ff–14(b)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''HIV-related—'' and inserting ''HIV-related services, as follows:'';

(2) in subparagraph (A)—

(A) by striking ''outpatient'' and all that follows through ''substance abuse treatment and'' and inserting the following: ''OUTPATIENT HEALTH SERVICES.—Outpatient and ambulatory health services, including substance abuse treatment,''; and

(B) by striking ''; and'' and inserting a period;

(3) in subparagraph (B), by striking ''(B) inpatient case management'' and inserting ''(C) INPATIENT CASE MANAGEMENT SERVICES.—Inpatient case management''; and

(4) by inserting after subparagraph (A) the following:

''(B) OUTPATIENT SUPPORT SERVICES.—Outpatient and ambulatory support services (including case management), to the extent that such services facilitate, enhance, support, or sustain the delivery, continuity, or benefits of health services for individuals and families with HIV disease.''.

(b) CONFORMING AMENDMENT TO APPLICATION REQUIREMENTS.—Section 2605(a) (42 U.S.C. 300ff–15(a)), as amended by section 102(b), is further amended—

(1) in paragraph (6) (as so redesignated), by striking ''and'' at the end thereof;

(2) in paragraph (7) (as so redesignated), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) that the eligible area has procedures in place to ensure that services provided with funds received under this part meet the criteria specified in section 2604(b)(1).''.

SEC. 105. USE OF GRANT FUNDS FOR EARLY INTERVENTION SERVICES.

(a) IN GENERAL.—Section 2604(b)(1) (42 U.S.C. 300ff–14(b)(1)), as amended by section 104(a), is further amended by adding at the end the following:

''(D) EARLY INTERVENTION SERVICES.—Early intervention services as described in section 2651(b)(2), with follow-through referral, provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services, but only if the entity providing such services—

''(i)(I) is receiving funds under subparagraph (A) or (C); or

''(II) is an entity constituting a point of access to services, as described in paragraph (2)(C), that maintains a relationship with an entity described in subclause (I) and that is serving individuals at elevated risk of HIV disease; and

''(ii) demonstrates to the satisfaction of the chief elected official that no other Federal, State, or local funds are available for the early intervention services the entity will provide with funds received under this paragraph.''.

(b) CONFORMING AMENDMENTS TO APPLICATION REQUIREMENTS.—Section 2605(a)(1) (42 U.S.C. 300ff–15(a)(1)) is amended—

(1) in subparagraph (A), by striking ''services to individuals with HIV disease'' and inserting ''services as described in section 2604(b)(1)''; and

(2) in subparagraph (B), by striking ''services for individuals with HIV disease'' and inserting ''services as described in section 2604(b)(1)''.

SEC. 106. REPLACEMENT OF SPECIFIED FISCAL YEARS REGARDING THE SUNSET ON EXPEDITED DISTRIBUTION REQUIREMENTS.

Section 2603(a)(2) (42 U.S.C. 300ff–13(a)(2)) is amended by striking ''for each of the fiscal years 1996 through 2000'' and inserting ''for a fiscal year''.

SEC. 107. HOLD HARMLESS PROVISION.

Section 2603(a)(4) (42 U.S.C. 300ff-13(a)(4)) is amended to read as follows:

''(4) LIMITATIONS.—

''(A) IN GENERAL.—With respect to each of fiscal years 2001 through 2005, the Secretary shall ensure that the amount of a grant made to an eligible area under paragraph (2) for such a fiscal year is not less than an amount equal to 98 percent of the amount the eligible area received for the fiscal year preceding the year for which the determination is being made.

''(B) APPLICATION OF PROVISION.—Subparagraph (A) shall only apply with respect to those eligible areas receiving a grant under paragraph (2) for fiscal year 2000 in an amount that has been adjusted in accordance with paragraph (4) of this subsection (as in effect on the day before the date of enactment of the Ryan White CARE Act Amendments of 2000).''.

SEC. 108. SET-ASIDE FOR INFANTS, CHILDREN, AND WOMEN.

Section 2604(b)(3) (42 U.S.C. 300ff-14(b)(3)) is amended—

(1) by inserting ''for each population under this subsection'' after ''established priorities''; and

(2) by striking ''ratio of the'' and inserting ''ratio of each''.

Subtitle B—Amendments to Part B (Care Grant Program)

SEC. 121. STATE REQUIREMENTS CONCERNING IDENTIFICATION OF NEED AND ALLOCATION OF RESOURCES.

(a) GENERAL USE OF GRANTS.—Section 2612 (42 U.S.C. 300ff-22) is amended—

(1) by striking ''A State'' and inserting ''(a) IN GENERAL.—A State''; and

(2) in the matter following paragraph (5)—

(A) by striking ''paragraph (2)'' and inserting ''subsection (a)(2) and section 2613'';

(b) APPLICATION.—Section 2617(b) (42 U.S.C. 300ff–27(b)) is amended—

(1) in paragraph (1)(C)—

(A) by striking clause (i) and inserting the following:

''(i) the size and demographic characteristics of the population with HIV disease to be served, except that by not later than October 1, 2002, the State shall take into account the needs of individuals not in care, based on epidemiologic measures developed by the Secretary in consultation with the State, affected communities, experts, and other appropriate individuals (such State shall not be required to establish priorities for individuals not in care until such epidemiologic measures are developed);'';

(B) in clause (iii), by striking ''and'' at the end; and

(C) by adding at the end the following:

''(v) the availability of other governmental and non-governmental resources;

''(vi) the capacity development needs resulting in gaps in the provision of HIV services in historically underserved low-income and rural low-income communities; and

''(vii) the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the State;''; and

(2) in paragraph (2)—

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

(B) by redesignating subparagraph (C) as subparagraph (F); and

(C) by inserting after subparagraph (B), the following:

''(C) an assurance that capacity development needs resulting from gaps in the provision of services in underserved low-income and rural low-income communities will be addressed; and

''(D) with respect to fiscal year 2003 and subsequent fiscal years, assurances that, in the planning and allocation of resources, the State, through systems of HIV-related health services provided under paragraphs (1), (2), and (3) of section 2612(a), will make appropriate provision for the HIV-related health and support service needs of individuals who have been diagnosed with HIV disease but who are not currently receiving such services, based on the epidemiologic measures developed under paragraph (1)(C)(i);''.

SEC. 122. QUALITY MANAGEMENT.

(a) STATE REQUIREMENT FOR QUALITY MANAGEMENT.—Section 2617(b)(4) (42 U.S.C. 300ff–27(b)(4)) is amended—

(1) by striking subparagraph (C) and inserting the following:

''(C) the State will provide for—

''(i) the establishment of a quality management program to assess the extent to which medical services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infections and to develop strategies for improvements in the access to and quality of medical services; and

''(ii) a periodic review (such as through an independent peer review) to assess the quality and appropriateness of HIV-related health and support services provided by entities that receive funds from the State under this part;'';

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(3) by inserting after subparagraph (D), the following:

''(E) an assurance that the State, through systems of HIV-related health services provided under paragraphs (1), (2), and (3) of section 2612(a), has considered strategies for working with providers to make optimal use of financial assistance under the State medicaid plan under title XIX of the Social Security Act, the State Children's Health Insurance Program under title XXI of such Act, and other Federal grantees that provide HIV-related services, to maximize access to quality HIV-related health and support services;

(4) in subparagraph (F), as so redesignated, by striking ''and'' at the end; and

(5) in subparagraph (G), as so redesignated, by striking the period and inserting ''; and''.

(b) AVAILABILITY OF FUNDS FOR QUALITY MANAGEMENT.—

(1) AVAILABILITY OF GRANT FUNDS FOR PLANNING AND EVALUATION.—Section 2618(c)(3) (42 U.S.C. 300ff–28(c)(3)) is amended by inserting before the period '', including not more than $3,000,000 for all activities associated with its quality management program''.

(2) EXCEPTION TO COMBINED CEILING ON PLANNING AND ADMINISTRATION FUNDS FOR STATES WITH SMALL GRANTS.—Paragraph (6) of section 2618(c) (42 U.S.C. 300ff–28(c)(6)) is amended to read as follows:

''(6) EXCEPTION FOR QUALITY MANAGEMENT.—Notwithstanding paragraph (5), a State whose grant under this part for a fiscal year does not exceed $1,500,000 may use not to exceed 20 percent of the amount of the grant for the purposes described in paragraphs (3) and (4) if—

''(A) that portion of such amount in excess of 15 percent of the grant is used for its quality management program; and

''(B) the State submits and the Secretary approves a plan (in such form and containing such information as the Secretary may prescribe) for use of funds for its quality management program.''.

SEC. 123. FUNDED ENTITIES REQUIRED TO HAVE HEALTH CARE RELATIONSHIPS.

Section 2617(b)(4) (42 U.S.C. 300ff–27(b)(4)), as amended by section 122(a), is further amended by adding at the end the following:

''(H) that funded entities maintain appropriate relationships with entities in the area served that constitute key points of access to the health care system for individuals with HIV disease (including emergency rooms, substance abuse treatment programs, detoxification centers, adult and juvenile detention facilities, sexually transmitted disease clinics, HIV counseling and testing sites, and homeless shelters), and other entities under section 2652(a), for the purpose of facilitating early intervention for individuals newly diagnosed with HIV disease and individuals knowledgeable of their status but not in care.''.

SEC. 124. SUPPORT SERVICES REQUIRED TO BE HEALTH CARE-RELATED.

(a) TECHNICAL AMENDMENT.—Section 3(c)(2)(A)(iii) of the Ryan White CARE Act Amendments of 1996 (Public Law 104-146) is amended by inserting ''before paragraph (2) as so redesignated'' after ''inserting''.

(b) SERVICES.—Section 2612(a)(1) (42 U.S.C. 300ff–22(a)(1)), as so designated by section 121(a), is amended by striking ''for individuals with HIV disease'' and inserting '', subject to the conditions and limitations that apply under such section''.

(c) CONFORMING AMENDMENT TO STATE APPLICATION REQUIREMENT.—Section 2617(b)(2) (42 U.S.C. 300ff–27(b)(2)), as amended by section 121(b), is further amended by adding at the end the following:

''(F) an assurance that the State has procedures in place to ensure that services provided with funds received under this section meet the criteria specified in section 2604(b)(1)(B); and''.

SEC. 125. USE OF GRANT FUNDS FOR EARLY INTERVENTION SERVICES.

Section 2612(a) (42 U.S.C. 300ff–22(a)), as amended by section 121, is further amended by adding at the end the following:

''(6) EARLY INTERVENTION SERVICES.—The State, through systems of HIV-related health services provided under paragraphs (1), (2), and (3) of section 2612(a), may provide early intervention services, as described in section 2651(b)(2), with follow-up referral, provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services, but only if the entity providing such services—

''(A)(i) is receiving funds under section 2612(a)(1); or

''(ii) is an entity constituting a point of access to services, as described in section 2617(b)(4), that maintains a referral relationship with an entity described in clause (i) and that is serving individuals at elevated risk of HIV disease; and

''(B) demonstrates to the State's satisfaction that no other Federal, State, or local funds are available for the early intervention services the entity will provide with funds received under this paragraph.''.

SEC. 126. AUTHORIZATION OF APPROPRIATIONS FOR HIV-RELATED SERVICES FOR WOMEN AND CHILDREN.

Section 2625(c)(2) (42 U.S.C. 300ff–33(c)(2)) is amended by striking ''fiscal years 1996 through 2000'' and inserting ''fiscal years 2001 through 2005''.

SEC. 127. REPEAL OF REQUIREMENT FOR COMPLETED INSTITUTE OF MEDICINE REPORT.

Section 2628 (42 U.S.C. 300ff–36) is repealed.

SEC. 128. SUPPLEMENT GRANTS FOR CERTAIN STATES.

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-11 et seq.) is amended by adding at the end the following:

''SEC. 2622. SUPPLEMENTAL GRANTS.

''(a) IN GENERAL.—The Secretary shall award supplemental grants to States determined to be eligible under subsection (b) to enable such States to provide comprehensive services of the type described in section 2612(a) to supplement the services otherwise provided by the State under a grant under this subpart in areas within the State that are not eligible to receive grants under part A.

''(b) ELIGIBILITY.—To be eligible to receive a supplemental grant under subsection (a) a State shall—

''(1) be eligible to receive a grant under this subpart; and

''(2) demonstrate to the Secretary that there is severe need (as defined for purposes of section 2603(b)(2)(A) for supplemental financial assistance in areas in the State that are not served through grants under part A.

''(c) APPLICATION.—A State that desires a grant under this section shall, as part of the State application submitted under section 2617, submit a detailed description of the manner in which the State will use amounts received under the grant and of the severity of need. Such description shall include—

''(1) a report concerning the dissemination of supplemental funds under this section and the plan for the utilization of such funds;

''(2) a demonstration of the existing commitment of local resources, both financial and in-kind;

''(3) a demonstration that the State will maintain HIV-related activities at a level that is equal to not less than the level of such activities in the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part;

''(4) a demonstration of the ability of the State to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective;

''(5) a demonstration that the resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for

infants, children, women, and families with HIV disease;

''(6) a demonstration of the inclusiveness of the planning process, with particular emphasis on affected communities and individuals with HIV disease; and

''(7) a demonstration of the manner in which the proposed services are consistent with local needs assessments and the statewide coordinated statement of need.

''(d) AMOUNT RESERVED FOR EMERGING COMMUNITIES.—

''(1) IN GENERAL.—For awarding grants under this section for each fiscal year, the Secretary shall reserve the greater of 50 percent of the amount to be utilized under subsection (e) for such fiscal year or $5,000,000, to be provided to States that contain emerging communities for use in such communities.

''(2) DEFINITION.—In paragraph (1), the term 'emerging community' means a metropolitan area—

''(A) that is not eligible for a grant under part A; and

''(B) for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of between 1000 and 1999 cases of acquired immune deficiency syndrome for the most recent period of 5 calendar years for which such data are available.

''(e) APPROPRIATIONS.—With respect to each fiscal year beginning with fiscal year 2001, the Secretary, to carry out this section, shall utilize 50 percent of the amount appropriated under section 2677 to carry out part B for such fiscal year that is in excess of the amount appropriated to carry out such part in fiscal year preceding the fiscal year involved.

SEC. 129. USE OF TREATMENT FUNDS.

(a) STATE DUTIES.—Section 2616(c) (42 U.S.C. 300ff-26(c)) is amended—

(1) in the matter preceding paragraph (1), by striking ''shall—'' and inserting ''shall use funds made available under this section to—'';

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively and realigning the margins of such subparagraphs appropriately;

(3) in subparagraph (D) (as so redesignated), by striking ''and'' at the end;

(4) in subparagraph (E) (as so redesignated), by striking the period and ''; and''; and

(5) by adding at the end the following:

''(F) encourage, support, and enhance adherence to and compliance with treatment regimens, including related medical monitoring.'';

(6) by striking ''In carrying'' and inserting the following:

''(1) IN GENERAL.—In carrying''; and

(7) by adding at the end the following:

''(2) LIMITATIONS.—

''(A) IN GENERAL.—No State shall use funds under paragraph (1)(F) unless the limitations on access to HIV/AIDS therapeutic regimens as defined in subsection (e)(2) are eliminated.

''(B) AMOUNT OF FUNDING.—No State shall use in excess of 10 percent of the amount setaside for use under this section in any fiscal year to carry out activities under paragraph (1)(F) unless the State demonstrates to the Secretary that such additional services are essential and in no way diminish access to therapeutics.''.

(b) SUPPLEMENT GRANTS.—Section 2616 (42 U.S.C. 300ff-26(c)) is amended by adding at the end the following:

''(e) SUPPLEMENTAL GRANTS FOR THE PROVISION OF TREATMENTS.—

''(1) IN GENERAL.—From amounts made available under paragraph (5), the Secretary shall award supplemental grants to States determined to be eligible under paragraph (2) to enable such States to provide access to therapeutics to treat HIV disease as provided by the State under subsection (c)(1)(B) for individuals at or below 200 percent of the Federal poverty line.

''(2) CRITERIA.—The Secretary shall develop criteria for the awarding of grants under paragraph (1) to States that demonstrate a severe need. In determining the criteria for demonstrating State severity of need (as defined for purposes of section 2603(b)(2)(A)), the Secretary shall consider whether limitation to access exist such that—

''(A) the State programs under this section are unable to provide HIV/AIDS therapeutic regimens to all eligible individuals living at or below 200 percent of the Federal poverty line; and

''(B) the State programs under this section are unable to provide to all eligible individuals appropriate HIV/AIDS therapeutic regimens as recommended in the most recent Federal treatment guidelines.

''(3) STATE REQUIREMENT.—The Secretary may not make a grant to a State under this subsection unless the State agrees that—

''(A) the State will make available (directly or through donations from public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to $1 for each $4 of Federal funds provided in the grant; and

''(B) the State will not impose eligibility requirements for services or scope of benefits limitations under subsection (a) that are more restrictive than such requirements in effect as of January 1, 2000.

''(4) USE AND COORDINATION.—Amounts made available under a grant under this subsection shall only be used by the State to provide AIDS/HIV-related medications. The State shall coordinate the use of such amounts with the amounts otherwise provided under this section in order to maximize drug coverage.

''(5) FUNDING.—

''(A) RESERVATION OF AMOUNT.—The Secretary may reserve not to exceed 4 percent, but not less than 2 percent, of any amount referred to in section 2618(b)(2)(H) that is appropriated for a fiscal year, to carry out this subsection.

''(B) MINIMUM AMOUNT.—In providing grants under this subsection, the Secretary shall ensure that the amount of a grant to a State under this part is not less than the amount the State received under this part in the previous fiscal year, as a result of grants provided under this subsection.''.

(c) SUPPLEMENT AND NOT SUPPLANT.—Section 2616 (42 U.S.C. 300ff-26(c)), as amended by subsection (b), is further amended by adding at the end the following:

''(f) SUPPLEMENT NOT SUPPLANT.—Notwithstanding any other provision of law, amounts made available under this section shall be used to supplement and not supplant other funding available to provide treatments of the type that may be provided under this section.''.

SEC. 130. INCREASE IN MINIMUM ALLOTMENT.

(a) IN GENERAL.—Section 2618(b)(1)(A)(i) (42 U.S.C. 300ff-28(b)(1)(A)(i)) is amended—

(1) in subclause (I), by striking ''$100,000'' and inserting ''$200,000''; and

(2) in subclause (II), by striking ''$250,000'' and inserting ''$500,000''.

(b) TECHNICAL AMENDMENT.—Section 2618(b)(3)(B) (42 U.S.C. 300ff-28(b)(3)(B)) is amended by striking ''and the Republic of the Marshall Islands'' and inserting '', the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau''.

SEC. 131. SET-ASIDE FOR INFANTS, CHILDREN, AND WOMEN.

Section 2611(b) (42 U.S.C. 300ff-21(b)) is amended—

(1) by inserting ''for each population under this subsection'' after ''State shall use''; and

(2) by striking ''ratio of the'' and inserting ''ratio of each''.

Subtitle C—Amendments to Part C (Early Intervention Services)

SEC. 141. AMENDMENT OF HEADING; REPEAL OF FORMULA GRANT PROGRAM.

(a) AMENDMENT OF HEADING.—The heading of part C of title XXVI is amended to read as follows:

''PART C—EARLY INTERVENTION AND PRIMARY CARE SERVICES''.

(b) REPEAL.—Part C of title XXVI (42 U.S.C. 300ff-41 et seq.) is amended—

(1) by repealing subpart I; and

(2) by redesignating subparts II and III as subparts I and II.

(c) CONFORMING AMENDMENTS.—

(1) INFORMATION REGARDING RECEIPT OF SERVICES.—Section 2661(a) (42 U.S.C. 300ff–61(a)) is amended by striking ''unless—'' and all that follows through ''(2) in the case of'' and inserting ''unless, in the case of''.

(2) ADDITIONAL AGREEMENTS.—Section 2664 (42 U.S.C. 300ff–64) is amended—

(A) in subsection (e)(5), by striking ''2642(b) or'';

(B) in subsection (f)(2), by striking ''2642(b) or''; and

(C) by striking subsection (h).

SEC. 142. PLANNING AND DEVELOPMENT GRANTS.

(a) ALLOWING PLANNING AND DEVELOPMENT GRANT TO EXPAND ABILITY TO PROVIDE PRIMARY CARE SERVICES.—Section 2654(c) (42 U.S.C. 300ff–54(c)) is amended—

(1) in paragraph (1), to read as follows:

''(1) IN GENERAL.—The Secretary may provide planning and development grants to public and nonprofit private entities for the purpose of—

''(A) enabling such entities to provide HIV early intervention services; or

''(B) assisting such entities to expand the capacity, preparedness, and expertise to deliver primary care services to individuals with HIV disease in underserved low-income communities on the condition that the funds are not used to purchase or improve land or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility.''; and

(2) in paragraphs (2) and (3) by striking ''paragraph (1)'' each place that such appears and inserting ''paragraph (1)(A)''.

(b) AMOUNT; DURATION.—Section 2654(c) (42 U.S.C. 300ff–54(c)), as amended by subsection (a), is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

''(4) AMOUNT AND DURATION OF GRANTS.—

''(A) EARLY INTERVENTION SERVICES.—A grant under paragraph (1)(A) may be made in an amount not to exceed $50,000.

''(B) CAPACITY DEVELOPMENT.—

''(i) AMOUNT.—A grant under paragraph (1)(B) may be made in an amount not to exceed $150,000.

''(ii) DURATION.—The total duration of a grant under paragraph (1)(B), including any renewal, may not exceed 3 years.''.

(c) INCREASE IN LIMITATION.—Section 2654(c)(5) (42 U.S.C. 300ff–54(c)(5)), as so redesignated by subsection (b), is amended by striking ''1 percent'' and inserting ''5 percent''.

SEC. 143. AUTHORIZATION OF APPROPRIATIONS FOR CATEGORICAL GRANTS.

Section 2655 (42 U.S.C. 300ff–55) is amended by striking ''1996'' and all that follows

through ''2000'' and inserting ''2001 through 2005''.

SEC. 144. ADMINISTRATIVE EXPENSES CEILING; QUALITY MANAGEMENT PROGRAM.

Section 2664(g) (42 U.S.C. 300ff–64(g)) is amended—

(1) in paragraph (3), to read as follows:

''(3) the applicant will not expend more than 10 percent of the grant for costs of administrative activities with respect to the grant;'';

(2) in paragraph (4), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) the applicant will provide for the establishment of a quality management program to assess the extent to which medical services funded under this title that are provided to patients are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infections and that improvements in the access to and quality of medical services are addressed.''.

SEC. 145. PREFERENCE FOR CERTAIN AREAS.

Section 2651 (42 U.S.C. 300ff-51) is amended by adding at the end the following:

''(d) PREFERENCE IN AWARDING GRANTS.—Beginning in fiscal year 2001, in awarding new grants under this section, the Secretary shall give preference to applicants that will use amounts received under the grant to serve areas that are otherwise not eligible to receive assistance under part A.''.

Subtitle D—Amendments to Part D (General Provisions)

SEC. 151. RESEARCH INVOLVING WOMEN, INFANTS, CHILDREN, AND YOUTH.

(a) ELIMINATION OF REQUIREMENT TO ENROLL SIGNIFICANT NUMBERS OF WOMEN AND CHILDREN.—Section 2671(b) (42 U.S.C. 300ff–71(b)) is amended—

(1) in paragraph (1), by striking subparagraphs (C) and (D); and

(2) by striking paragraphs (3) and (4).

(b) INFORMATION AND EDUCATION.—Section 2671(d) (42 U.S.C. 300ff-71(d)) is amended by adding at the end the following:

''(4) The applicant will provide individuals with information and education on opportunities to participate in HIV/AIDS-related clinical research.''.

(c) QUALITY MANAGEMENT; ADMINISTRATIVE EXPENSES CEILING.—Section 2671(f) (42 U.S.C. 300ff–71(f)) is amended—

(1) by striking the subsection heading and designation and inserting the following:

''(f) ADMINISTRATION.—

''(1) APPLICATION.—''; and

(2) by adding at the end the following:

''(2) QUALITY MANAGEMENT PROGRAM.—A grantee under this section shall implement a quality management program.''.

(d) COORDINATION.—Section 2671(g) (42 U.S.C. 300ff-71(g)) is amended by adding at the end the following: ''The Secretary acting through the Director of NIH, shall examine the distribution and availability of ongoing and appropriate HIV/AIDS-related research projects to existing sites under this section for purposes of enhancing and expanding voluntary access to HIV-related research, especially within communities that are not reasonably served by such projects.''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 2671(j) (42 U.S.C. 300ff–71(j)) is amended by striking ''fiscal years 1996 through 2000'' and inserting ''fiscal years 2001 through 2005''.

SEC. 152. LIMITATION ON ADMINISTRATIVE EXPENSES.

Section 2671 (42 U.S.C. 300ff-71) is amended—

(1) by redesignating subsections (i) and (j), as subsections (j) and (k), respectively; and

(2) by inserting after subsection (h), the following:

''(i) LIMITATION ON ADMINISTRATIVE EXPENSES.—

''(1) DETERMINATION BY SECRETARY.—Not later than 12 months after the date of enactment of the Ryan White Care Act Amendments of 2000, the Secretary, in consultation with grantees under this part, shall conduct a review of the administrative, program support, and direct service-related activities that are carried out under this part to ensure that eligible individuals have access to quality, HIV-related health and support services and research opportunities under this part, and to support the provision of such services.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Not later than 180 days after the expiration of the 12-month period referred to in paragraph (1) the Secretary, in consultation with grantees under this part, shall determine the relationship between the costs of the activities referred to in paragraph (1) and the access of eligible individuals to the services and research opportunities described in such paragraph.

''(B) LIMITATION.—After a final determination under subparagraph (A), the Secretary may not make a grant under this part unless the grantee complies with such requirements as may be included in such determination.''.

SEC. 153. EVALUATIONS AND REPORTS.

Section 2674(c) (42 U.S.C. 399ff–74(c)) is amended by striking ''1991 through 1995'' and inserting ''2001 through 2005''.

SEC. 154. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS UNDER PARTS A AND B.

Section 2677 (42 U.S.C. 300ff–77) is amended to read as follows:

''SEC. 2677. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated—

''(1) such sums as may be necessary to carry out part A for each of the fiscal years 2001 through 2005; and

''(2) such sums as may be necessary to carry out part B for each of the fiscal years 2001 through 2005.''.

Subtitle E—Amendments to Part F (Demonstration and Training)

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

(a) SCHOOLS; CENTERS.—Section 2692(c)(1) (42 U.S.C. 300ff–111(c)(1)) is amended by striking ''fiscal years 1996 through 2000'' and inserting ''fiscal years 2001 through 2005''.

(b) DENTAL SCHOOLS.—Section 2692(c)(2) (42 U.S.C. 300ff–111(c)(2)) is amended by striking ''fiscal years 1996 through 2000'' and inserting ''fiscal years 2001 through 2005''.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. INSTITUTE OF MEDICINE STUDY.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning the appropriate epidemiological measures and their relationship to the financing and delivery of primary care and health-related support services for low-income, uninsured, and under-insured individuals with HIV disease.

(b) REQUIREMENTS.—

(1) COMPLETION.—The study under subsection (a) shall be completed not later than 21 months after the date on which the contract referred to in such subsection is entered into.

(2) ISSUES TO BE CONSIDERED.—The study conducted under subsection (a) shall consider—

(A) the availability and utility of health outcomes measures and data for HIV primary care and support services and the extent to which those measures and data could be used to measure the quality of such funded services;

(B) the effectiveness and efficiency of service delivery (including the quality of services, health outcomes, and resource use) within the context of a changing health care and therapeutic environment as well as the changing epidemiology of the epidemic;

(C) existing and needed epidemiological data and other analytic tools for resource planning and allocation decisions, specifically for estimating severity of need of a community and the relationship to the allocations process; and

(D) other factors determined to be relevant to assessing an individual's or community's ability to gain and sustain access to quality HIV services.

(c) REPORT.—Not later than 90 days after the date on which the study is completed under subsection (a), the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report describing the manner in which the conclusions and recommendations of the Institute of Medicine can be addressed and implemented.

Mr. KENNEDY. Mr. President, it is a privilege to join Senators JEFFORDS, FRIST, DODD, HATCH, BINGAMAN, and WELLSTONE in introducing the Ryan White CARE Reauthorization Act. I commend Senator JEFFORDS for his leadership and commitment in making this legislation a top priority of the Health, Education, Labor, and Pensions Committee for enactment this year. I commend Senator FRIST for his medical knowledge and expertise in drafting this legislation. Senator DODD has been strongly committed to this issue for many years and I am pleased that he continues his commitment this year. Senator HATCH joined me more than a decade ago when we first introduced this legislation, and he has remained committed and involved ever since, and I commend his leadership. Senators BINGAMAN and WELLSTONE are members of our Senate Committee, and they have shown a great deal of interest in making sure that these resources reach rural Americans and other emerging populations.

Over the past twenty years, the nation has made extraordinary progress in responding to the AIDS epidemic. Medical advances, new and effective treatments, and the development of an HIV care infrastructure in every state have dramatically improved the access to care for individuals and families with HIV who would otherwise not be able to afford such care. By providing life-sustaining health and related support services, we have reduced the spread of AIDS.

The CARE Act has contributed to the significant drop in new AIDS cases. AIDS-related deaths have decreased significantly, dropping 42% from 1996 to 1997, and 20% from 1997 to 1998. Persons with HIV/AIDS are living longer and healthier lives because of the CARE Act.

Perinatal HIV transmission from mother to child has been reduced by 75% from 1992 to 1997. We are closing the gap in health care disparities in vulnerable populations such as communities of color, women, and persons with HIV who are uninsured and underinsured.

Medications have made a difference too. Highly active anti-retroviral

therapies have given a second lease on life to many Americans with HIV/AIDS. An estimated 80% of persons in treatment have used one or more of these new and effective drugs.

HIV health care and supportive services have also made a difference. An estimated 600,000 persons have received HIV services through the Ryan White CARE Act, including primary care, substance abuse treatment, dental care, hospice care, and other specialized HIV health care services, and the availability of these services has enabled them to lead productive lives.

In Massachusetts, for example, we have seen an overall 77% decline in AIDS and HIV-related deaths since 1995. At the same time, however, like many other states, we are concerned about the changing HIV/AIDS trends and profiles. AIDS and HIV cases increased in women by 11% from 1997 to 1998, and 55% of persons living with AIDS in the state are persons of color.

Clearly, we have had significant successes in fighting AIDS. We have come a long way from the days when ideology dictated care for people with AIDS and not sound public health policy. Fortunately, with the leadership of Senator HATCH and Senator JEFFORDS and our bipartisan coalition, we were able to enact the Ryan White CARE Act in memory of Ryan White. He was a young man with hemophilia who contracted AIDS through blood transfusions, and touched the world's heart through his valiant efforts to speak out against the ignorance and discrimination faced by many persons living with AIDS. His mother, Jeanne White carried on her son's message after Ryan's death in 1990. She was instrumental in the passage of the Care Act in 1990 and then again in 1996 and now in 2000.

The enactment of the Ryan White CARE Act in 1900 provided an emergency response to the devastating effects of HIV on individuals, families, communities, and state and local governments. The CARE Act signaled a comprehensive approach by targeting funds to respond to the specific needs of communities. Title I targets the hardest hit metropolitan areas in the country. Local planning and priority setting requirements under Title I assure that each of the Eligible Metropolitan Areas respond to the local HIV/AIDS demographics.

Title II of the Act funds emergency relief to the states. It helps them to develop an HIV care infrastructure and provide effective and life-sustaining HIV/AIDS drug therapies through the AIDS Drug Assistance Program to over 61,000 persons each month.

Title III funds community health centers and other primary health care providers that serve communities with a significant and disproportionate need for HIV care. Many of these community health centers are located in the hardest hit areas, serving low income communities.

Finally, Title IV of the CARE Act is designed to meet the specific needs of women, children and families.

While the CARE Act has benefited large numbers of Americans in need, a number of critical areas remain where improvements are essential if we are to meet the growing needs in our communities. We know that of the estimated 750,000 persons living with HIV/AIDS in the United States, over 215,000 know their HIV status, yet are not in care. New health care access points are needed to bring these persons into care. At the same time, the CARE Act programs currently serving an estimated 600,000 persons annually are challenged more than ever in meeting the growing need and demand for services. The Centers for Disease Control and Prevention estimates that the need will continue to grow since we have an estimated 40,000 new cases of HIV/AIDS annually in the United States.

Also, not everyone is benefiting from the advances in the development of new and effective drug treatments. The skyrocketing costs of expensive AIDS drugs, estimated at $15,000 annually per person, has led 26% of the CARE Act's AIDS Drug Assistance Programs to cap enrollment, establish waiting lists, or limit eligibility. Guaranteeing that effective drug treatments are available and affordable to all persons with HIV/AIDS has always been a priority for the CARE Act. Reducing barriers to access in communities of color and other vulnerable populations is a priority for this reauthorization.

We are fortunate in Massachusetts to have a state budget that has also been able to provide funding for primary care, prevention, and outreach efforts, but no state by itself can provide the significant financial resources to help persons living with HIV to obtain needed medical and support access.

We still find serious disparities in access to HIV health care in communities of color, women, the uninsured and underinsured. The demographics of the epidemic have been steadily changing. The majority of new AIDS cases reported are among racial and ethnic minority populations and groups that traditionally have faced heavy barriers in obtaining adequate health care services. While African Americans make up 12% of the general population, they account for 45% of new AIDS cases. 80% of new AIDS cases are occurring in women of color. As many as half of all new infections are occurring in people under the age of 25, and one quarter of all new infections are occurring in persons under the age of 22. The CARE Act must be able to adjust to meet these changing trends in the HIV/AIDS epidemic. Geographic shifts in the epidemic as well as the availability of new sources of financing for HIV/AIDS care must be taken into account to assure equity in how the federal government and states respond to the epidemic.

The CARE Act must continue to provide resources to help local communities to plan and to set priorities for CARE dollars. We must develop better ways to measure the severity of need and the health disparities, and assure that these improvements are taken into account in HIV planning, in establishing priorities, and in allocating funds.

This bill addresses these new challenges in ensuring access to HIV drug treatments for all, reducing health disparities in vulnerable communities, and improving the distribution and quality of services under the CARE Act. Proposed changes will ensure greater access to care in low income, historically underserved urban and rural communities, by increasing targeted funding to areas where the HIV care infrastructure may not exist. This bill also focuses on quality and accountability of HIV service delivery by requiring effective quality management activities that ensure their consistency with Public Health Service guidelines, and by making changes to ensure that CARE Act dollars are used for their intended purposes.

These improvements are intended to close the gap in health care disparities and improve inequities in services and funding among states. They will build capacity in underserved rural and urban areas, and focus state and local program priorities on underserved populations and persons not in care. They will develop new points of entry relationships to improve coordination of care. They will increase early access to care, in order to begin HIV treatment earlier and improve the quality of care that patients receive.

We know that the CARE Act has made a difference not only in the lives of persons with HIV/AIDS, but also in the lives of countless loved ones who have seen despair turned to hope through support of CARE Act services. The story of Lory in Massachusetts is a compelling example of young woman living with HIV, unable to work full-time, and unable to afford antiretroviral medications without Ryan White CARE Act assistance. The support she has received from the caring staff at Fenway Clinic in Boston is impressive. As Lory told us at our committee hearing on March 2nd on the reauthorization of the Act ''It is not an exaggeration when I tell you that without Fenway I would be dead. They have saved my life.''

I'm sure that Lory's eloquent testimony is true of countless others across the country who are living with this tragic disease. The Ryan White CARE Act has made an enormous difference in their lives. I look forward to early action by Congress on this important legislation, so that we can continue to help as many people as possible.

Mr. FRIST. Mr. President, the Centers for Disease Control and Prevention estimate that between 650,000 and 900,000 Americans are currently living with human immunodeficiency virus (HIV), of whom 280,000 have acquired immune deficiency syndrome (AIDS). As of June 1999, there were 8,814 people in my home state of Tennessee living with HIV/AIDS. As a physician, I have seen first hand the deadly impact of

this disease on patients, and have also seen first hand what can happen if the prevalence of AIDS goes unchecked. On February 24, 2000, as chairman of the Foreign Relations Subcommittee on Africa, I held a hearing on the AIDS crisis in Africa. In Africa, this disease has reached truly pandemic proportions, causing cultural and economic devastation. Every day, there are 16,000 new infections globally, despite the great strides we have made in the treatment and prevention of this condition.

Ironically and unfortunately, the new advancements in treatment may have caused many to become complacent. A survey co-authored by Yale revealed that more than 80% of our youth do not believe they are at risk for HIV infections. However, the fact is that the number of new infections among adolescents continues to rise and it is rising disproportionally among minorities. AIDS remains the leading cause of death among African-Americans 25–44 years of age and the second leading cause of death among Latinos in the same age range. Furthermore, in 1998, African-American and Hispanic women accounted for 80% of the total AIDS cases reported for women nationwide. In my own state of Tennessee, 59% of the new AIDS cases were among African-Americans, who make up 45% of the total AIDS cases in the state. Since its original discovery, it is estimated that over 13.9 million have died worldwide and over 400,000 have died in the United States as a result of HIV/AIDS. Fortunately, over the last 15 years, we have doubled the life expectancy of people with AIDS, developed new and powerful drugs for the treatment of HIV infection, and made advances in the treatment and prevention of AIDS-related opportunistic infections.

Another important component in the struggle against HIV/AIDS has been the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, which I am pleased to join with Senator JEFFORDS in supporting today. The Ryan White CARE Act, a unique partnership between federal, local, and state governments; non-profit community organizations, health care and supportive service providers. For the last decade, this Act has successfully provided much needed assistance in health care costs and support services for low-income, uninsured and underinsured individuals with HIV/AIDS.

Through programs such as AIDS Drug Assistance Program (ADAP), which provides access to pharmaceuticals, the CARE Act has helped extend and even save lives. Last year alone, nearly 100,000 people living with HIV and AIDS received access to drug therapy because of the CARE Act. Half the people served by the CARE Act have family incomes of less than $10,000 annually, which is lower than the $12,000 annual average cost of new drug ''cocktails'' for treatment. The CARE Act is critical in ensuring that the number of people living with AIDS continues to increase, as effective new drug therapies are keeping HIV-infected persons healthy longer and dramatically reducing the death rate. Investments in enabling patients with HIV to live healthier and more productive lives have helped to reduce overall health costs. For example, the National Center for Health Statistics reported that the nation has seen a 30% decline in HIV related hospitalizations, which results in nearly one million fewer HIV related hospital days and a savings of more than $1 billion.

During the 104th Congress, I had the pleasure of working with Senator Kassebaum on the Ryan White CARE Act Amendments of 1996 to ensure this needed law was extended. Today I am pleased to join Senator JEFFORDS as an original cosponsor to the Ryan White CARE Act Amendments of 2000, which will further improve and extend this law. Senator JEFFORDS, who has done a terrific job in crafting this bill, has already outlined some specifics of this legislation, however, I would like to conclude by discussing a specific provision which I am grateful Senator JEFFORDS included in this reauthorization.

This bill contains a provision, under Title II of this Act, to address the fact that the face of this disease is changing and is moving into and affecting more rural communities. A recent GAO audit found that rural areas may offer more limited medical and social services than cities because urban areas generally receive more money per AIDS case. To help address this concern, this new provision will provide supplemental grants to States for additional HIV/AIDS services in underserved areas. One important aspect of this provision is the creation of supplemental grants for emerging metropolitan communities, which do not qualify for Title I funding but have reported between 1,000 and 2,000 AIDS cases in the last five years. Currently, this provision would provide 7 cities, including Memphis and Nashville, a general pot of money to divide of at least $5 million in new funding each year, or 25% of new monies under Title II, whichever is greater.

Mr. President, I would like to thank Senator JEFFORDS for his leadership on this issue, and Sean Donohue and William Fleming of his staff for all their expertise in drafting this bill. I would also like to thank Senator KENNEDY and Stephanie Robinson of his staff for their work and dedication to this issue. I would also like to thank Dr. Bill Moore of the Tennessee Department of Health and Mr. Joe Interrante of Nashville CARES for their counsel and assistance on this legislation and for their efforts in helping Tennesseans with HIV/AIDS.

Mr. DODD. Mr. President, I am pleased to join Senators KENNEDY, JEFFORDS, FRIST, HATCH, BINGAMAN, HARKIN, WELLSTONE, REED, ENZI, and MIKULSKI in sponsoring the Ryan White CARE Reauthorization Act, legislation which will provide for the continuation of critical support services for those living with HIV and AIDS. I thank Senators JEFFORDS and KENNEDY for their leadership and commitment to this important bill, and commend their efforts to ensure that the reauthorization legislation addresses the new challenges of the HIV/AIDS epidemic.

Over the last two decades, our Nation has made tremendous advances in responding to the HIV/AIDS epidemic. We've all been encouraged by the recent reports that the number of AIDS cases dropped last year for the first time in the 16 year history of the epidemic. The new combination therapies largely responsible for this change in course have brought new hope to families devastated by this disease. Although it was unimaginable just a few years ago, it now appears possible that we may soon view AIDS, if not as curable, than at least as a manageable, chronic illness.

But, despite these advances in treatment options, the HIV/AIDS epidemic remains an enormous health emergency in the United States, with the number of AIDS cases in the U.S. nearly doubling during the last five years. According to a study sponsored by the U.S. Public Health Service, approximately 250,000 to 300,000 people living with HIV or AIDS currently receive no medical treatment. Therefore, while we must sustain our efforts in the areas of research and education, it is also critical that we continue to provide resources to help states and disproportionately affected communities develop the necessary infrastructure to provide HIV/AIDS care. One of the most important changes made to the Ryan White programs by this Reauthorization Act is the emphasis on the need for early diagnosis of the disease. This new emphasis is reflected in the bill's provisions relating to early intervention activities, which will support early diagnosis and encourage linkages into care for populations at high risk for HIV.

In the decade since the enactment of the Ryan White CARE Act we've seen a transformation in the face of AIDS. Since women and children are disproportionately represented among the newly infected, I am especially pleased that this bill provides for the coordination of Ryan White and State Children's Health Insurance Program (SCHIP) funds, and includes a set-aside for infants, children, and women proportionate to the percentage each group represents in the eligible funding area's AIDS affected population.

During the decade of the Ryan White CARE Act, we've also seen a shift in the challenges facing providers. Ten years ago, Ryan White providers focused primarily on helping people while they died. Now, more and more, providers are moving into the business of helping individuals infected with HIV live long and full lives. But, while the discovery of powerful drug therapies has improved the quality and length of life for many who are HIV positive, access to these drugs and to

other critical health services is still difficult for many, since AIDS is fast becoming a disease of poverty. The CARE Act's AIDS Drug Assistance Programs remain a lifeline for low-income individuals who cannot afford the costs of regular care and expensive AIDS drug regimens (now estimated at $15,000 annually per person).

The CARE Act has made a difference to the lives of countless individuals and families affected by a devastating disease. While there is hope for the future, the changing demographics of the disease present new challenges. The Ryan White CARE Act Amendments of 2000 address these challenges while maintaining those aspects of the Act that demonstrate proven results. I look forward to working with Congress as we move forward with the reauthorization, so that the thousands of people who rely on the services of Ryan White programs can continue to maintain their dignity and quality of life.

Mr. WELLSTONE. Mr. President, I join with my colleagues on the HELP committee to cosponsor the Ryan White Care Act Amendments of 2000. I do this with pride in what has been accomplished since I last cosponsored the reauthorization of the Ryan White Care Act in 1996. This legislation since 1991 has enabled the development of community driven systems of care for low-income, uninsured, and underinsured individuals and families affected by HIV disease.

Last year alone, the Ryan White CARE Act served an estimated half million people living with HIV and AIDS and affected the lives of millions more. Nearly 6 in 10 of these people were poor. Last year, this legislation enabled approximately 100,000 people living with HIV and AIDS to receive drug therapy. This is particularly important because half of the people served by the Act have incomes less than $10,000 a year—and the new drug treatments cost more than $12,000 annually.

According to the National Center for Health Statistics, between 1995 and 1997, there has been a 30 percent decline in HIV related hospitalizations, representing a savings of more than $1 billion. Since 1991, according to Sandra Thurman, Director of the Office of National AIDS Policy, the CARE Act has helped to reduce AIDS mortality by 70 percent; to reduce mother-child transmission of HIV by 75 percent; and to enhance both the length and quality of life for people living with HIV/AIDS.

The epidemic is far from over. Each year there are 40,000 new HIV infections in the U.S., and the death rate is no longer dropping so quickly. Although people with HIV disease are living much longer, the highly touted multi-drug therapies are beginning to fall short of their prayed for effectiveness, and they do not work for everyone.

In addition, the nature of the epidemic is changing. HIV/AIDS is devastating communities of color. AIDS is the leading cause of death for African-Americans aged 25 to 44, and the second leading cause of death among Latino Americans of the same age group. HIV/AIDS also disproportionately affects younger Americans. Half of the 40,000 new infections each year occur in individuals under age 25. AIDS is killing the youngest, potentially most productive members of our society. Without a renewed commitment to research, prevention, and culturally sensitive treatment, the rates of infection and death will continue to ravage communities of color.

It is a testament to the success of this legislation that there is such unanimity among the committee members and all of the diverse group of stakeholders that the Ryan White Care Act needs to be reauthorized. The amendments included in this legislation are designed to increase the accountability of the overall program; to meet the challenges of the changing nature of the epidemic; to improve the quality of care; and to reach those affected by this plague who have not been reached before. We often say ''Leave no child behind'' and everyone agrees. We must also say, ''let's leave no one afflicted by this dread disease untreated''.

Provisions for quality management around clinical practice will bring best practices to patients. Holding grantees accountable for quality management and relevance of programs means the money appropriated will be well spent. This is good medicine and responsible lawmaking.

Allowing for flexibility in how the AIDS Drug Assistance Program (ADAP) funds are spent will provide more low-income individuals with life-prolonging medications. Focusing on early intervention services to support early diagnosis will get patients into treatment faster and hopefully also slow the spread of the disease. Requiring grantees to develop and maintain linkages with key points of entry to the medical system, such as mental health and substance abuse treatment centers, will dramatically improve treatment, slow the spread of the disease, and reach previously unserved people. This is good prevention.

In 1990, the HIV/AIDS epidemic was primarily limited to large cities; hence the majority of funds were granted to cities. Over the last decade, unfortunately, the epidemic has spread to more rural areas and to different populations. This bill requires that funds be spent in accordance with local demographics. Several provisions in this bill will allow more funds to go to less populated areas and to provide special grants for infants, youth and women. This is good allocation of resources based on needs.

This bill also contains fiscally responsible caps on administrative costs, and requires all grantees to coordinate with Medicaid and the State Children's Health Insurance Program. This makes good fiscal sense.

Mr. President, the Ryan White CARE Act has saved lives and serves hundreds of thousands of needy people yearly. The Ryan White CARE Act has a proven record of success; let's build on that success. This federal legislation needs to be reauthorized now, as proposed, to meet the continuing needs and new challenges presented by the changing nature of the HIV/AIDS epidemic.

That is why I urge all Senators to join in cosponsoring and passing the Ryan White CARE Act Amendments of 2000, and I urge the members of the Appropriations Committee to provide the funds to fully implement it.

By Mr. LUGAR:

S. 2312. A bill to amend title XVIII of the Social Security Act to provide for a moratorium on the mandatory delay of payment of claims submitted under part B of the Medicare Program and to establish an advanced informational infrastructure for the administration of Federal health benefits programs; to the Committee on Finance.

HEALTH CARE INFRASTRUCTURE INVESTMENT ACT OF 2000

Mr. LUGAR. Mr. President, I rise to introduce the Health Care Infrastructure Investment Act.

Formerly arcane statistics of interest only to economists, productivity and innovation are now veritable buzzwords in today's much-heralded new economy. Recently released productivity figures drew front page coverage from both the Washington Post and New York Times. Most economists, including Federal Reserve Chairman Alan Greenspan, attribute the surge in productivity to technological improvements. A host of new and improved technologies, including faster computers and rapid expansion of the Internet, have led to improved efficiencies. The result: workers are more productive, companies continue to grow and wealth is created.

Today nearly every industrial sector is involved in a race to apply new technology and management techniques to gain greater efficiencies. Yet one sector that accounts for 13 percent of America's gross domestic product—health care—still uses a patchwork-quilt of outdated technology for the most basic of its transactions.

While individual components within the health industry are adopting advanced communication, manufacturing and other technologies but the inner core of health care—a series of transactions between doctor, patient and insurance provider—remains largely untouched by technological advances that would decrease the administrative load accompanying every transaction.

At a time when America's growing population is seeking a higher quality of care; when the greying of America means that Medicare enrollment will double by 2040; when new medical procedures are being developed that hold great promise for the treatment and cure of diseases like cancer and AIDS; when prescription drugs are becoming available that extend and improve the quality of life—we have every motivation for adopting into health care some

of the same technologies and ideas responsible for transforming other sectors of the American economy.

A robust and modern infrastructure for American health care will enable resources to be shifted to where they are most needed and allow for the dramatic increases in productivity necessary to treat increasing numbers of people at a higher level of care. In this sense, efficiency is not double-speak for additional restrictions placed on the doctor-patient relationship or further regulations on insurance coverage. Instead, greater efficiency means that doctors are free to spend more time treating patients, insurance companies reduce the cost of claims processing and consumers are empowered with a better understanding of treatment and costs.

America's interstate highway system is a prime example of a wise infrastructure investment. As a result of a sustained Federal commitment, Americans enjoy an unprecedented degree of mobility while the economy benefits from the low cost and ease of transportation. A similar approach should be applied to health care whose roads for processing information resemble the rutted cobblestone paths of medieval times.

The Health Care Infrastructure Investment Act is designed to spur Federal and private sector investment so that a nationwide network of systems is built for health care. A network of systems is a descriptive term that refers to the conglomeration of hardware, software and secure information networks designed to speed the flow of information and capital between doctors, patients and insurance providers.

The primary goal of the Health Care Infrastructure Investment Act is to build an advanced infrastructure to efficiently process and handle the vast number of straightforward transactions that now clog the pipeline and drain scarce health care resources. Among the targeted transactions are immediate, point-of-service verification of insurance coverage, point-of-service checking for incomplete or erroneous claim submission and point-of-service resolution of clean claims for doctor office visits including the delivery of an explanation of benefits and payment.

When designing a complex system, a first step is to define performance standards that the system must meet. As configured, the legislation mandates broadly defined performance standards for the federally administered Medicare program that will be phased-in over a ten year period. To ensure that improvements in the infrastructure supporting federally-financed health care are matched in the managed care sector, insurers participating in the Federal Employees Health Benefits program will also be required to meet these same performance standards.

Also critical will be harnessing the expertise of selection of the Federal agency responsible for the design and implementation of an advanced health care infrastructure. Some of my colleagues have suggested that the Department of Defense or even NASA, two agencies with decades of experience with complex, distributed networks, be assigned a leadership role. Accordingly, the legislation forms a Health Care Infrastructure Commission, chaired by the Secretary of Health and Human Services, and composed of senior officials from NASA, the Defense Advanced Research Projects Agency, the National Science Foundation, the Office of Science and Technology Policy and the Department of Veterans Affairs. Officials named to the Health Care Infrastructure Commission are required to be expert in advanced information technology.

The legislation also strives to create a strong partnership with the private sector, as many of the advances in communication technology are driven by companies, both large and small.

Many pieces of a truly advanced health care infrastructure already exist. But like a modern-day Tower of Babel, communication is hindered by differences in language and function. Sorely needed is a combination of vision and commitment: vision to design a system that is secure, efficient and flexible and the commitment to dedicate necessary intellectual and financial resources for its design and implementation.

America has put a man on the moon, designed advanced stealth fighters and is now enjoying a sustained period of economic expansion stimulated by electronic devices, telephone and Internet. We must now develop and build a health care infrastructure that checks insurance status with the swipe of a card, provides speedy payment to doctors for their expertise in healing and allows a patient to leave the doctor's office with a single statement of treatment and cost. I am confident that we will succeed.

I urge my colleagues to support the Health Care Infrastructure Investment Act.

By Mr. MOYNIHAN (for himself, Mr. REID, and Mrs. BOXER):

S. 2315. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

GENETICALLY ENGINEERED FOOD SAFETY ACT

• Mr. MOYNIHAN. Mr. President, today I am joined with Senator REID and Senator BOXER to introduce the Genetically Engineered Food Safety Act (S. 2315), a bill to require food safety testing for genetically engineered foods.

The ability to alter an organism by specifically transferring genetic codes between plants and animals is a new realm of science that we have only begun investigating. This technology has the promise to deliver real public goods: increased crop yields and products which combat disease and improve nutrition. But the technology also has the potential to pose a number of threats to the nation's public health, environment, and economy, and U.S. consumers are understandably concerned.

The Federal Government has a duty to ensure that genetically engineered foods (GEFs) are safe to eat. The Food and Drug Administration (FDA) currently requires rigorous pre-market review for pharmaceutical drugs, biological products, and medical devices introduced in the U.S. market. For GEFs, however, FDA only asks the industry to submit safety data voluntarily. Even if industry fully complies, our concern is that a conflict of interest exists when an industry determines its own level of safety review for products it wants to promote.

S. 2315 would simply give FDA discretion to conduct its own safety testing of new GEFs and requires that certain factors are examined. GEFs on the market today will remain on the market as long as FDA also reviews these products for health safety. Much like the current practice, funding for these tests will come primarily from industry. A fee system will be developed that is modeled after FDA's current program for reviewing pharmaceuticals and supplemented by Federal funding.

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. 2315

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 ''Genetically Engineered Food Safety Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Genetic engineering is an artificial gene transfer process different from traditional breeding.

(2) Genetic engineering can be used to produce new versions of virtually all plant and animal foods. Thus, within a short time, the food supply could consist almost entirely of genetically engineered products.

(3) This conversion from a food supply based on traditionally bred organisms to one based on organisms produced through genetic engineering could be one of the most important changes in the food supply in this century.

(4) Genetically engineered foods present new issues of safety that have not been adequately studied.

(5) United States consumers are increasing concerned that food safety issues regarding genetically engineered foods are not being adequately addressed.

(6) Congress has previously required that food additives be analyzed for their safety prior to their placement on the market.

(7) Adding new genes, and the substances that the genes code for, into a food should be considered adding a food additive, thus requiring an analysis of safety factors.

(8) The food additive process gives the Food and Drug Administration discretion in

applying the safety factors that are generally recognized as appropriate to evaluate the safety of food and food ingredients.

SEC. 3. FEDERAL DETERMINATION OF SAFETY OF GENETICALLY ENGINEERED FOOD; REGULATION AS FOOD ADDITIVE.

(a) INCLUSION IN DEFINITION OF FOOD ADDITIVE.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(1) in paragraph (s), by adding after subparagraph (6) the following:

''Such term includes the different genetic constructs, proteins of or other substances produced by such constructs, vectors, promoters, marker systems, and other appropriate terms that are used or created as a result of the creation of a genetically engineered food, other than a genetic construct, protein or other substance, vector, promoter, marker system, or other appropriate term for which an application has been filed under section 505 or 512.''; and

(2) by adding at the end the following:

''(kk)(1) The term 'genetically engineered food' means food that contains or was produced with a genetically engineered material.

''(2) The term 'genetically engineered material' means material derived from any part of a genetically engineered organism.

''(3) The term 'genetically engineered organism' means—

''(A) an organism that has been altered at the molecular or cellular level by means that are not possible under natural conditions or processes (including recombinant DNA and RNA techniques, cell fusion, microencapsulation, macroencapsulation, gene deletion and doubling, introduction of a foreign gene, and a process that changes the positions of genes), other than a means consisting exclusively of breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture; and

''(B) an organism made through sexual or asexual reproduction (or both) involving an organism described in clause (A), if possessing any of the altered molecular or cellular characteristics of the organism so described.

''(4) The term 'genetic food additive' means a genetic construct, protein or other substance, vector, promoter, marker system, or other appropriate term that is a food additive.''.

(b) PETITION TO ESTABLISH SAFETY.—

(1) DATA IN PETITION.—Section 409(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)(2)) is amended—

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

(B) in subparagraph (E), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(F) in the case of a genetic food additive, all data that was collected or developed pursuant to the investigations, including data that does not support the claim of safety for use.''.

(2) NOTICES; PUBLIC AVAILABILITY OF INFORMATION.—Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)(5)) is amended—

(A) by striking ''(5)'' and inserting ''(5)(A)''; and

(B) by adding at the end the following subparagraphs:

''(B) In the case of a genetic food additive, the Secretary, promptly after providing the notice under subparagraph (A), shall make available to the public all reports and data described in subparagraphs (E) and (F) of paragraph (2) that are contained in the petition involved, and all other information in the petition to the extent that the information is relevant to a determination of safety for use of the additive. Such notice shall state whether any information in the petition is not being made available to the public because the Secretary has made a determination that the information does not relate to safety for use of the additive. Any person may petition the Secretary for a reconsideration of such a determination, and if the Secretary finds in favor of such person, the information shall be made available to the public and the period for public comment described in subsection (c)(2)(B) shall be extended until the end of the 30th day after the information is made available.

''(C) In the case of a genetic food additive, the following rules shall apply:

''(i) The Secretary shall maintain and make available to the public through electronic and non-electronic means a list of petitions that are pending under this subsection and a list of petitions for which regulations have been established under subsection (c)(1)(A). Such list shall include information on the additives involved, including the source of the additives, and including any information received by the Secretary pursuant to clause (ii).

''(ii) If a regulation is in effect under subsection (c)(1)(A) for a genetic food additive, any person who manufactures such additive for commercial use shall submit to the Secretary a notification of any knowledge of data that relate to the adverse health effects of the additive, in a case in which the knowledge is acquired by the person after the date on which the regulation took effect. If the manufacturer is in possession of the data, the notification shall include the data. The Secretary shall by regulation establish the scope of the responsibilities of manufacturers under this clause, including such limits on the responsibilities as the Secretary determines to be appropriate.''.

(3) EFFECTIVE DATE OF REGULATION REGARDING SAFE USE; OPPORTUNITY FOR PUBLIC COMMENT.—Section 409(c)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(2)) is amended—

(A) by striking ''(2)'' and inserting ''(2)(A)''; and

(B) by adding at the end the following subparagraph:

''(B) In the case of a genetic food additive, an order may not be issued under paragraph (1)(A) before the expiration of the 30-day period beginning on the date on which the Secretary has made information available to the public under subsection (b)(5)(B) regarding the petition involved. During such period (or such longer period as the Secretary may designate), the Secretary shall provide interested persons an opportunity to submit to the Secretary comments on the petition. In publishing a notice for the additive under subsection (b)(5), the Secretary shall inform the public of such opportunity.''.

(4) CONSIDERATION OF CERTAIN FACTORS.—Section 409(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)) is amended by adding at the end the following paragraph:

''(6) In the case of a genetic food additive, the factors considered by the Secretary regarding safety for use shall include the following:

''(A) Allergenicity effects resulting from added proteins, including proteins not found in the food supply.

''(B) Appropriate types of toxicity of proteins or other substances added to genetically engineered foods.

''(C) Pleiotropic effects. The Secretary shall require tests to determine the potential for such effects, including increased levels of toxins, or changes in the levels of nutrients.

''(D) Changes in the functional characteristics of food.''.

(5) CERTAIN TESTS.—Section 409(c) of the Federal Food, Drug, and Cosmetic Act, as amended by paragraph (4), is further amended by adding at the end the following paragraph:

''(7) In the case of a genetic food additive, the following rules shall apply:

''(A) If a genetic food additive is a protein from a commonly or severely allergenic food, the Secretary may not establish a regulation under paragraph (1)(A) for the additive if the petition filed under subsection (b)(1) for the additive fails to include full reports of investigations that used serum or skin tests (or other advanced techniques) on a sensitive population to determine whether such additive is commonly or severely allergenic.

''(B)(i) If a genetic food additive is a protein that has not undergone the investigations described in subparagraph (A), the Secretary may not establish a regulation under paragraph (1)(A) for the additive if the petition filed under subsection (b)(1) fails to include full reports of investigations that used the best available biochemical and physiological protocols to evaluate whether it is likely that the protein involved is an allergen.

''(ii)(I) For purposes of clause (i), the Secretary shall by regulation determine the best available biochemical and physiological protocols.

''(II) In carrying out rulemaking under subclause (I), the Secretary shall consult with the Director of the National Institutes of Health.''.

(6) PROHIBITED ADDITIVES.—Section 409(c) of the Federal Food, Drug, and Cosmetic Act, as amended by paragraph (5), is further amended by adding at the end the following paragraph:

''(8)(A) In the case of a genetic food additive, the Secretary may only establish a regulation under paragraph (1)(A) for the additive if the regulation requires that a food containing the additive meet the requirements of subparagraph (C), in a case in which—

''(i) the additive is a protein and a report of an investigation described in subsection (b)(2)(E) finds that the additive is likely to be commonly or severely allergenic; or

''(ii) the additive is a protein and such a report of an investigation that uses a protocol described in paragraph (7)(B) fails to find with reasonable certainty that the additive is unlikely to be an allergen.

''(B) Effective June 1, 2004, in the case of a genetic food additive, the Secretary may not establish a regulation under paragraph (1)(A), and shall repeal any regulation in effect under that paragraph, for the additive if a selective marker is used with respect to the additive, the selective marker will remain in the food involved when the food is marketed, and the selective marker inhibits the function of 1 or more antimicrobial drugs.

''(C) In a case described in clause (i) or (ii) of subparagraph (A), in order to meet the requirements of this subparagraph, a food that contains a genetic food additive shall—

''(i) bear a label or labeling that clearly and conspicuously states the name of the allergen involved; or

''(ii) be offered for sale under a name that includes the name of the allergen.''.

(7) ADDITIONAL PROVISIONS.—Section 409(c) of the Federal Food, Drug, and Cosmetic Act, as amended by paragraph (6), is further amended by adding at the end the following paragraph:

''(9)(A) In determining the safety for use of a genetic food additive under this subsection, the Secretary may (directly or through contract) conduct an investigation of such additive for purposes of supplementing the information provided to the Secretary pursuant to a petition filed under subsection (b)(1).

''(B) To provide Congress with a periodic independent, external review of the Secretary's formulation of the approval process

carried out under paragraph (1)(A) that relates to genetic food additives, the Secretary shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences. Such agreement shall provide that, if the Institute of Medicine has any concerns regarding the approval process, the Institute of Medicine will submit to Congress a report describing such concerns.

''(C) In the case of genetic food additives, petitions filed under subsection (b)(1) may not be categorically excluded from the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).''.

(c) REGULATION ISSUED ON SECRETARY'S INITIATIVE.—Section 409(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(d)) is amended—

(1) by striking ''(d) The Secretary'' and inserting ''(d)(1) Subject to paragraph (2), the Secretary''; and

(2) by adding at the end the following paragraph:

''(2) The provisions of subsections (b) and (c) that expressly refer to genetic food additives apply with respect to a regulation proposed by the Secretary under paragraph (1) to the same extent and in the same manner as such provisions apply with respect to a regulation issued under subsection (c) in response to a petition filed under subsection (b)(1). For purposes of this subsection, references in such provisions to information contained in such a petition shall be considered to be references to similar information in the possession of the Secretary.''.

(d) CIVIL PENALTIES.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following subsection:

''(h)(1) With respect to a violation of section 301(a), 301(b), or 301(c) involving the adulteration of food by reason of failure to comply with the provisions of section 409 that relate to genetic food additives, any person engaging in such a violation shall be liable to the United States for a civil penalty in an amount not to exceed $100,000 for each such violation.

''(2) Paragraphs (3) through (5) of subsection (g) apply with respect to a civil penalty under paragraph (1) of this subsection to the same extent and in the same manner as such paragraphs (3) through (5) apply with respect to a civil penalty under paragraph (1) or (2) of subsection (g).''.

(e) RULE OF CONSTRUCTION.—With respect to section 409 of the Federal Food, Drug, and Cosmetic Act, compliance with the provisions of such section 409 that relate to genetic food additives does not constitute an affirmative defense in any cause of action under Federal or State law for personal injury resulting in whole or in part from a genetic food additive.

SEC. 4. USER FEES REGARDING DETERMINATION OF SAFETY OF GENETIC FOOD ADDITIVES.

Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by inserting after section 409 the following section:

''SEC. 409A. USER FEES REGARDING SAFETY OF GENETIC FOOD ADDITIVES.

''(a) IN GENERAL.—In the case of genetic food additives, the Secretary shall, in accordance with this section, assess and collect a fee on each petition that is filed under section 409(b)(1). The fee shall be collected from the person who submits the petition, shall be due upon submission of the petition, and shall be assessed in an amount determined under subsection (c). This section applies as of the first fiscal year that begins after the date of promulgation of the final regulation required in section 5 of the Genetically Engineered Food Safety Act (referred to in this section as the 'first applicable fiscal year').

''(b) PURPOSE OF FEES.—

''(1) IN GENERAL.—The purposes of fees required under subsection (a) are as follows:

''(A) To defray increases in the costs of the resources allocated for carrying out section 409 for the first applicable fiscal year over the costs of carrying out such section for the preceding fiscal year, other than increases that are not attributable to the responsibilities of the Secretary with respect to genetic food additives.

''(B) To provide for a program of basic and applied research on the safety of genetic food additives (to be carried out by the Commissioner). The program shall address fundamental questions and problems that arise repeatedly during the process of reviewing petitions under section 409(b)(1) with respect to genetic food additives, and shall not directly support the development of new genetically engineered foods.

''(2) ALLOCATIONS BY SECRETARY.—Of the total fee revenues collected under subsection (a) for a fiscal year, the Secretary shall reserve and expend—

''(A) 95 percent for the purpose described in paragraph (1)(A); and

''(B) 5 percent for the purpose described in paragraph (1)(B).

''(3) CERTAIN PROVISIONS REGARDING INCREASED ADMINISTRATIVE COSTS.—With respect to fees required under subsection (a)—

''(A) increases referred to in paragraph (1)(A) include the costs of the Secretary in providing for investigations under section 409(c)(9)(A); and

''(B) increases referred to in paragraph (1)(A) include increases in costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in carrying out section 409 with respect to genetic food additives.

''(c) TOTAL FEE REVENUES; INDIVIDUAL FEE AMOUNTS.—The total fee revenues collected under subsection (a) for a fiscal year shall be the amounts appropriated under subparagraph (A) or (B) of subsection (f)(2) for such fiscal year. Individual fees shall be assessed by the Secretary on the basis of an estimate by the Secretary of the amount necessary to ensure that the sum of the fees collected for such fiscal year equals the amount so appropriated.

''(d) FEE WAIVER OR REDUCTION.—The Secretary shall grant a waiver from or a reduction of a fee assessed under subsection (a) if the Secretary finds that—

''(1) the fee to be paid will exceed the anticipated present and future costs incurred by the Secretary in carrying out the purposes described in subsection (b) (which finding may be made by the Secretary using standard costs); or

''(2) collection of the fee would result in substantial hardship for the person assessed for the fee.

''(e) ASSESSMENT OF FEES.—

''(1) LIMITATION.—

''(A) IN GENERAL.—Fees may not be assessed under subsection (a) for a fiscal year beginning after the first applicable fiscal year unless the amount appropriated for salaries and expenses of the Food and Drug Administration for such fiscal year is equal to or greater than the amount appropriated for salaries and expenses of the Food and Drug Administration for the first applicable fiscal year multiplied by the adjustment factor applicable to the later fiscal year.

''(B) DETERMINATIONS.—In making determinations under this paragraph for the fiscal years involved, the Secretary shall exclude—

''(i) the amounts appropriated under subsection (f)(2) for the fiscal years involved; and

''(ii) the amounts appropriated under section 736(g) for such fiscal years.

''(2) AUTHORITY.—If under paragraph (1) the Secretary does not have authority to assess fees under subsection (a) during a portion of a fiscal year, but does at a later date in such fiscal year have such authority, the Secretary, notwithstanding the due date under such subsection for fees, may assess and collect such fees at any time in such fiscal year, without any modification in the rate of the fees.

''(f) CREDITING AND AVAILABILITY OF FEES.—

''(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriation Acts until expended without fiscal year limitation. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the purposes described in paragraph (1) of subsection (b), and the sums are subject to allocations under paragraph (2) of such subsection.

''(2) AUTHORIZATION OF APPROPRIATIONS.—

''(A) FIRST FISCAL YEAR.—For the first applicable fiscal year—

''(i) there is authorized to be appropriated for fees under subsection (a) an amount equal to the amount of increase determined under subsection (b)(1)(A) by the Secretary (which amount shall be published in the Federal Register); and

''(ii) in addition, there is authorized to be appropriated for fees under subsection (a) an amount determined by the Secretary to be necessary to carry out the purpose described in subsection (b)(1)(B) (which amount shall be so published).

''(B) SUBSEQUENT FISCAL YEARS.—For each of the 4 fiscal years following the first applicable fiscal year—

''(i) there is authorized to be appropriated for fees under subsection (a) an amount equal to the amount that applied under subparagraph (A)(i) for the first applicable fiscal year, except that such amount shall be adjusted under paragraph (3)(A) for the fiscal year involved; and

''(ii) in addition, there is authorized to be appropriated for fees under subsection (a) an amount equal to the amount that applied under subparagraph (A)(ii) for the first applicable fiscal year, except that such amount shall be adjusted under paragraph (3)(B) for the fiscal year involved.

''(C) SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS.—In addition to sums authorized to be appropriated under subparagraphs (A) and (B), there are authorized to be appropriated, for the purposes described in subsection (b)(1)(A), such sums as may be necessary for the first applicable fiscal year and each of the 4 subsequent fiscal years.

''(3) ADJUSTMENTS.—

''(A) AGENCY COST OF RESOURCES.—For each fiscal year other than the first applicable fiscal year, the amount that applied under paragraph (2)(A)(i) for the first applicable fiscal year shall be multiplied by the adjustment factor.

''(B) RESEARCH PROGRAM.—For each fiscal year other than the first applicable fiscal year, the amount that applied under paragraph (2)(A)(ii) for the first applicable fiscal year shall be adjusted by the Secretary (and as adjusted shall be published in the Federal Register) to reflect the greater of—

''(i) the total percentage change that occurred since the beginning of the first applicable fiscal year in the Consumer Price

Index for All Urban Consumers (all items; United States city average); or

''(ii) the total percentage change that occurred since the beginning of the first applicable fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

''(4) OFFSET.—Any amount of fees collected for a fiscal year under subsection (a) that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

''(g) COLLECTION OF UNPAID FEES.—In any case in which the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after the fee is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(h) CONSTRUCTION.—This section may not be construed as requiring that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employers, and advisory committees not engaged in carrying out section 409 with respect to genetic food additives be reduced to offset the number of officers, employees, and advisory committees so engaged.

''(i) DEFINITION OF ADJUSTMENT FACTOR.—

''(1) IN GENERAL.—In this section, the term 'adjustment factor' applicable to a fiscal year means the lower of—

''(A) the Consumer Price Index for All Urban Consumers (all items; United States city average) for April of the preceding fiscal year divided by such Index for April of the first applicable fiscal year; or

''(B) the total of discretionary budget authority provided for programs in categories other than the defense category for the preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(c))) divided by such budget authority for the first applicable fiscal year (as reported in the Office of Management and Budget final sequestration report submitted for such year under section 254(f) of such Act).

''(2) BUDGET AUTHORITY; CATEGORY.—In this subsection, the terms 'budget authority' and 'category' have the meanings given such terms in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900).''.

SEC. 5. RULEMAKING; EFFECTIVE DATE; PREVIOUSLY UNREGULATED MARKETED ADDITIVES.

(a) RULEMAKING; EFFECTIVE DATE.—

(1) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish criteria for carrying out section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) in accordance with the amendments made by section 3, and criteria for carrying out section 409A of such Act (as added by section 4).

(2) EFFECTIVE DATE.—Such amendments take effect on the first day of the first fiscal year that begins after the date of promulgation of the final regulation described in paragraph (1).

(b) PREVIOUSLY UNREGULATED MARKETED ADDITIVES.—

(1) IN GENERAL.—In the case of a genetic food additive (as defined in section 201(kk)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(kk)(4))) that in the United States was in commercial use in food as of the day before the date on which the final regulation described in subsection (a) is promulgated, the amendments made by this Act apply to the additive on the expiration of the 2-year period beginning on the date on which the final regulation is promulgated, subject to paragraph (2).

(2) USER FEES.—With respect to a genetic food additive described in paragraph (1), such paragraph does not waive the applicability of section 409A of the Federal Food, Drug, and Cosmetic Act to a petition filed under section 409(b)(1) of such Act (21 U.S.C. 348(b)(1)) that is filed before the expiration of the 2-year period described in such paragraph.●

By Mr. GRAHAM:

S. 2316. A bill to authorize the lease of real and personal property under the jurisdiction of the National Aeronautics and Space Administration; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL SPACE PARTNERSHIP ACT

● Mr. GRAHAM. Mr. President, I rise today to introduce the Commercial Space Partnership Act—legislation to encourage the commercial development of space through the long term lease of real and personal property held by the National Aeronautics and Space Administration (NASA).

The Cox Commission Report identified the need to expand domestic launch capacity to meet the rapidly growing demand for commercial U.S. launch services. It is vital that we increase our domestic launch capacity, reduce our dependence on foreign launch providers and help eliminate the transfer of critical U.S. technology. The Cox Report specifically recommended that congressional committees ''report legislation to encourage and stimulate further the expansion of such capacity of competition.''

Mr. President, the Commercial Space Partnership Act is the third piece of legislation I have introduced with the goal of increasing our domestic launch capacity. The first was the Commercial Space Act, which became law in 1998. The Act helped break the federal government's monopoly on space travel by establishing a licensing framework for the private sector's reusable launch vehicles. It also provided for the conversion of excess ballistic missiles into space transportation vehicles, thus helping to reduce our nation's cost of access to space.

Last year, along with a similar bipartisan coalition, I introduced the Spaceport Investment Act. This bill would allow spaceports to issue tax-free bonds to attract private sector investment dollars for launch infrastructure. It achieves the dual purpose of reducing pressure on the federal budget while stimulating this crucial industry.

Mr. President, the third leg of this effort is the Commercial Space Partnership Act. Presently, NASA holds real and personal property that would be invaluable in developing new domestic launch resources. At the same time, however, NASA has no appropriations with which to cover the costs that result from integrating new commercial launch facilities into its existing infrastructure. The Commercial Space Partnership Act is designed to resolve this problem by allowing public and private interests with development money to lease property from NASA for the purpose of expanding commercial launch capacity, and by permitting NASA to make use of some of the lease proceeds to cover the resulting costs it incurs.

The Commercial Space Partnership Act will empower NASA to assist the commercial space industry in expanding the domestic launch capacity at no cost to the taxpayer. Under this new lease authority, NASA will receive fair market value for its property and will further be empowered to apply the lease proceeds to cover the full costs resulting from the integration of the new commercial launch facilities into NASA's existing infrastructure. The Act further provides that any lease proceeds in excess of NASA's full costs shall be forwarded to the U.S. Treasury as miscellaneous receipts.

The fair market value approach also ensures that NASA property will be leased to industry at a price which is comparable to other similar commercial properties. NASA's property will thereby be leased in a fair and equitable manner that will give in an unfair advantage to those with preexisting launch facilities in commercial locations.

Mr. President, the Commercial Space Partnership Act can only encourage and stimulate the domestic launch capacity of our country. I urge my colleagues in the Senate to join us in this important effort by co-sponsoring this bill.●

By Mr. DORGAN (for himself and Mr. CRAIG):

S. 2317. A bill to provide incentives to encourage stronger truth in sentencing of violent offenders, and for other purposes; to the Committee on the Judiciary.

STOP ALLOWING FELONS EARLY RELEASE (SAFER) ACT

By Mr. DORGAN (for himself, Mr. CRAIG, and Mr. ROBB):

S. 2318. A bill to amend title 18, United States Code, to eliminate good time credits for prisoners serving a sentence for a crime of violence, and for other purposes; to the Committee on the Judiciary.

100 PERCENT TRUTH-IN-SENTENCING ACT

Mr. DORGAN. Mr. President, I offer legislation today that I introduced previously but on which I was not able to get action during a previous Congress, and that is legislation dealing with truth in sentencing.

Let me talk about some folks who have committed violent acts in this country. Recently, I read in a local paper here that a man named Kenneth Lodowski is walking around this metropolitan area. He was sentenced to die in 1984. He murdered two people—one

an off-duty police officer, and the other a clerk in a convenience store. He was sentenced to die in 1984 for two murders. The prosecuting attorney called the murders ''as vicious a crime as I have experienced in my 24 years as State's attorney.''

That is the crime.

After a series of appeals, this man, who was sentenced to death for two murders, had the sentence changed to life imprisonment without parole, then changed again, then changed again. Finally, the sentence was 25 years in prison. After 16 years in prison, this person is walking around the streets of this metropolitan area—free.

Why? Here is the reason. If you commit murder in this country, on average, you are going to be sentenced to about 21 years in prison. On average, a murderer will be sentenced to about 21 years in prison but will serve, on average, only 10 years behind bars.

Most people will be startled to hear that. But let me say that again. The average sentence served by a murderer in this country is about 10 years. Why? Because people are let out early. Murderers go to prison, and they get ''good time,'' time off for good behavior: If you want to get out early, just be good in prison, and we will put you back on the streets.

What happens when you are put back on the streets? You read the stories. I have spoken a number of times about Bettina Pruckmayr, a young woman who moved to town with great expectations, a young lawyer. She was abducted in a carjacking, then taken to an ATM machine to extract cash, and then stabbed 30 times in a horrible death. This young, 26-year-old attorney who was just beginning her career in this town, was stabbed 30 times by a man who had previously been convicted of rape, armed robbery, and murder. That man was on the streets legally, let out by a criminal justice system that does not keep people who we know are violent behind bars—let out early.

Or Jonathan Hall, about whom I have spoken in this Chamber, 13 years old, stabbed by a man who moved into his neighborhood, stabbed 60 times with a screwdriver, thrown down an embankment into a pond. When they found young Jonathan, after being stabbed 60 times, they found dirt and grass between his fingers because even though he had been stabbed 60 times, this 13-year-old boy had tried to crawl out of that pond into which this fellow had thrown him. His clenched fists described his will to survive. But he did not; he died.

Jonathan's murderer was a career criminal. He had been convicted previously of kidnapping and murder, but let out, and was living in the neighborhood and able to murder this 13-year-old boy—paroled just 1 year before he took Jonathan's life.

And Julie Schultz from ND, a woman whom I know fairly well, the mother of three, who stopped at a highway rest area one day on a pleasant, tranquil afternoon in North Dakota. She was attacked by a man who tried to rape her, slashed her throat, cutting her vocal cords, and left her for dead at a rest area on Highway 2 in northern North Dakota.

She survived the attack. In fact, I saw Julie just 2 weeks ago at the Minneapolis Airport. She survived the attack but has lasting scars and difficulties as a result of that attack.

Who attacked Julie? The same kind of person who attacked others around this country—people who we knew were violent, were put behind bars, and let out early because the criminal justice system says: You only have to spend 10 years, on average, in jail if you commit a murder in this country. We will sentence you to 21 years, but you only have to spend 10 years behind bars because we will let you out early if you are good.

The fellow who slashed the throat of Julie Schultz served 7 years of a life sentence in the State of Washington before being released, before being on Highway 2, on an afternoon in North Dakota, able to do what he did to Julie Schultz.

Sara Paulson, 8 years old, went out for a bike ride one day and never came back. Her body was found under a pine tree less than 200 yards from her home. She had been sexually assaulted and strangled to death. Her murderer had been previously sentenced to prison for rape but was paroled after serving less than half of his sentence.

I am introducing legislation today, cosponsored by Senator CRAIG of Idaho, and another piece of legislation cosponsored by Senator CRAIG of Idaho and Senator ROBB of Virginia. The point of it is very simple. I believe in the criminal justice system we ought to have different standards for those who commit acts of violence. Everyone in this country who commits acts of violence ought to understand: You go to prison, and your address is going to be your jail cell until the end of your sentence.

Do you know what the prison folks say to us? We need mechanisms by which we can persuade inmates to behave in prison. The mechanism is to dangle before them an early-out, time off for good behavior. So if we are able to reward them for behaving in prison, we are able to manage them.

I say to them, what about managing them on the streets?

As I stated, there is a fellow who is walking the streets in this metropolitan area now, after 16 years, who killed a policeman and killed a clerk in a store, because he was released early.

What about the people on the streets who are going to meet that fellow? What about their safety? Who is managing that violent offender now? Who managed the violent offender who viciously attacked Julie Schultz? Who managed the behavior of the man who violently attacked Jonathan Hall? Who was watching the fellow who violently attacked Bettina Pruckmayr?

The answer is, nobody.

Let us segregate and separate those who commit violent acts in this country from those who are nonviolent offenders. Let's incarcerate them all. I do not mind early release for nonviolent offenders. But for violent offenders, we ought to have a society in which everyone understands: If you commit an act of violence, the prison cell is your address to the end of your sentence. No good time off for good behavior, no getting back to the streets early. You are going to be in prison to serve your term.

It is the only way, it seems to me, to protect innocent folks, such as Bettina Pruckmayr and Jonathan Hall and Julie Schultz, and so many others who have been victimized by people we know were violent and should have been in a prison cell but, instead, were on the streets early because prison authorities let them out early with ''good time'' credits and ''good time'' releases.

Let's stop it. My legislation will do that. It says to the States: You must do it. If you do not, you are going to lose certain grants under the Criminal Justice Act. Is that tough? Yes. But we must, it seems to me, take these steps to change this.

Again, let me conclude. My colleague from Illinois, I know, wants the floor. But early releases—these are State prisons, incidentally—sexual assault: Sentenced for 10 years, on average, and you are out in 5; robbery: Sentenced for 8 years, on average, and you are out in 4; murder: Sentenced for 21 years, on average, and you are out in 10.

Everyone in this Chamber knows the horrors of crime, if not personally with them and their family, then a neighbor, a friend, a relative.

We know the current system isn't working. Too many violent offenders are sent back to America's streets. There is a way to stop that. Yes, I know we have too many people in prison; But the way to be smart about it is to segregate those who are violent offenders from those who are nonviolent. This piece of legislation would start us doing that.

If any of us, God forbid, would lose a loved one or relative because of a vicious crime committed by someone who should have been in prison but was let out early, we would spend the rest of our days trying to pass legislation like this. We ought to do it.

Let me again say, the piece of legislation I began to talk about today, because of the escape in Chula Vista, CA, has resulted in a convicted murderer walking around on the loose, a man named Prestridge. A violent murderer supposed to be spending the rest of his life behind bars is now loose because he was being transported by a private company and incompetence allowed these violent offenders, two of them, to escape—if we pass Jeanna's bill, named after the young 11-year-old who was violently murdered by Kyle Bell, if we pass that piece of legislation, I won't

be here speaking about those circumstances again because they won't happen again. I hope we will be able to address both of those pieces of legislation in the remaining months of this Congress.

I thank my colleague from Illinois. I wanted to introduce this legislation and talk about it at some length today. I know he is here to talk as well. I yield the floor.

Mr. DURBIN. Mr. President, I rise to comment on the remarks made by my friend and colleague from North Dakota, Senator DORGAN. I know his feelings are heartfelt about this issue. I know he speaks from the heart when he tells us about these terrible tragedies to which many families in America have been subjected. I hope he feels, as I do, that when it comes to violent crime, crimes involving guns and weapons, sexual assault, and the like, we should have no tolerance for that conduct. And when it comes to sentencing those responsible for the crimes, we should do it in a manner to protect American citizens and families across the board. I agree with him on that score. I think if we are ever going to stop the plague of violent crime in this country, we have to deal with enforcement of the law in a realistic way to protect families.

Two weeks ago, I was stuck in an airport in our State capital, my hometown of Springfield, which tends to be part of the job description of being a Senator. The director of the Department of Corrections, Don Snyder, came up and said hello, and we had a chance to chat about incarceration in my home State of Illinois.

There are currently, if I remember the figures off the top of my head, about 45,000 people incarcerated in the State prison system in Illinois. He told me a couple of things that were interesting. Each year, we release from the Illinois prison system over 20,000 inmates. We have this false notion that once a person is incarcerated, they are there forever.

As the Senator from North Dakota has indicated, even for the most violent criminals, that is not the case. About half of them come out each year. When you consider all the crimes for which people are incarcerated, they are back on the street. The question we obviously have to ask is whether they will commit another crime. Unfortunately, about half of them do. Those crimes, when repeated, test our resolve to not only have a system that involves punishment but, where appropriate, rehabilitation.

This director of our Department of Corrections gave me an illustration. He said, if you consider a crime involving drugs to be the possession of a thimbleful of cocaine, in 1987, the Illinois prison system had 400 people incarcerated for the possession of a thimbleful of cocaine. In the year 2000, we have 9,100 inmates incarcerated for the possession of a thimbleful of cocaine. He said: Conceding the fact that we want to end the drug scourge in our country and we want to be effective in doing it, the average drug criminal in Illinois is incarcerated for 7½ months. It is hard to believe that we are going to teach many lessons in 7½ months, but that is the average.

Here is the thing that is troubling. During the period of that incarceration in prison for the commission of the drug crime, there is virtually nothing done to deal with the underlying addiction of the inmate. So when they are released in 7½ months or a little longer, they are back on the streets, still addicted, likely to run back into the same drug culture and be exposed to the same forces that put them in prison in the first place.

He asked me a valid question: Why aren't we doing something, while we have these people who have been convicted and incarcerated, to try to get them off drugs?

I think that is a reasonable suggestion. I am not for letting violent criminals out early, but for those who are in for drug crimes, we ought to have a policy nationwide that deals with some effort to stop their addiction, to end their addiction, to try, when they are released, to give them a chance to lead a normal life that doesn't include another victim at some later point. I hope we address that.

He also indicated to me that over 80 percent of the women in the Illinois prison system have children. And while they are in prison separated from those children, oftentimes those children are in terrible circumstances. We saw in the State of Michigan a few weeks ago when a 6-year-old boy took a gun to school and killed a little classmate. Then we find his father was in prison. His mother is addicted. He was stuck in a home where he slept on a couch. No one paid attention to him. Frankly, a gun was left on a table where he could get his hands on it and take it to school.

That kind of neglect occurs too often in America. It is invited in a situation where mothers are incarcerated and no one is there to care for their kids.

This Director of Corrections said: Can we keep the link between the mother and child alive? We find that the women who are inmates really want to turn their lives around when they think their family can stay together and has a future. We know that the kids would like to keep a relationship with the mother who may turn her life around.

These are troubling questions. In a nation where we incarcerate more per capita than any other country in the world, we have to face these realities. People are coming out of prison. When they come out, we have to wonder whether there has been a part of their experience in prison that will lead to a better life for them and a safer America and less recidivism.

Mr. DORGAN. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. DORGAN. I agree with what the Senator has said. Nearly half of the people incarcerated in this country are violent offenders, half are not. It seems to me we ought to be smarter in the way we incarcerate them, those half whom we know are violent. For those we know are violent, we should not be incentivizing them to move to the streets earlier. We ought to try to find ways to keep them in prison to the end of their term. Those who are nonviolent they have to be punished, serve their time. But they are not violent and are not a threat to people.

Senator John Glenn used to talk about this in the Senate. He used to bring with him a model of a Quonset hut, apparently made in Ohio. He said: This is the kind of place I lived in during the Korean war. My wife and I lived in one of these huts various places around the world. It was Marine housing, among other things. He said, for nonviolent offenders, we could put up some barbed wire and build Quonset huts. It doesn't take a fortune to create incarceration compounds for nonviolent offenders. We don't have to put them in lockups that are massively secure, lockups that cost a fortune. Use those lockups for violent offenders; then give yourself enough space to keep violent offenders behind bars to the end of their term.

That is the point I was making. I don't disagree with anything the Senator from Illinois said about the crime factor inside the prisons and about the circumstances these days of mandatory sentencing and crimes that have been nonviolent that have crowded the prison system. I thank the Senator for his comments.

Mr. DURBIN. I thank the Senator from North Dakota. I appreciate the importance of the issue of incarceration and corrections.

By Mr. SMITH of New Hampshire (for himself and Mr. ALLARD):

S. 2319. A bill to amend title XVIII of the Social Security Act to establish a voluntary Medicare Prescription Drug Plan under which eligible Medicare beneficiaries may elect to receive coverage under the Rx Option for outpatient prescription drugs and a combined deductible; to the Committee on Finance.

VOLUNTARY MEDICARE PRESCRIPTION DRUG PLAN ACT OF 2000

Mr. SMITH of New Hampshire. Mr. President, I rise today to introduce a bill entitled the ''Voluntary Medicare Prescription Drug Plan Act of 2000.'' This bill allows seniors to enroll in a new program under Medicare which will provide for prescription drug coverage. This is an issue about which, as you know, many seniors are very concerned.

Seniors who join this plan would have a combined Part A and Part B deductible of $675, which would include all hospital, medical, and drug expenses. After the deductible is met, seniors would receive 50-percent coverage of their prescription drug costs

up to $5,000. If a senior has $2,000 in expenses for prescription drugs, $1,000 of that would be paid for under this plan.

I have spoken to senior groups and health care providers, both in Washington as well as in my State over the past several weeks, about this proposal. The response has been very enthusiastic. Seniors want a prescription drug benefit. Doctors and nurses understand the importance of providing coverage for seniors because of the expense of prescription drugs in this country. It would be a victory for seniors and for health care in this country if we could provide this coverage to them.

I have had discussions with many of my colleagues in the Senate who are working on this very issue. We have all heard from our constituents about the importance of prescription drugs. Senators BREAUX and FRIST have included prescription drugs in their overall Medicare reform package. Senators KENNEDY, SNOWE, WYDEN, GRAMS, and JEFFORDS all have proposed various plans that provide some level of prescription drug coverage in Medicare, and many others are working on separate proposals of their own.

In a recent press conference, President Clinton and Senator DASCHLE outlined their goals for prescription drug coverage. Leaving the politics aside, the fact that elected leaders from both parties are looking at this issue of prescription drug coverage is good news for the senior citizens of America. I have talked with several of my Republican colleagues, and it is clear to me there is overwhelming support for allowing seniors to have this choice. The only question among us all is how we can responsibly structure such a program.

I have heard from seniors in my State about what they are looking for in a prescription drug plan.

First, they are concerned about the solvency of the Medicare program. They want a program that does not add some huge financial burden to the trust fund which will be passed on to their grandchildren. They do not want to increase the national debt, either. Yes, seniors are concerned about the national debt. Ask them the next time you speak to a seniors group.

The President's proposal, as it is written, blows a $168 billion hole in the trust fund, threatening its solvency.

Second, seniors do not want new premiums. My plan requires no premium hike for seniors. Zero. The President's plan requires a $51 annual premium increase.

I will repeat that. Seniors do not want to blow a hole in the national debt. They do not want to inflate the debt. Yet the President's proposal adds $168 billion that is going to come out of that trust fund, threatening its solvency. And seniors do not want more premiums. My plan has no increase in premiums; the President's plan, $51—just to start—annual premium increase.

The guiding principles of this plan, which may come as a shock to some of my colleagues on the other side of the aisle, are the same principles as those of the President and the distinguished minority leader for any prescription drug plan. I want to repeat the six principles the minority leader has introduced on behalf of the President. I am going to add three more to those six and make it even better. I do not know why we cannot have almost unanimous support for this piece of legislation.

First of all, under the plan the Senate Democrats are committed to passing this year, there are six basic principles. I agree with them all.

No. 1, it is voluntary. Medicare beneficiaries who now have dependable, affordable prescription drug coverage should have the option of keeping that coverage.

No. 2, it is accessible to all beneficiaries. I agree with that. A hallmark of Medicare is that all beneficiaries, even those in rural or underserved communities, have access to dependable health care. It should be accessible to everybody. I agree with the second principle.

No. 3, it is designed to provide meaningful protection and bargaining power for seniors. A Medicare drug benefit should assist seniors with the high cost of drugs and protect them against excessive, out-of-pocket expenses. I agree with that.

No. 4, it should be affordable to all beneficiaries, and it should be affordable to the Medicare program itself.

Medicare should contribute enough toward the prescription drug premium to make it affordable and attractive for all beneficiaries and to ensure the viability of the benefit. I agree with that.

No. 5, administered using private-sector entities and competitive purchasing techniques. In other words, the program is administered by using private sector entities and competitive purchasing techniques. The management of the prescription drug benefit should mirror the practices employed by private insurers. Discounts should be achieved through competition, not through price controls or regulation.

I agree with that.

We are five for five.

No. 6, consistent with broader Medicare reform, the addition of a Medicare drug benefit should be consistent with an overall plan to strengthen and modernize Medicare. Medicare will face the same demographic strain as Social Security when the baby boomer generation retires. So it is consistent with broader Medicare reform.

I agree with that.

There are six principles I can support.

I would ask my colleagues on the other side of the aisle to join me now with three more principles I would add:

No. 1, that the plan be revenue neutral to preserve and protect the financial integrity of the Medicare trust fund. In other words, it does not cost the Government any more money.

No. 2, that the plan does not raise Medicare premiums. Their plan, $51 annually to seniors; my plan, zero. So no increase in premiums.

And No. 3, that full benefits be provided, not in 2009, as the administration plan proposes, but in 2001, 8 years sooner.

So my three principles—revenue neutral, do not raise the premiums, provide the benefits in 2001—those three principles enhance and strengthen the other six principles put forth by my colleagues on the other side of the aisle.

My plan accomplishes all three of the principles I have outlined.

Let me briefly explain how it works.

A senior already enrolled in Medicare Parts A and B—already enrolled in Part A, hospital, and Part B, doctor—will have the option of choosing my new voluntary prescription drug plan. It is their option. Nobody is mandated; they choose. It will cover 50 percent of their prescription drug costs toward the first $5,000 worth of prescription drugs. If they buy $4,000 worth of drugs—$2,000 for prescription drugs; $2,000 is covered.

How do we do this? How do we make it work? Medicare Part A—under the old system, the current system—has a $776 deductible. Medicare Part B has a $100 deductible. In other words, if you go to the doctor, the first $100 you pay for; if you go to the hospital, the first $776 you pay for; the rest, Medicare pays. That is a total of $876 you will have to pay.

My new plan would create one new deductible, combining those two deductibles of Part A and Part B into one deductible of $675, which would apply to all hospital costs, all doctor visits, and prescription drugs—50 cents on the dollar up to $5,000. And the prescription drug costs apply to the deductible, so every dollar you pay for a prescription moves you forward to meet the deductible.

Once the $675 deductible is met by the Medicare recipient, Medicare then will pay 50 percent of the cost toward the first $5,000 worth of drugs the senior purchases.

However, the senior could not purchase a Medigap plan that would pay for the $675 deductible. This must be paid for by the senior. But if you have a Medigap plan now as a senior, you will not need it.

As a result, seniors would save about $550 under Medigap plans if they traded their current Medigap plan for my new prescription drug plan. Again, it is their option. It is voluntary. Seniors could even use their $550 in savings to pay the $675 deductible.

If you are a senior out there, and you have Part A, Part B, and you are paying $675 toward the deductible, and you have Medigap insurance of $550, you now can put the $550 toward the $675 to meet your deductible. So you are going to have $550 in savings. You can put that toward the $675, and you are already two-thirds of the way there.

But how do you get the cost savings?

As my colleagues are aware, according to the National Bipartisan Commission on the Future of Medicare, the

Federal Government pays about $1,400 more per senior if the senior owns a Medigap plan that covers their Part A and Part B deductible. This, generally, is because of our overutilization of hospital and doctor visits by the senior. The savings result because Medicare will not have to pay this $1,400 per person per year out of the trust fund.

As I mentioned, all hospital, physician, and prescription drug costs would count toward this $675 deductible. Once it was met, the senior would receive regular, above-the-deductible Medicare coverage, just as you get now. Or if you worked out the numbers and decided against my plan, then you would not have to select it; it is your choice.

I believe the vast majority of seniors will benefit from this plan. In fact, every senior with a Medigap plan will definitely benefit. Any senior with a prescription drug expenditure of more than $15 a month will benefit. Today, the Medicare Part A and Part B deductible totals $876, which most seniors cover by an average $1,611 Medigap insurance premium.

These estimates, as well as the estimate that the bill is budget neutral, come from Mr. Guy King, formerly chief actuary for the Health Care Financing Administration under President Clinton. I received a letter just this morning from Mr. King, from which I would like to quote:

DEAR SENATOR SMITH: This is in response to your letter of March 9, 2000, asking for my analysis of legislation you intend to introduce in the Senate. The proposed legislation establishes a voluntary prescription drug benefit, the Medicare Prescription Drug Plan, under the Medicare program.

Under the Medicare Prescription Drug Plan, the current Part A and Part B deductibles would be replaced by a single deductible of $675 which would also be applicable to the new prescription drug benefit. The Medicare program would pay fifty percent of the cost of prescription drugs, up to a maximum of $2,500 after satisfaction of the deductible.

He goes on to describe it.

Quoting further:

As you requested, I performed an analysis of the proposed legislation. This analysis is based on Medicare and prescription drug data I obtained from the Health Care Financing Administration. My analysis indicates that the Medicare Prescription Drug Plan, as described above, would be cost-neutral to the Medicare program if it were made available on a voluntary basis to all beneficiaries except those also covered by Medicaid.

It is signed by Guy King.

Let me just conclude speaking on this bill by saying, the benefits in this plan are delivered by private companies and regional entities, such as pharmaceutical benefit managers. These entities would negotiate with large drug companies and provide the drugs to Medicare seniors.

Finally, according to the actuaries who reviewed the legislation, there will be no adverse selection. Both the healthy and the sick will have an incentive to choose this plan. Everybody is in.

There are many different methods of providing prescription drug coverage for seniors, but I urge my colleagues—I plead with my colleagues—to look to the revenue-neutral methods that fund this benefit by the elimination of waste in the present system. I urge my colleagues to resist the temptation to raise Medicare premiums on the people who can least afford it.

I have vivid memories of seniors rocking Mr. Rostenkowski's car a few years ago when he decided to raise Medicare premiums. Let's look at it more specifically. The House's fiscal year 2001 budget—this is important—sets $40 billion aside for prescription drugs. In the Senate, we are expected to do a budget that is going to set aside $20 billion.

We don't need either under my plan. We don't need any more money. We don't need $20 billion. We don't need $40 billion. We don't need $2 billion. We don't need any billions. Let's use the money for debt reduction or tax credits for the uninsured rather than providing for prescription drugs, when we could use my revenue-neutral prescription plan instead.

I must say, in all candor, some of the deflections I have had put in my way on this issue by some in this body are disturbing. I will not get into details. I want people to listen and look at this plan. It is a good plan. I would like to have the opportunity to be able to talk about it in more detail with some of my colleagues, because it makes no sense to take $40 billion max, anywhere from $20 billion to $40 billion, and put it into this prescription plan when we don't need to. Let's put it on the debt or let's buy something else with it that is worthwhile. We don't need it.

A neutral plan that does not raise premiums, that takes effect in 2001 is a good plan. It is a good idea. We need to implement it.

I urge my colleagues to take a look at this bill.

I ask unanimous consent that the letter from Mr. King be printed in the RECORD.

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

KING ASSOCIATES,
Annapolis, MD, March 28, 2000.

Hon. BOB SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: This is in response to your letter of March 9, 2000 asking for my analysis of legislation you intend to introduce in the Senate. The proposed legislation establishes a voluntary prescription drug benefit, the Medicare Prescription Drug Plan, under the Medicare program.

Under the Medicare Prescription Drug Plan, the current Part A and Part B deductibles would be replaced by a single deductible of $675 which would also be applicable to the new prescription drug benefit. The Medicare program would pay fifty percent of the cost of prescription drugs, up to a maximum of $2,500 after satisfaction of the deductible. A beneficiary who chooses the Medicare Prescription Drug Plan would not be allowed to purchase a Medicare supplement policy that fills in the $675 deductible, so special Medicare supplement policies for those who choose the option would be allowed.

The Medicare Prescription Drug Plan would be available, on a voluntary basis, to any Medicare beneficiary not also covered by Medicaid. The possibility of anti-selection is an important consideration for a plan that is available to all Medicare beneficiaries as an option. I believe that the design features of the Medicare Prescription Drug Plan, as outlined in your legislation, minimize the impact of anti-selection.

As you requested, I performed an analysis of the proposed legislation. This analysis is based on Medicare and prescription drug data that I obtained from the Health Care Financing Administration (HCFA). My analysis indicates that the Medicare Prescription Drug Plan, as described above, would be cost-neutral to the Medicare program if it were made available on a voluntary basis to all beneficiaries except those also covered by Medicaid.

If you should have any questions regarding my analysis, please don't hesitate to call.

Sincerely,

ROLAND E. (GUY) KING,
President.

By Mr. JEFFORDS (for himself, Mr. BREAUX, Mr. FRIST, Mrs. LINCOLN, and Ms. SNOWE):

S. 2320. A bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs, and for other purposes; to the Committee on Finance.

HEALTH COVERAGE, ACCESS, RELIEF, AND EQUITY (CARE) ACT

Mr. JEFFORDS. Mr. President, today, I am pleased to join with my colleagues in introducing the Health Coverage, Access, Relief and Equity Act or Health CARE Act. This legislation will provide low-income Americans with a refundable tax credit for the purchase of health insurance coverage. This effort marks the first major bipartisan, bicameral, market-based initiative on behalf of the uninsured since 1994.

I believe the issue of access to health coverage for the uninsured must be a top national priority. The uninsured often go without needed health care or face unaffordable medical bills. Insurance coverage guarantees providers reimbursement for their services, and it helps contain costs by encouraging more appropriate use of the health care system.

Unfortunately, the main source of coverage—employer-based insurance—is simply not available to a significant number of working Americans and their families. High health care cost increases have caused more people to become uninsured.

New Census Bureau data indicate that there are now 44 million Americans with no health coverage, an increase of one million from last year. This number is unacceptable for a prosperous nation with a strong economy.

A new poll indicates that our bill is consistent with the main health care concern of average voters. When asked what they think is the most important problem about our health care system that the government should address, the top choice—selected by 29 percent of those sampled—was universal coverage.

I believe the legislation we're introducing today can provide the necessary foundation for achieving the goal of expanded health coverage. The Health CARE tax credit is targeted to those who are most in need of help, due to their lack of income, access to subsidized employment-based coverage, and ineligibility for public programs.

About one-half of the full-time working poor were uninsured last year. Many of these individuals work for small firms. In my own state of Vermont, only 27 percent of workers in firms employing fewer than 10 people are offered health insurance.

These uninsured working Americans have one thing in common: they are low wage workers—with nearly 70 percent making less than two times the minimum wage. Without additional resources, health insurance coverage is either beyond their reach or only purchased by giving up other basic necessities of life.

The Health CARE Act will provide a refundable tax credit to help low and moderate-income individuals and families purchase health insurance.

The legislation will provide a refundable tax credit of $1,000 for the purchase of individual coverage to those with adjusted gross incomes of up to $35,000 and it will provide a $2,000 credit for the purchase of family coverage for those with AGI of up to $55,000.

The initial estimates show that this proposal will help almost 9 million Americans. It will provide health coverage for 3.2 million Americans who are presently uninsured and give needed financial relief to another 5.5 million low-income Americans who are using their scarce dollars to buy individual health insurance policies.

Realizing that insurance coverage is not the single answer for our nation's health access problems, we are also developing additional components to the Health CARE Act which will focus on improving access to health care services and safety net providers, such as community health centers and rural health clinics.

We must do whatever we can to ensure that the Safety Net already in place becomes stronger and more reliable. Just last week, the Subcommittee on Public Health held a hearing on three of our nation's safety provider programs—the Consolidated Health Centers program, the National Health Service Corps, and the Community Access program.

I look forward to working with Senator FRIST on shoring up the Safety Net, and together we plan to introduce an additional component to the CARE Act on Safety Net providers that will become part of the larger health CARE Package.

Our goal for this legislation is to maximize health coverage, tax equity, and cost efficiency, and we believe it should be included as an important element in any tax package that Congress enacts this year.

The Health CARE Act will increase the number of Americans who have health insurance coverage by filling key gaps in the current system and supporting a system of health care financial and delivery that complements the employment-based system.

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

Mr. President, I hope my colleagues will take a look at this. I hope they will join me in making sure we do what must be done to make sure the people who need it the most gets it.

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

S. 2320

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 ''Health Coverage, Access, Relief, and Equity (C.A.R.E.) Act''.

SEC. 2. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by redesignating section 35 as section 36 and inserting after section 34 the following new section:

''SEC. 35. HEALTH INSURANCE COSTS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid during the taxable year for qualified health insurance for the taxpayer and the taxpayer's spouse and dependents.

''(b) LIMITATIONS.—

''(1) MAXIMUM DOLLAR AMOUNT.—

''(A) IN GENERAL.—The amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the sum of the monthly limitations for coverage months during such taxable year.

''(B) MONTHLY LIMITATION.—The monthly limitation for each coverage month during the taxable year is the amount equal to 1/12 of—

''(i) in the case of self-only coverage, $1,000, and

''(ii) in the case of family coverage, $2,000.

''(2) PHASEOUT OF CREDIT.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph is the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $35,000 ($55,000 in the case of family coverage), bears to

''(ii) $10,000.

''(C) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

''(i) without regard to this section and sections 911, 931, and 933, and

''(ii) after application of sections 86, 135, 137, 219, 221, and 469.

''(3) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

''(c) COVERAGE MONTH DEFINED.—For purposes of this section—

''(1) IN GENERAL.—The term 'coverage month' means, with respect to an individual, any month if—

''(A) as of the first day of such month such individual is covered by qualified health insurance, and

''(B) the premium for coverage under such insurance for such month is paid by the taxpayer.

''(2) EMPLOYER-SUBSIDIZED COVERAGE.—

''(A) IN GENERAL.—Such term shall not include any month for which such individual is eligible to participate in any subsidized health plan (within the meaning of section 162(l)(2)) maintained by any employer of the taxpayer or of the spouse of the taxpayer.

''(B) PREMIUMS TO NONSUBSIDIZED PLANS.—If an employer of the taxpayer or the spouse of the taxpayer maintains a health plan which is not a subsidized health plan (as so defined) and which constitutes qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

''(3) CAFETERIA PLAN AND FLEXIBLE SPENDING ACCOUNT BENEFICIARIES.—Such term shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 with respect to—

''(A) a benefit chosen under a cafeteria plan (as defined in section 125(d)), or

''(B) a benefit provided under a flexible spending or similar arrangement.

''(4) MEDICARE AND MEDICAID.—Such term shall not include any month during a taxable year with respect to an individual if, as of the first day of such month, such individual—

''(A) is eligible for any benefits under title XVIII of the Social Security Act, or

''(B) is eligible to participate in the program under title XIX or XXI of such Act.

''(5) CERTAIN OTHER COVERAGE.—Such term shall not include any month during a taxable year with respect to an individual if, as of the first day of such month, such individual is eligible—

''(A) for benefits under chapter 17 of title 38, United States Code,

''(B) for benefits under chapter 55 of title 10, United States Code,

''(C) to participate in the program under chapter 89 of title 5, United States Code, or

''(D) for benefits under any medical care program under the Indian Health Care Improvement Act or any other provision of law.

''(6) PRISONERS.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

''(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section, the term 'qualified health insurance' means health insurance coverage (as defined in section 9832(b)(1)(A)), including coverage under a high deductible health plan (as defined in section 220(c)(2)) or a COBRA continuation provision (as defined in section 9832(d)(1)).

''(e) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—

''(1) IN GENERAL.—If a deduction would (but for paragraph (2)) be allowed under section 220 to the taxpayer for a payment for the taxable year to the medical savings account of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

''(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 220 for that portion of the payments otherwise allowable as a deduction under section 220 for the taxable year which is equal to the

amount of credit allowed for such taxable year by reason of this subsection.

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

''(2) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(3) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 32(g) shall apply to any credit to which this section applies.

''(g) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

''(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations under which—

''(1) an awareness campaign is established to educate the public, insurance issuers, and agents or others who market health insurance about the requirements and procedures under this section, including—

''(A) criteria for insurance products and group health coverage which constitute qualified health insurance under this section, and

''(B) guidelines for marketing schemes and practices which are appropriate and acceptable in connection with the credit under this section, and

''(2) periodic reviews or audits of health insurance policies and group health plans (and related promotional marketing materials) which are marketed to eligible taxpayers under this section are conducted for the purpose of determining—

''(A) whether such policies and plans constitute qualified health insurance under this section, and

''(B) whether offenses described in section 7276 occur.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

''SEC. 6050T. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

''(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

''(C) the aggregate amount of payments described in subsection (a),

''(D) the qualified health insurance credit advance amount (as defined in section 7527(e)) received by such person with respect to the individual described in subparagraph (A), and

''(E) such other information as the Secretary may reasonably prescribe.

''(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 35(d)) other than—

''(1) insurance under a subsidized group health plan maintained by an employer, or

''(2) to the extent provided in regulations prescribed by the Secretary, any other insurance covering an individual if no credit is allowable under section 35 with respect to such coverage.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

''(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished,

''(3) the information required under subsection (b)(2)(B) with respect to such payments, and

''(4) the qualified health insurance credit advance amount (as defined in section 7527(e)) received by such person with respect to the individual described in paragraph (2). The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

''(xi) section 6050T (relating to returns relating to payments for qualified health insurance),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(BB) section 6050T(d) (relating to returns relating to payments for qualified health insurance).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

''Sec. 6050T. Returns relating to payments for qualified health insurance.''.

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 of such Code (relating to other offenses) is amended by adding at the end the following new section:

''SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.

''Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 35 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 162(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) ELECTION TO HAVE SUBSECTION APPLY.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.''.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 35 of such Code''.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 35. Health insurance costs.

''Sec. 36. Overpayments of tax.''.

(4) The table of sections for subchapter B of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7276. Penalties for offenses relating to health insurance tax credit.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) PENALTIES.—The amendments made by subsections (c) and (d)(4) shall take effect on the date of the enactment of this Act.

SEC. 3. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

''(a) GENERAL RULE.—In the case of an eligible individual, the Secretary shall make payments to the health insurance issuer of such individual's qualified health insurance equal to such individual's qualified health insurance credit advance amount with respect to such issuer.

''(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual—

''(1) who purchases qualified health insurance (as defined in section 35(c)), and

''(2) for whom a qualified health insurance credit eligibility certificate is in effect.

''(c) HEALTH INSURANCE ISSUER.—For purposes of this section, the term 'health insurance issuer' has the meaning given such term by section 9832(b)(2).

''(d) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to a qualified health insurance issuer which—

''(1) certifies that the individual will be eligible to receive the credit provided by section 35 for the taxable year,

''(2) estimates the amount of such credit for such taxable year, and

''(3) provides such other information as the Secretary may require for purposes of this section.

''(e) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE AMOUNT.—For purposes of this section, the term 'qualified health insurance credit advance amount' means, with respect to any qualified health insurance issuer of qualified health insurance, an estimate of the amount of credit allowable under section 35 to the individual for the taxable year which is attributable to the insurance provided to the individual by such issuer.

''(f) REQUIRED DOCUMENTATION FOR RECEIPT OF PAYMENTS OF ADVANCE AMOUNT.—No payment of a qualified health insurance credit advance amount with respect to any eligible individual may be made under subsection (a) unless the health insurance issuer provides to the Secretary—

''(1) the qualified health insurance credit eligibility certificate of such individual, and

''(2) the return relating to such individual under section 6050T.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

''Sec. 7527. Advance payment of health insurance credit for purchasers of qualified health insurance.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2001.

● Mr. FRIST. Mr. President, I am pleased to join my colleagues today and be part of the first bipartisan, bicameral group to address the growing number of individuals and families without health insurance coverage in this country.

The problem has been made clear. America's uninsured population continues to rise. Despite the fact that we are enjoying strong economic times, the nation's uninsured population has grown to 44 million over the past decade. We know that the majority of the uninsured—32 of the 44 million—earn an annual income of under $50,000. We also know that the rising cost of health insurance is the single most important reason for not purchasing health care coverage. Many Americans simply cannot afford to buy health insurance.

The solutions are becoming clearer as well. A one-size fits all approach to expand health coverage and access to health care does not meet the various needs of the uninsured population. As a result, our proposal will take a multi-pronged approach that meets the needs of the uninsured and looks at innovative approaches to provide individuals greater ability to purchase coverage. We will seek to build upon the current employer-based system which continues to be the main source of health care coverage for most Americans.

Our goal is to fill the coverage gaps that exist in the current system. A central piece of our proposal is to provide a refundable tax credit for low-income Americans who are not offered a contribution for their insurance through their employer and do not receive coverage through federal programs such as Medicaid or Medicare. The legislation introduced today will help hard working Americans who cannot afford to buy coverage on their own. For example, the part-time worker who is not offered employer-sponsored health insurance will be offered a $1,000 tax credit to purchase health care coverage. The single mother with two children earning less than $50,000 a year, will be offered a $2,000 credit to purchase health insurance.

The legislation introduced today is the first of many steps that we will take to address the varying needs of the uninsured. Over the next several months, we will also explore a variety of options to assist individuals and their families in purchasing health coverage either through existing employer plans, the individual market, or through purchasing pools; seek ways to improve enrollment in existing federal programs, where approximately 5 million adults and 8 million children are eligible for Medicaid and the State Children's Health Insurance Program (S–CHIP) yet are not enrolled; and finally, as the Chairman of the Subcommittee on Public Health, I will work closely with my colleagues to explore ways to expand and sustain our safety net system to improve access to critical primary care services to the uninsured and medically underserved populations.

I especially wish to thank the American Academy of Family Physicians, the American Hospital Association, the American Medical Association, the Americans for Tax Reform, the BlueCross BlueShield Association, the Chamber of Commerce of the USA, the Citizens Against Government Waste, the Galen Institute, the Healthcare Leadership Council, the Health Insurance Association of America, the Hispanic Business Roundtable, the National Center for Policy Analysis, the National Federation of Independent Business, and the Small Business Survival Committee for their support of this important legislation.●

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 2321. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for development costs of telecommunications facilities in rural areas; to the Committee on Finance.

RURAL TELECOMMUNICATIONS MODERNIZATION ACT OF 2000

● Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Rural Telecommunications Modernization Act. This Act would create a tax credit for companies that invest in providing broadband telecommunications services available in rural areas. The convergence of computing and communications has changed the way America interacts and does business. Individuals, businesses, schools, libraries, hospitals, and many others, reap the benefits of networked communications more and more each year. However, where in the past access to low bandwidth telephone facilities met our communications needs, today many people and organizations need the ability to transmit and receive large amounts of data quickly—as part of electronic commerce, distance learning, telemedicine, and even for mere access to many web sites.

In some areas of the country companies are building networks that meet this broadband need as fast as they can. Technology companies are fighting to roll out broadband facilities as quickly as they can in urban and suburban areas. They are tearing up streets to instal fiber optics, converting cable TV facilities to broadband telecom applications, developing incredible new DSL technologies that convert regular copper telephone wires into broadband powerhouses.

Other areas are not as fortunate. In rural areas access to broadband communications is harder to come by. In fact, there are only a few broadband providers outside big cities and suburban areas nationwide. This is because in many cases rural areas are more expensive to serve. Terrain is difficult. Populations are widely dispersed. Importantly, many of our broadband technologies cannot serve people who live more than eighteen thousand feet from a phone company's central office—which is the case for most rural Americans.

The implications for the country if we allow this broadband disparity to continue are alarming. Organizations in traditional robust communications and computing regions, often located in prosperous urban and suburban communities, will be able to reap the rewards of the so-called ''New Economy.'' Organizations in other areas, often in rural areas, including many areas in my State of West Virginia, will suffer the consequences of being unable to take advantage of the astounding power of broadband networked computing.

Just as companies that employ technological advances are decimating their less technologically savvy competitors, businesses in infrastructure-rich areas may soon decimate competitors in infrastructure-poor areas. This is just as true for rural students and workers trying to gain new skills who are competing against their non-rural peers in the New Economy. The result of this digital divide could be disastrous for rural Americans: job loss, tax revenue loss, brain drain, and business failure concentrated in rural areas.

Denying rural Americans a chance to participate in the New Economy is also bad for the national economy. Businesses will be forced to locate their operations and hire their employees in urban locations that have adequate broadband infrastructure, rather than in rural locations that are otherwise more efficient due to the location of

their customers or suppliers, a stable or better workforce, and cheaper production environments. Additionally, without adequate infrastructure, the businesses and individuals in these communications infrastructure poor areas are less likely to be integrated into the national electronic marketplace. Their absence would put a damper on the growth of the digital economy for everyone—not just for those in rural areas.

Therefore, we must do everything we can to ensure that broadband communications are available to all areas of the country—rural as well as urban. The Rural Telecommunications Modernization Act addresses this problem.

The Rural Telecommunications Modernization Act would give companies the incentive to build broadband facilities in rural areas by using a very focused tax credit. It would offer any company that invests in broadband facilities in rural areas a tax credit over the next three years. This tax credit will help fight the growing disparity in technology I just described.

The credit is only available for certain investments. First, investments must be for ''broadband local access facilities.'' Second, investments must support ''high-speed broadband telecommunications services.'' And third, investments must serve only ''rural counties.''

The Rural Telecommunications Modernization Act is part of the solution to the critically important digital divide problem. Rural Americans deserve the chance to participate in the New Economy. Without access to broadband services they will not have this chance. I hope that the Members of this body will support this important bill.

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. 2321

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 ''Rural Telecommunications Modernization Act of 2000.

SEC. 2. CREDIT FOR TELECOMMUNICATIONS FACILITIES DEVELOPMENT IN RURAL AREAS.

(a) IN GENERAL.—Section 46(a) of the Internal Revenue Code of 1986 (relating to amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the rural telecommunications facilities credit.''

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 47 the following:

''SEC. 47A. RURAL TELECOMMUNICATIONS FACILITIES CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the rural telecommunications facilities credit for any taxable year is an amount equal to the applicable percentage of the qualified broadband local access facilities expenditures for such taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage in the case of qualified broadband local access facilities expenditures in connection with—

''(1) broadband telecommunications facilities, is 10 percent, and

''(2) enhanced broadband telecommunications facilities, is 15 percent.

''(c) QUALIFIED BROADBAND LOCAL ACCESS FACILITIES EXPENDITURE.—For purposes of this section, the term 'qualified broadband local access facilities expenditure' means any expenditure—

''(1) chargeable to capital account—

''(A) for property for which depreciation is allowable under section 168, and

''(B) incurred in connection with broadband telecommunications facilities or enhanced broadband telecommunications facilities serving rural subscribers, and

''(2) incurred during the period—

''(A) beginning with the taxpayer's (or any predecessor's) first taxable year beginning after the date of the enactment of this section, and

''(B) ending with the taxpayer's (or any predecessor's) third taxable year beginning after such date.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BROADBAND TELECOMMUNICATIONS FACILITIES.—The term 'broadband telecommunications facilities' means broadband local access facilities capable of—

''(A) transmitting voice, and

''(B) downloading data at a rate of 1.5 MBPS and uploading data at a rate of .5 MBPS.

''(2) ENHANCED BROADBAND TELECOMMUNICATIONS FACILITIES.—The term 'enhanced broadband telecommunications facilities' means the broadband local access facilities capable of—

''(A) transmitting voice, and

''(B) downloading and uploading data at a rate of 10 MBPS.

''(3) DETERMINATION OF BROADBAND LOCAL ACCESS FACILITIES.—Broadband local access facilities—

''(A) begin at the switching point closest to the rural subscriber, which is—

''(i) the subscriber side of the nearest switching facility in the case of local exchange carriers,

''(ii) the subscriber side of the headend or the node in the case of cable television operators, and

''(iii) the subscriber side of the transmission and reception facilities in the case of a wireless or satellite carrier,

''(B) end at the interface between the network and the rural subscriber's location, and

''(C) do not include any switching facility.

''(4) RURAL SUBSCRIBER.—The term 'rural subscriber' means a subscriber who lives in area which—

''(A) is not within 10 miles of any incorporated or census designated places containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) which is not described in subparagraph (A), in an amount which does not exceed in any year an amount equal to the applicable percentage of the qualified broadband local access facilities expenditures (as determined in section 47A) of the mutual or cooperative telephone company for such year.''

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 47 the following:

''Sec. 47A. Rural telecommunications facilities credit.''

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsection (c) shall apply to amounts received after the date of the enactment of this Act.●

By Mr. MCCAIN:

S. 2322. A bill to amend title 37, United States Code, to establish a special subsistence allowance for certain members of the uniformed services who are eligible to receive food stamp assistance, and for other purposes; to the Committee on Armed Services.

REMOVE SERVICEMEMBERS FROM FOOD STAMPS ACT OF 2000

● Mr. MCCAIN. Mr. President, I rise today to introduce a bill to remove thousands of our servicemembers from the food stamp rolls.

The Remove Servicemembers from Food Stamps Act of 2000 provides junior enlisted servicemembers who are eligible for food stamps in the pay grade E–1 through E–5 an additional allowance of $180 a month. A not-yet-published Department of Defense report estimates that 6,300 servicemembers receive food stamps, while the General Accounting Office and Congressional Research Service place this number at around 13,500. Regardless of this disparity, the fact that just one servicemember is on food stamps is a national disgrace. This bill will end the ''food stamp Army'' once and for all.

This legislative proposal is estimated to cost only $6 million annually. Interestingly, the Congressional Budget Office determined that it would represent an overall savings to taxpayers since it would save the Department of Agriculture more than $6 million by removing servicemembers from the food stamp rolls for good.

Last year, this legislation was included in S. 4, the Soldiers', Sailors', Airmen's, and Marines' Relief Act of 1999. Although the Senate approved this legislation as part of S. 4, I was greatly disappointed when food stamp relief was rejected by conferees from the House of Representatives despite the strong support of Admiral Jay Johnson, the Chief of Naval Operations, and General Jim Jones, the Commandant of the Marine Corps. With over 13,500 military families on food stamps, and possibly thousands more eligible for the program, I cannot understand the Congress' refusal to rectify this problem in last year's National Defense Authorization Act.

It is outrageous that Admirals and Generals received a 17 percent pay

raise last year while our enlisted families continue to line up for free food and furniture. Last year, we poured hundreds of millions of dollars into programs the military did not request, like the C–130J. We spent $375 million as a down payment on a $1.5 billion amphibious assault ship that the Navy did not want and that the Secretary of Defense said diverts dollars from higher priority programs. We added $5.1 million to build a gymnasium at the Naval Post-Graduate School and $15 million to build a Reserve Center in Oregon—neither was in the President's budget request or identified by the Joint Chiefs as a priority item.

It is difficult to reconcile how Congress could waste $7.4 billion on pork barrel spending in the defense budget, while we ignore the basic needs of our military families. I have been open to all suggestions for solutions to this problem and am willing to work toward a bipartisan plan that would satisfy the administration, Congress, and the Department of Defense. Sadly, politics, not military necessity, remains the rule, not the exception.

It is unconscionable that the men and women who are willing to sacrifice their lives for their country have to rely on food stamps to make ends meet, and it is an abrogation of our responsibilities as Senators to let this reality go on without some sort of legislative remedy.

I will not stand by and watch as our military is permitted to erode to the breaking point due to the President's lack of foresight and the Congress' lack of compassion. These military men and women on food stamps—our soldiers, sailors, airmen, and marines—are the very same Americans that the President and Congress have sent into harm's way in recent years in Somalia, Bosnia, Haiti, Kosovo, and East Timor. They deserve our continuing respect, our unwavering support, and a living wage.

The legislation is supported by every enlisted association or organization that specifically supports enlisted servicemember issues in the Military Coalition and in the National Military/Veterans Alliance. Associations include the Veterans of Foreign Wars, the Non-Commissioned Officers Association, the American Legion, the Retired Enlisted Association, the National Association for Uniformed Services, the Fleet Reserve Association, the Air Force Sergeants Association, the U.S. Coast Guard Chief Petty Officers Association, the Disabled American Veterans, the Enlisted Association of the National Guard of the U.S., and the Naval Enlisted Reserve Association.

I urge my colleagues to support this bill and to act swiftly. It is a step in the right direction toward improving the lives of our servicemembers and their families who are struggling to feed their families. There is no reason not to pass this bill immediately. We have waited too long already. We must end the days of a ''food stamp Army'' once and for all. Our military personnel and their families deserve better.

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. 2322

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 ''Remove Servicemembers from Food Stamps Act of 2000''.

SEC. 2. SPECIAL SUBSISTENCE ALLOWANCE FOR MEMBERS ELIGIBLE TO RECEIVE FOOD STAMP ASSISTANCE.

(a) ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 402 the following new section:

''§ 402a. Special subsistence allowance

''(a) ENTITLEMENT.—Upon the application of an eligible member of a uniformed service described in subsection (b), the Secretary concerned shall pay the member a special subsistence allowance for each month for which the member is eligible to receive food stamp assistance.

''(b) COVERED MEMBERS.—An enlisted member referred to in subsection (a) is an enlisted member in pay grade E–5 or below.

''(c) TERMINATION OF ENTITLEMENT.—The entitlement of a member to receive payment of a special subsistence allowance terminates upon the occurrence of any of the following events:

''(1) Termination of eligibility for food stamp assistance.

''(2) Payment of the special subsistence allowance for 12 consecutive months.

''(3) Promotion of the member to a higher grade.

''(4) Transfer of the member in a permanent change of station.

''(d) REESTABLISHED ENTITLEMENT.—(1) After a termination of a member's entitlement to the special subsistence allowance under subsection (c), the Secretary concerned shall resume payment of the special subsistence allowance to the member if the Secretary determines, upon further application of the member, that the member is eligible to receive food stamps.

''(2) Payments resumed under this subsection shall terminate under subsection (c) upon the occurrence of an event described in that subsection after the resumption of the payments.

''(3) The number of times that payments are resumed under this subsection is unlimited.

''(e) DOCUMENTATION OF ELIGIBILITY.—A member of the uniformed services applying for the special subsistence allowance under this section shall furnish the Secretary concerned with such evidence of the member's eligibility for food stamp assistance as the Secretary may require in connection with the application.

''(f) AMOUNT OF ALLOWANCE.—The monthly amount of the special subsistence allowance under this section is $180.

''(g) RELATIONSHIP TO BASIC ALLOWANCE FOR SUBSISTENCE.—The special subsistence allowance under this section is in addition to the basic allowance for subsistence under section 402 of this title.

''(h) FOOD STAMP ASSISTANCE DEFINED.—In this section, the term 'food stamp assistance' means assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

''(i) TERMINATION OF AUTHORITY.—No special subsistence allowance may be made under this section for any month beginning after September 30, 2005.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 402 the following:

''402a. Special subsistence allowance.''.

(b) EFFECTIVE DATE.—Section 402a of title 37, United States Code, shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

(c) ANNUAL REPORT.—(1) Not later than March 1 of each year after 2000, the Comptroller General of the United States shall submit to Congress a report setting forth the number of members of the uniformed services who are eligible for assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(2) In preparing the report, the Comptroller General shall consult with the Secretary of Defense, the Secretary of Transportation (with respect to the Coast Guard), the Secretary of Health and Human Services (with respect to the commissioned corps of the Public Health Service), and the Secretary of Commerce (with respect to the commissioned officers of the National Oceanic and Atmospheric Administration), who shall provide the Comptroller General with any information that the Comptroller General determines necessary to prepare the report.

(3) No report is required under this subsection after March 1, 2005.●

By Mr. MCCONNELL (for himself, Mr. DODD, Mr. JEFFORDS, Mr. ENZI, Mr. ABRAHAM, Mr. BENNETT, Mr. ROBB, Mr. WARNER, Mrs. MURRAY, Mr. GORTON, Mr. HUTCHINSON Mr. LIEBERMAN, Mr. BINGAMAN, Mr. REED, Mr. KERRY, and Mr. LUGAR):

S. 2323. A bill to amend the Fair Labor Standards Act of 1938 to clarify the treatment of stock options under the act; read the first time.

WORKER ECONOMIC OPPORTUNITY ACT

● Mr. MCCONNELL. Mr. President, I rise today to introduce the Worker Economic Opportunity Act. Senator DODD and I have worked closely with Senators JEFFORDS and ENZI, as well as Senators ABRAHAM, BENNETT, LIEBERMAN, and others to develop this important bill. This important bipartisan bill will ensure that American workers can receive lucrative stock options from their employers—once considered the exclusive perk of corporate executives.

In recent years our country's innovative new workplaces and creative employers have offered new financial opportunities—such as stock options—for hourly employees. The Department of Labor recently issued an interpretation of the decades-old labor and employment laws that could keep normal employees from reaping the benefits of these perks. When I realized this, I decided we needed to fix this problem—it would have been a travesty for us to let old laws steal this chance for the average employee to share in his or her company's economic growth.

This law simply says: it makes no difference if you work in the corporate boardroom or on the factory floor—everyone should be able to share in the success of the company.

Our bill changes the outdated laws so they don't stand in the way of economic opportunity for American workers. In sum, the bill would amend the Fair Labor Standards Act to ensure that employer-provided stock option programs are allowed just like employee bonuses already are. Also, this legislation includes a broad ''safe harbor'' that specifies that employers have no liability because of any stock options or similar programs that they have given to employees in the past. The bill I am introducing today is what I hope will be the first of many common-sense efforts to drag old labor and employment laws into the new millennium.

I am very pleased that Secretary Herman and the Department of Labor have worked with us on this legislation. The Worker Economic Opportunity Act is also supported by a broad range of high tech and business groups who have joined together to form the Coalition to Promote Employee Stock Ownership. This group has been of great assistance throughout the development of this bill.

An identical companion bill to the Worker Economic Opportunity Act is being introduced in the House today. As a result, I am optimistic that we can work to ensure that this much-needed fix to the FLSA becomes law in the near future.●

Mr. DODD. Mr. President, today I join with my colleague Senator MCCONNELL in introducing the Worker Economic Opportunity Act. This common sense bill will allow companies to continue to offer stock option programs to their hourly employees without violating the Fair Labor Standards Act with respect to overtime. We are joined today by Senators JEFFORDS, ENZI, ROBB, MURRAY, LIEBERMAN, BINGAMAN, REED, KERRY, ABRAHAM, BENNETT, GORTON, HUTCHINSON, and WARNER.

Sotck options, stock appreciation rights, and employee stock purchase programs are tools used by some companies to give employees a stake in a company's success and to retain employees in a tight labor market. These programs are used by well-known companies such as Xerox, GTE, and PepsiCo. as well as hi-tech startups. In more and more situations, non-exempt and exempt employees are able to participate. For example, it has been GTE's practice to give stock options to all 110,000 employees, of which 53,000 are non-exempt. Xerox corporation employs approximately 52,000 employees in the United States, and offers stock options to all employees who have completed one year of service. It employs 93,000 people worldwide and 57 percent of them are non-exempt.

Clearly, the trend in our economy is that more and more companies are providing this type of compensation package. Not surprisingly, then, my office was beset with letters and phone calls recently concerning a 1999 Department of Labor advisory letter regarding one company's proposed stock option plan for non-exempt employees. The opinion letter, which does not carry the weight of law, states that the value of the options would have to be included in the non-exempt workers base wages when calculating their overtime rates. The Fair Labor Standards Act (FLSA) exempts some employee benefits from overtime calculations including health insurance, thrift savings plans, and discretionary bonuses. When providing its opinion letter, the Department of Labor determined that stock option plans did not fall within any of the current exemptions. While the Department did point out that their opinion was based on only one company's proposed plan, it became clear that legislation was needed to exempt these programs, lest businesses begin to exclude non-exempt employees from receiving stock options. I commend the Department for calling for a legislative fix and working closely with us to craft this bipartisan bill.

Our legislation would amend the Fair Labor Standards Act to exclude from the regular rate stock options, stock appreciation rights or bonafide stock purchase programs that meet certain vesting, disclosure, and determination requirements. A safe harbor would be in effect to protect companies that have already established stock option programs for non-exempt workers, including those programs provided under a collective bargaining agreement or requiring shareholder approval.

Just several years ago, stock option plans were only offered corporate CEO's and other very senior executives. Today's flexible benefit packages give that same opportunity throughout the corporate structure. I don't believe that non-exempt employees who form the backbone of most businesses should be excluded from this opportunity. They deserve the right to share in the prosperity of the new economy.

Clearly, stock option programs have risk attached, so we wanted to be very clear that our legislation requires that the terms and conditions of any program are communicated to employees and that the exercise of any grants is voluntary. Employees need to make informed choices.

I am pleased that this has been a bipartisan effort, and also one where we have worked very constructively with the Administration. I hope we can move it quickly for the benefit of all working families.

● Mr. JEFFORDS. Mr. President, I am delighted to be here today to introduce the Worker Economic Opportunity Act. Having worked with colleagues from both sides of the aisle and the Department of Labor, I am extremely proud of this collaborative effort which has resulted in this legislation which will encourage employers to provide equity ownership opportunities to their hourly employees.

In the last 10 years, we have witnessed tremendous change in the structure of our Nation's economy in large part due to the birth of the internet and e-commerce. The vitality of our economy is a tribute to the creative and entrepreneurial genius of thousands of individual business people and the indispensable contribution of the American workforce.

As legislators during this exciting time, we are challenged to maintain an environment that will foster the continued growth of our economy. We must work to ensure that our laws are in sync with the changing environment. However, many of the laws and policies governing our workplace have fallen out of sync with the information age and there has been particular resistance to changing our labor laws. As Chairman of the Senate Committee with jurisdiction over workplace issues, I believe it is time to examine and modify these laws to meet the rapidly involving needs of the American workforce.

The Fair Labor Standards Act (FLSA), for example, was enacted in the late 1930s, to establish basic standards for wages and overtime pay. While the principles behind the FLSA have not changed, its rigid provisions make it difficult for employers to accommodate the needs of today's workforce. Most recently, we discovered that the FLSA actually operates to deter employers from offering stock option programs to hourly employees.

While stock option programs are most prevalent in the high tech industry, increasingly employers across the whole spectrum of American industry have begun to offer stock option programs to all of their employees. Broad-based stock option programs prove valuable to both employers and employees. For employers, stock options programs have become a key tool for employee recruitment, motivation and retention. Employees seek out companies offering these programs because they enable workers to become owners and reap the benefits of their company's growth.

When I heard about the FLSA's application to stock options, I became very concerned about its impact on our workforce. I was pleased to discover that Senators' MCCONNELL, DODD, and ENZI shared similar concerns and that the Department of Labor also recognized that we had a problem on our hands that would require a legislative solution. Together we have crafted the Worker Economic Opportunity Act which will create a new exemption under the Fair Labor Standards Act for stock options, stock appreciation rights and employee stock purchase plans.●

● Mr. ENZI. Mr. President, I am pleased to be part of the introduction today of the Worker Economic Opportunity Act, a bipartisan bill to exclude stock options and stock option profits from overtime pay calculations under the Fair Labor Standards Act. I want to acknowledge and commend my colleagues Senators MCCONNELL, DODD, and JEFFORDS for their hard work on this issue.

Earlier this year, the Department of Labor advised employers that they would be required to include stock options in overtime calculations. The advisory also prescribed an extremely complicated method of calculation that created a virtual administrative impossibility for employers. We received overwhelmingly negative feedback that this advisory would result in the end of stock options for hourly employees and create a lose-lose situation for employees and employers alike. The legislation we introduce today ensures that companies can continue to give stock options to hourly employees so that these employees—and not just executives—can share in this country's economic boom. And employers will be able to continue to use stock options as a valuable tool for recruiting and retaining employees in a competitive labor market.

This bipartisan legislation also represents an important first step towards reforming outdated labor statutes that no longer meet the needs of today's workforce. Most of the major labor statutes were drafted between 30 and 60 years ago and many of their heavy-handed restrictions are now more harmful than helpful to employees in the modern workplace. We need to think about how to encourage—not discourage—employers' development of new and creative measures to benefit employees, such as stock option programs and telecommuting arrangements. Our legislation will provide just such encouragement and ensure that stock option programs do not fall prey to obsolete legislative prohibitions.

Finally, I am particularly proud that both Democrats and the Department of Labor have worked with us on this bill. As chairman of the Employment, Safety and Training Subcommittee, I firmly believe that cooperation between lawmakers and agencies is the best way to develop practical solutions that benefit both employees and businesses. I sincerely hope that we can continue to work together on similar measures in the future.●

By Mr. KOHL (for himself and Mrs. FEINSTEIN):

S. 2324. A bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies, and to add ballistics testing to existing firearms enforcement strategies; to the Committee on the Judiciary.

BALLISTICS, LAW ASSISTANCE, SAFETY TECHNOLOGY ACT

● Mr. KOHL. Mr. President, I rise today with my colleague Senator FEINSTEIN to introduce ''BLAST''—the Ballistics, Law Assistance, and Safety Technology Act. The bill offers two complementary approaches to combating gun violence. The first supplies our Nation's police with a new technology to assist them in solving crimes. The second expands ''Project Exile'' to 50 cities, giving federal prosecutors the resources they need to put more felons behind bars. Let me explain how our measure is crucial to the fight against crime.

Reducing crime requires a multi-faceted approach. While we need tougher controls to keep guns away from kids in this country—including mandating that child safety locks be sold with every new handgun—all of us also recognize that the battle against senseless violence includes prosecuting all criminals to the letter of the law.

Mr. President, just as every person has a unique fingerprint, each gun leaves unique markings on discharged bullets and shell casings. Over the past decade, new technology has allowed for the comparison of those ''gun prints'' with bullets found at crime scenes. By keeping a computerized image of each new gun's fingerprint, police can compare the microscopic differences in markings left by each gun until they find a match. Once a match is found, law enforcement can begin tracing that weapon from its original sale to the person who used it to commit the crime.

Indeed, ballistics technology, though nascent, is already helping to solve crimes. For example, in June 1997, an Oakland man was shot and killed as he used a public telephone on a street corner. Without any leads or physical evidence other than a bullet casing left by the discharged weapon, police were initially stymied in their search for the killer.

A year passed without any progress in the investigation until police made an ordinary arrest of two men for the unlawful possession of a firearm. When the officers test-fired the confiscated gun and ran the image through their ballistics database, they found a match within seconds. The seized gun was the same gun that fired the deadly bullet in the unsolved case the previous year. Police confronted the two men with this evidence, and quickly received a confession to the murder.

In another case, police only found 9 millimeter cartridge casings at the scene of a brutal homicide in Milwaukee—there were no other clues. But four months later, when a teenage male was arrested on an unrelated charge, he was found to be in possession of that firearm. Ballistics linked the two cases. Prosecutors successfully prosecuted three adult suspects for the homicide and convicted the teen in juvenile court.

Mr. President, since the early 1990's, more than 250 crime labs and law enforcement agencies in over 40 states have been operating independent ballistics systems maintained by either the ATF or the FBI. Together, ATF's Integrated Ballistics Identification System (''IBIS'') and the FBI's DRUGFIRE system have been responsible for linking 5,700 guns to two or more crimes where corroborating evidence was otherwise lacking.

My own state of Wisconsin employs the DRUGFIRE system for ballistics testing and has already used it to solve crime and provide authenticating evidence for ongoing criminal investigations. In 1998, the Milwaukee police department alone analyzed almost 600 firearms and over 3200 fired cartridges. Even though Wisconsin's DRUGFIRE has a limited number of guns in its database, ballistics testing helped solve seven homicides, 100 cases where the reckless use of a weapon endangered public safety, and numerous other gun crimes.

These statistics are heartening, but they also illustrate the untapped potential of ballistics as a law enforcement weapon. Simply put, ballistics testing is only as good as the number of images in the database. Unfortunately, not enough guns are test fired before they are sold, not enough communities have access to ballistics databases, and not enough information is shared between law enforcement agencies of different jurisdictions. Ironically, even the two primary agencies responsible for investigating gun crimes—the ATF and the FBI—have created ballistics systems that cannot read each others data. Sadly, this significant law enforcement tool is severely underutilized.

But that need not be the case. Title I of BLAST makes ballistics a centerpiece of our anti-crime strategy by requiring federal firearms manufacturers and importers to test fire all new firearms and make the ballistics images available to federal law enforcement; requiring federal law enforcement officials to test fire all firearms in their custody; and providing financial support to communities that include ballistics testing as a critical part of their comprehensive anti-crime strategy, building on the model used by ATF in the Youth Crime Gun Interdiction Initiative.

The burden on manufacturers is minimal—we authorize funds to underwrite the cost of testing—and the assistance to law enforcement is considerable. And don't take my word for it, ask the gun manufacturers and the police. Listen to what Paul Januzzo, the vice-president of the gun manufacturer Glock, said last month in reference to ballistics testing, ''our mantra has been that the issue is crime control, not gun control . . . it would be two-faced of us not to want this.'' In their agreement with HUD, Smith & Wesson agreed to perform ballistics testing on all new handguns. And Ben Wilson, the chief of the firearms section at ATF, emphasized the importance of ballistics testing as a investigative device, ''This [ballistics] allows you literally to find a needle in a haystack.''

Our approach is bipartisan as well. The Republican governor of New York, George Pataki, prominently included a similar ballistics measure in his recently introduced anti-crime package. He clearly recognizes, as we do, that the more we can empower law enforcement, the more effectively we can put hard core criminals where they belong—behind bars.

To be sure, we are sensitive to the notion that law abiding hunters and sportsmen need to be protected from any misuse of the ballistics database by government. The BLAST bill explicitly prohibits ballistics information from being used for any purpose unless it is necessary for the investigation of a gun crime.

Of course, to successfully combat crime, you also need to enhance the arsenal of law enforcement. That is why Title II of BLAST expands the successful ''Project Exile'' program. By authorizing $20 million over four years, BLAST would fund gun prosecutors in 50 cities—prosecutors, who will work in conjunction with state and local authorities, devoted solely to the aggressive enforcement of the federal gun laws.

This program already enjoys widespread support—from the industry to leaders on both sides of the political aisle to the National Rifle Association, which has pointed to Project Exile as a model for fighting gun crime. Our hope is to expand the success of EXILE across the country and provide the resources to every city interested in aggressively pursuing gun crimes. Felons will know that if they commit a crime with a gun they will pay the price.

Mr. President, the BLAST bill will enhance a revolutionary new technology that helps solve crime while, at the same time, recognizing that new crime solving instruments are worthless unless prosecutors are in place to punish violent offenders to the fullest extent of the law. BLAST is a worthwhile piece of crime control legislation. I hope that the Senate will quickly move to pass it.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 2324

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 ''Ballistics, Law Assistance, and Safety Technology Act'' (''BLAST'').

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to increase public safety by assisting law enforcement in solving more gun-related crimes and offering prosecutors evidence to link felons to gun crimes through ballistics technology;

(2) to provide for ballistics testing of all new firearms for sale to assist in the identification of firearms used in crimes;

(3) to require ballistics testing of all firearms in custody of Federal agencies to assist in the identification of firearms used in crimes;

(4) to add ballistics testing to existing firearms enforcement programs; and

(5) to provide for targeted enforcement of Federal firearms laws.

TITLE I—BLAST

SEC. 101. DEFINITION OF BALLISTICS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) BALLISTICS.—The term 'ballistics' means a comparative analysis of fired bullets and cartridge casings to identify the firearm from which bullets were discharged, through identification of the unique characteristics that each firearm imprints on bullets and cartridge casings.''.

SEC. 102. TEST FIRING AND AUTOMATED STORAGE OF BALLISTICS RECORDS.

(a) AMENDMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

''(m)(1) In addition to the other licensing requirements under this section, a licensed manufacturer or licensed importer shall—

''(A) test fire firearms manufactured or imported by such licensees as specified by the Secretary by regulation;

''(B) prepare ballistics images of the fired bullet and cartridge casings from the test fire;

''(C) make the records available to the Secretary for entry in a computerized database; and

''(D) store the fired bullet and cartridge casings in such a manner and for such a period as specified by the Secretary by regulation.

''(2) Nothing in this subsection creates a cause of action against any Federal firearms licensee or any other person for any civil liability except for imposition of a civil penalty under this section.

''(3)(A) The Attorney General and the Secretary shall assist firearm manufacturers and importers in complying with paragraph (1) through—

''(i) the acquisition, disposition, and upgrades of ballistics equipment and bullet recovery equipment to be placed at or near the sites of licensed manufacturers and importers;

''(ii) the hiring or designation of personnel necessary to develop and maintain a database of ballistics images of fired bullets and cartridge casings, research and evaluation;

''(iii) providing education about the role of ballistics as part of a comprehensive firearm crime reduction strategy;

''(iv) providing for the coordination among Federal, State, and local law enforcement and regulatory agencies and the firearm industry to curb firearm-related crime and illegal firearm trafficking; and

''(v) any other steps necessary to make ballistics testing effective.

''(B) The Attorney General and the Secretary shall—

''(i) establish a computer system through which State and local law enforcement agencies can promptly access ballistics records stored under this subsection, as soon as such a capability is available; and

''(ii) encourage training for all ballistics examiners.

''(4) Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Attorney General and the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report regarding the impact of this section, including—

''(A) the number of Federal and State criminal investigations, arrests, indictments, and prosecutions of all cases in which access to ballistics records provided under this section served as a valuable investigative tool;

''(B) the extent to which ballistics records are accessible across jurisdictions; and

''(C) a statistical evaluation of the test programs conducted pursuant to section 6 of the Ballistics, Law Assistance, and State Technology Act.

''(5) There is authorized to be appropriated to the Department of Justice and the Department of the Treasury for each of fiscal years 2001 through 2004, $20,000,000 to carry out this subsection, including—

''(A) installation of ballistics equipment and bullet recovery equipment;

''(B) establishment of sites for ballistics testing;

''(C) salaries and expenses of necessary personnel; and

''(D) research and evaluation.

''(6) The Secretary and the Attorney General shall conduct mandatory ballistics testing of all firearms obtained or in the possession of their respective agencies.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) take effect on the date on which the Attorney General and the Secretary of the Treasury, in consultation with the Board of the National Integrated Ballistics Information Network, certify that the ballistics systems used by the Department of Justice and the Department of the Treasury are sufficiently interoperable to make mandatory ballistics testing of new firearms possible.

(2) EFFECTIVE ON DATE OF ENACTMENT.—Section 923(m)(6) of title 18, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 103. PRIVACY RIGHTS OF LAW ABIDING CITIZENS.

Ballistics information of individual guns in any form or database established by this Act may not be used for prosecutorial purposes unless law enforcement officials have a reasonable belief that a crime has been committed and that ballistics information would assist in the investigation of that crime.

SEC. 104. DEMONSTRATION FIREARM CRIME REDUCTION STRATEGY.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury and the Attorney General shall establish in the jurisdictions selected under subsection (c), a comprehensive firearm crime reduction strategy that meets the requirements of subsection (b).

(b) PROGRAM ELEMENTS.—Each program established under subsection (a) shall, for the jurisdiction concerned—

(1) provide for ballistics testing, in accordance with criteria set forth by the National Integrated Ballistics Information Network, of all firearms recovered during criminal investigations, in order to—

(A) identify the types and origins of the firearms;

(B) identify suspects; and

(C) link multiple crimes involving the same firearm;

(2) require that all identifying information relating to firearms recovered during criminal investigations be promptly submitted to the Secretary of the Treasury, in order to identify the types and origins of the firearms and to identify illegal firearms traffickers;

(3) provide for coordination among Federal, State, and local law enforcement officials, firearm examiners, technicians, laboratory personnel, investigators, and prosecutors in the tracing and ballistics testing of firearms and the investigation and prosecution of firearms-related crimes including illegal firearms trafficking; and

(4) require analysis of firearm tracing and ballistics data in order to establish trends in firearm-related crime and firearm trafficking.

(c) PARTICIPATING JURISDICTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury and the Attorney General shall select not fewer than 10 jurisdictions for participation in the program under this section.

(2) CONSIDERATIONS.—In selecting jurisdictions under this subsection, the Secretary of the Treasury and the Attorney General shall give priority to jurisdictions that—

(A) participate in comprehensive firearm law enforcement strategies, including programs such as the Youth Crime Gun Interdiction Initiative (known as ''YCGII''), Project Achilles, Project Disarm, Project Triggerlock, Project Exile, and Project Surefire, and Operation Ceasefire;

(B) draft a plan to share ballistics records with nearby jurisdictions that require ballistics testing of firearms recovered during criminal investigations; and

(C) pledge to match Federal funds for the expansion of ballistics testing on a one-on-one basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2001 through 2004, $20,000,000 to carry out this section, including—

(1) installation of ballistics equipment; and

(2) salaries and expenses for personnel (including personnel from the Department of Justice and the Bureau of Alcohol, Tobacco, and Firearms).

TITLE II—EXILE

SEC. 201. TARGETED ENFORCEMENT OF FEDERAL FIREARMS LAWS.

(a) DESIGNATION.—The Attorney General and the Secretary of the Treasury, after consultation with appropriate State and local officials, shall designate not less than 50 local jurisdictions in which to enforce aggressively Federal laws designed to prevent the possession by criminals of firearms (as defined in section 921(a) of title 18, United States Code).

(b) ASSISTANCE.—In order to provide assistance for the enforcement of Federal laws designed to prevent the possession by criminals of firearms, the Attorney General and the Secretary of the Treasury may—

(1) direct the detailing of Federal personnel, including Assistant United States Attorneys and agents and investigators of the Bureau of Alcohol, Tobacco, and Firearms, to designated jurisdictions, subject to the approval of the head of that department or agency that employs such personnel;

(2) coordinate activities with State and local officials, including facilitation of training of State and local law enforcement officers and prosecutors in designated jurisdictions to work with Federal prosecutors, agents, and investigators to identify appropriate cases for enforcement of Federal laws designed to prevent the possession by criminals of firearms;

(3) help coordinate, in conjunction with local officials, local businesses, and community leaders, public outreach in designated jurisdictions regarding penalties associated with violation of Federal laws designed to prevent the possession by criminals of firearms.

(c) CRITERIA FOR DESIGNATION.—In designating local jurisdictions under this section, the Attorney General and Secretary of the Treasury shall consider—

(1) the extent to which there is a high rate of recidivism among armed felons in the jurisdiction;

(2) the extent to which there is a high rate of violent crime in the jurisdiction;

(3) the extent to which State and local law enforcement agencies have committed resources to respond to the illegal possession of firearms in the jurisdiction, as an indication of their determination to respond aggressively to the problem;

(4) the extent to which a significant increase in the allocation of Federal resources is necessary to respond adequately to the illegal possession of firearms in the jurisdiction; and

(5) any other criteria as the Attorney General and Secretary of the Treasury consider to be appropriate.

(d) PRIORITY.—In addition to the criteria set forth in subsection (c), in considering which local jurisdictions to designate under this section, the Attorney General and the Secretary of the Treasury shall give priority to jurisdictions that have—

(1) demonstrated a commitment to enforcement of Federal firearms laws through participation in initiatives like the Youth Crime Gun Interdiction Initiative, Project Disarm, and Operation Ceasefire;

(2) identified a large number of convicted felons involved in firearms trafficking to individuals under age 25; and

(3) agreed to require that all identifying information relating to firearms recovered during criminal investigations be promptly submitted to the Secretary of the Treasury to identify the types and origins of such firearms and to identify illegal firearms traffickers.

(e) REPORTS AND EVALUATION.—

(1) ANNUAL REPORT.—The Attorney General and the Secretary of the Treasury shall annually submit to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate a report, which shall include information relating to—

(A) the number of arrests by Federal, State, and local law enforcement officials involving illegal possession of firearms by criminals in each designated city;

(B) the number of individuals prosecuted for illegal firearms possession by criminals in Federal, State, and local court in each designated city, the number of convictions, and a breakdown of sentences imposed; and

(C) a description of the public outreach initiatives being implemented in designated jurisdictions.

(2) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall submit to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate a report concerning the effectiveness of the designation of jurisdictions under this section, including an analysis of whether crime within the jurisdiction has been reduced or displaced to nearby jurisdictions, along with any recommendations for related legislation.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2001 through 2004.●

By Mr. TORRICELLI:

S. 2325. A bill to amend title 49, United States Code, to ensure equity in the provision of transportation by limousine services; to the Committee on Commerce, Science, and Transportation.

CONTRACTED AUTOMOBILE REGULATORY RELIEF ACT OF 2000 (CARR)

Mr. TORRICELLI. Mr. President, I rise today to introduce legislation that will eliminate burdensome and unnecessary regulations which are devastating the nation's limousine companies, 80 percent of which are small business owners.

Federal Highway Administration regulations grant limo operators the right to cross states lines ''without interference''. Yet local entities across the U.S. have taken it upon themselves to establish unnecessary bureaucracies for the purpose of placing excessive and arbitrary requirements upon limo operators that enter their jurisdictions.

Current law already requires limo operators to be certified and registered at three different stages: the U.S. Department of Transportation; the state in which they principally operate; and the locality in which the business is located. Therefore, company owners, drivers, and vehicles must already comply with a myriad of safety and financial requirements that includes carrying at least $1.5 million in liability insurance. Public safety is clearly being upheld.

Yet, after satisfying these three stages of compliance, limo operators often find that there is a fourth, fifth, sixth and sometimes even more bureaucratic hoops to jump through to simply conduct their business. This happens when a locality sets up a Local Taxi and Limousine Commission to place certification requirements not only on companies located in their jurisdiction, but on any other limo that enters their locality to pick up or drop off a customer. These additional licenses can cost up to several hundred dollars annually—and that's just to enter one jurisdiction.

The purpose of the CARR ACT is simple. It says that if a limo operator has satisfied federal, state, and local requirements, no other state or entity has the authority to establish additional requirements. The bill will not lower the quality of service which the public expects from the limousine industry nor does it compromise public safety. In fact, my legislation does not affect any safety regulations or financial requirements on interstate operations required by the U.S. DOT nor does it affect the power of states to regulate safety or financial responsibility as they may do under current law.

The same protections were granted to the trucking industry in 1995, to the armor car industry in 1997, and to the chartered bus industry under TEA–21. The time for these protections to be extended to the limousine industry is long overdue. No small business should be faced with the unfair and excessive bureaucracy faced by the nation's 9,000 limousine operators.

Mr. President, I ask unanimous consent at this time 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. 2325

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 ''Contracted Automobile Regulatory Relief Act''.

SEC. 2. REGULATION OF INTERSTATE AND CERTAIN INTRASTATE TRANSPORTATION SERVICES.

Section 14501(a) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''or'' at the end;

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

(C) by adding at the end the following:

''(D) prohibiting, restricting, licensing, permitting, or regulating the operation of a motor vehicle that is providing limousine service on an interstate basis, except in the case of the State or political subdivision in which the limousine operator maintains its principal place of business; or

''(E) requiring that a person, that has secured any mandatory State license, permit, certificate, or authority to operate a limousine service on an intrastate basis between or among political subdivisions within the State, obtain, in order to conduct limousine service between or among political subdivisions of the State, a license, permit, certificate, or other form of authority from any political subdivision of the State other than the political subdivision in which the limousine operator maintains its principal place of business.''; and

(2) by adding at the end the following:

''(3) DEFINITIONS.—In this subsection:

''(A) LIMOUSINE SERVICE.—The term 'limousine service' means a prearranged ground transportation service in a motor vehicle (other than a motor vehicle providing taxicab service), the seating capacity of which does not exceed 15 passengers (including the driver), that—

''(i) is provided on a dedicated, nonscheduled, charter basis;

''(ii) is not conducted on a regular route; and

''(iii) does not entail shuttle service.

''(B) SHUTTLE SERVICE.—The term 'shuttle service' means the simultaneous provision of a nondedicated transportation service to more than 1 paying customer in a case in which the service provider, rather than the customer, reserves the power to determine the pickup or destination point.''.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 2326. A bill to amend the Communications Act of 1934 to strengthen and clarify prohibitions on electronic eavesdropping, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE WIRELESS EAVESDROPPING PROTECTION ACT OF 2000

● Mr. WYDEN. Mr. President, I am introducing today the Wireless Eavesdropping Protection Act. This bill will enhance the privacy rights of wireless subscribers by strengthening the laws that prohibit eavesdropping wireless communications. Since the early days of wireless communications, Congress has paid particular attention to the privacy rights of wireless subscribers. Unfortunately, despite our best efforts, electronic eavesdroppers have been able to find loopholes in the law. I am pleased to be joined in this effort by the Senator from Montana, Senator BURNS.

Using the loopholes, electronic eavesdroppers have been able to develop a ''gray market'' for modified and modifiable wireless scanners. Some of these individuals even advertise in magazines and on Internet websites that their products can be altered easily to pick up cellular communications. The information and equipment necessary to make these modifications are also widely advertised, sometimes with blatant offers to unblock the cellular frequencies after the equipment is purchased.

The Wireless Eavesdropping Protection Act attacks these problems on several fronts. First, it would expand the definition of the frequencies that may not be scanned to include digital Personal Communications Service (PCS) frequencies as well as cellular ones. The legislation recognizes that some frequencies are shared between commercial mobile services and public safety users, and that the use of scanners to monitor public safety communications may assist in saving lives. As to those frequencies, the Federal Communications Commission (FCC) may adopt such regulations as may be necessary to enhance privacy.

Second, the bill would clarify that it is just as illegal to modify scanners for the purpose of eavesdropping as it is to manufacture or import them for this purpose, and it would direct the FCC to modify its rules to reflect this change. The bill also would amend current law to prohibit either the intentional interception or the intentional divulgence of wireless communications, so that either action on its own would be prohibited. Finally, the bill would require the FCC to investigate and take action on wireless privacy violations, regardless of any other investigative or enforcement action by any other federal agency. This provision would help ensure that these newly strengthened privacy protections are full enforced in the future.

The millions of Americans who use wireless communications deserve to have their privacy protected. They should be able to enjoy the same privacy protection as landline phone users. The Wireless Eavesdropping Protection Act will help provide those protections, and I urge my colleagues to join Senator BURNS and me in supporting this legislation. I ask unanimous consent that a copy 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. 2326

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 ''Wireless Eavesdropping Protection Act of 2000''.

SEC. 2. COMMERCE IN ELECTRONIC EAVESDROPPING DEVICES.

(a) PROHIBITION ON MODIFICATION.—Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302a(b)) is amended by inserting before the period at the end thereof the following: '', or modify any such device, equipment, or system in any manner that causes such device, equipment, or system to fail to comply with such regulations''.

(b) PROHIBITION ON COMMERCE IN SCANNING RECEIVERS.—Section 302(d) of such Act (47 U.S.C. 302a(d)) is amended to read as follows:

''(d) EQUIPMENT AUTHORIZATION REGULATIONS.—

''(1) PRIVACY PROTECTIONS REQUIRED.—The Commission shall prescribe regulations, and review and revise such regulations as necessary in response to subsequent changes in technology or behavior, denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of—

''(A) receiving transmissions in the frequencies that are allocated to the domestic cellular radio telecommunications service or the personal communications service;

''(B) readily being altered to receive transmissions in such frequencies;

''(C) being equipped with decoders that—

''(i) convert digital domestic cellular radio telecommunications service, personal communications service, or protected specialized mobile radio service transmissions to analog voice audio; or

''(ii) convert protected paging service transmissions to alphanumeric text; or

''(D) being equipped with devices that otherwise decode encrypted radio transmissions for the purposes of unauthorized interception.

''(2) PRIVACY PROTECTIONS FOR SHARED FREQUENCIES.—The Commission shall, with respect to scanning receivers capable of receiving transmissions in frequencies that are used by commercial mobile services and that are shared by public safety users, examine methods, and may prescribe such regulations as may be necessary, to enhance the privacy of users of such frequencies.

''(3) TAMPERING PREVENTION.—In prescribing regulations pursuant to paragraph (1), the Commission shall consider defining 'capable of readily being altered' to require scanning receivers to be manufactured in a manner that effectively precludes alteration of equipment features and functions as necessary to prevent commerce in devices that may be used unlawfully to intercept or divulge radio communication.

''(4) WARNING LABELS.—In prescribing regulations under paragraph (1), the Commission shall consider requiring labels on scanning receivers warning of the prohibitions in Federal law on intentionally intercepting or divulging radio communications.

''(5) DEFINITION.—As used in this subsection, the term 'protected' means secured by an electronic method that is not published or disclosed except to authorized users, as further defined by Commission regulation.''.

(c) IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Federal Communications Commission shall prescribe amendments to its regulations for the purposes of implementing the amendments made by this section.

SEC. 3. UNAUTHORIZED INTERCEPTION OR PUBLICATION OF COMMUNICATIONS.

Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) in the heading of such section, by inserting ''interception or'' after ''unauthorized'';

(2) in the first sentence of subsection (a), by striking ''Except as authorized by chapter 119, title 18, United States Code, no person'' and inserting ''No person'';

(3) in the second sentence of subsection (a)—

(A) by inserting ''intentionally'' before ''intercept''; and

(B) by striking ''communication and divulge'' and inserting ''communication, and no person having intercepted such a communication shall intentionally divulge'';

(4) in the fourth sentence of subsection (a)—

(A) by inserting ''(A)'' after ''intercepted, shall''; and

(B) by striking ''thereof) or'' and inserting ''thereof); or (B)'';

(5) by striking the last sentence of subsection (a) and inserting the following: ''Nothing in this subsection prohibits an

interception or disclosure of a communication as authorized by chapter 119 of title 18, United States Code.''; and

(6) in subsection (e)—

(A) in paragraph (1)—

(i) by striking ''fined not more than $2,000 or''; and

(ii) by inserting ''or fined under title 18, United States Code,'' after ''6 months,'';

(B) in paragraph (3), by striking ''any violation'' and inserting ''any receipt, interception, divulgence, publication, or utilization of any communication in violation'';

(C) in paragraph (4), by striking ''any other activity prohibited by subsection (a)'' and inserting ''any receipt, interception, divulgence, publication, or utilization of any communication in violation of subsection (a)''; and

(D) by adding at the end the following new paragraph:

''(7) Notwithstanding any other investigative or enforcement activities of any other Federal agency, the Commission shall investigate alleged violations of this section and may proceed to initiate action under section 503 to impose forfeiture penalties with respect to such violation upon conclusion of the Commission's investigation.''.●

By Mr. HOLLINGS (for himself, Mr. STEVENS, Ms. SNOWE, Mr. KERRY, Mr. BREAUX, Mr. INOUYE, Mr. CLELAND, Mr. WYDEN, Mr. AKAKA, Mrs. BOXER, Mrs. MURRAY, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. REED, Mr. SARBANES, and Mr. SCHUMER):

S. 2327. A bill to establish a Commission on Ocean Policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OCEANS ACT OF 2000

● Mr. HOLLINGS. Mr. President, I rise today to introduce the Oceans Act of 2000, a bill calling for a plan of action for the twenty-first century to explore, protect, and use our oceans and coasts through the coming millennium. I am pleased to be joined in this endeavor by my colleagues, Senators STEVENS, SNOWE, KERRY, BREAUX, INOUYE, CLELAND, WYDEN, AKAKA, BOXER, MURRAY, LAUTENBERG, FEINSTEIN, LIEBERMAN, MOYNIHAN, REED, SARBANES, and SCHUMER.

This is not the first time I have come before you to advocate legislation to ensure our national ocean policy is coordinated, effective, and sustainable for future generations. In 1997, I introduced an Oceans Act to create both an independent ocean commission and a federal interagency ocean council. While the Senate passed this bill unanimously, it was not enacted before the end of the 105th Congress. We continued the work we started in 1997 by introducing the Senate-passed bill as S. 959, cosponsored by 23 Senators from both sides of the aisle, in May of last year. I now introduce the Oceans Act of 2000, a new bill that reflects the lessons learned among state and federal policymakers, ocean-related industries, and public interest groups who worked together during and after the 1998 Year of the Ocean.

What we heard loud and clear from these groups was the need for a balanced, high-level national commission to determine whether the United States is managing its oceans and coasts wisely, and how we can improve or refocus our efforts. Thus, the Oceans Act of 2000 focuses exclusively on the appointment of an independent national Ocean Commission to recommend ways to ensure our nation's ocean policy is coordinated, effective, and sustainable for future generations. I believe this is both improved and streamlined legislation that will enjoy wide support from industry, conservation groups, and States. Already we have received letters of support from a cross-section of these interests, all of whom believe we cannot wait any longer to enact this important legislation.

Mr. President, it is critical that we enact the Oceans Act of 2000 this year. In 1966 Congress enacted legislation to establish a Commission on Marine Science, Engineering, and Resources (known as the Stratton Commission for its chairman, Julius Stratton) that was to recommend a comprehensive national program to explore the oceans, develop marine and coastal resources, and conserve the sea. The Stratton Commission's report and recommendations have shaped U.S. ocean policy for three decades. We have long needed to take a hard look at this legacy, and a national Ocean Commission could comprehensively evaluate concerns that cannot be viewed effectively through current federal processes or through privately-commissioned studies. For example, an Ocean Commission could evaluate charges that the most critical coastal management issues, such as fishery conservation and data needs, are not given appropriate priority and funding. It could consider whether ocean management regimes that have developed over the last 30 years under a variety of agencies are duplicative and uncoordinated, resulting in costly or time-consuming requirements that may provide little incremental environmental benefit. Finally, it could address the argument that we lack a plan to evalute and plan for future resource needs or to derive benefits from discoveries made possible by advances in ocean technology.

It would be difficult to coherently address all these concerns without the high-level comprehensive review provided by this legislation. The Oceans Act of 2000 would establish a 16-member Commission, similar to the Stratton Commission, to examine ocean and coastal activities and report within 18 months on recommendations for a national policy. The Commission members would be selected from individuals nominated by majority and minority representatives in both houses of Congress. Eligible individuals include those representing state and local governments, ocean-related industries and public interest groups. I have included new provisions stating that the membership should be balanced geographically to the extent consistent with maintaining the highest level of expertise.

The Oceans Act of 2000 specifies that the Commission should examine concerns that range from priority and planning issues to regulatory reform. The Commission is specifically charged with evaluating the cumulative regulatory effect of the myriad of ocean and coastal management regimes, and crafting recommendations for resolving inconsistencies. To ensure we can meet future technical and funding challenges and set our national priorities appropriately, the Commission is directed to review the known and anticipated supply of, and demand for, ocean and coastal resources, as well as review opportunities for development or investment in new products, technologies, or markets related to ocean and coastal activities. Because I believe the Commission should focus on large-scale ocean and coastal policy questions, the bill includes a provision clarifying that the Commission recommendations shall not be specific to the lands and waters within a single state.

Finally, once the Commission issues its recommendations, the President must report to Congress on how he will respond to or implement Commission recommendations. We want to be sure that this body is fully informed of, and participates in, how the Nation proceeds once the Commission has completed its work. Finally, the effective date of the Act is at December 31, 2000 in order to enable the current Administration to complete its interagency ocean initiative before the end of the current term, and allow the incoming Administration time to evaluate the Commission nominees and make appointments.

This version does not include a federal interagency Ocean Council—I believe that this function is now being filled by the sub-cabinet level Ocean Policy Task Force process announced by the Administration last year. Establishing a second interagency council now would be duplicative, and it is my firm belief that the independent Commission will adequately assess whether the existing interagency process is appropriate or sufficient to address its recommendations. However, it is my hope that interagency coordination on oceans policy will remain an important priority for the next Administration. And I look forward to the day that ocean policy issues are given the highest priority within the federal government by a Cabinet-level entity, without the infighting or discord that has impeded our progress on these issues.

Mr. President, this legislation is both appropriate and long overdue. By the end of this decade about 60% of Americans will live along our coasts, which account for less than 10% of our land area. I am amazed that in this era, when we've invested billions of dollars in exploring other planets, we know so little about the ocean and coastal systems upon which we and other living

things depend. Large storms events like Hurricanes Floyd and Hugo, driven by ocean-circulation patterns, pose the ultimate risk to human health and safety. El Nino-related climate events have led to increased incidence of malaria in areas of Colombia and Venezuela. Harmful algal blooms have been linked to deaths of sea lions in California and manatees in Florida, and we are still searching to understand their effects on humans. Mr. President, the oceans are integral to our lives but we are not putting a priority on finding ways to learn more about them, and what they may hold for our future. The oceans are home to 80% of all life forms on Earth, but only 1% of our biotechnology R&D budget will focus on marine life forms. Of the 4 manned submersibles in the world capable of descending to half of the ocean's maximum depth, not a single one of them is operated by the United States!

The Stratton Commission stated in 1969: ''How fully and wisely the United States uses the sea in the decades ahead will affect profoundly its security, its economy, its ability to meet increasing demands for food and raw materials, its positions and influence in the World community, and the quality of the environment in which its people live.'' those words are as true today as they were 30 years ago.

Mr. President, it is time to look towards the next 30 years. This bill offers us the vision and understanding needed to establish sound ocean and coastal policies for the 21st century, and I think the cosponsors of the legislation for joining with me in recognizing its significance. We look forward to working together in the bipartisan spirit of the Stratton Commission to enact legislation this year that ensures the development of an integrated national ocean and coastal policy well into the next millennium.●

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ADDITIONAL COSPONSORS

S. 345

At the request of Mr. ALLARD, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 662

At the request of Ms. SNOWE, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 662, a bill to amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program.

S. 801

At the request of Mr. SANTORUM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 867

At the request of Mr. ROTH, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 867, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 875

At the request of Mr. ALLARD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes.

S. 882

At the request of Mr. MURKOWSKI, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 882, a bill to strengthen provisions in the Energy Policy Act of 1992 and the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to potential Climate Change.

S. 954

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 954, a bill to amend title 18, United States Code, to protect citizens' rights under the Second Amendment to obtain firearms for legal use, and for other purposes.

S. 1053

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1142

At the request of Ms. MIKULSKI, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1142, a bill to protect the right of a member of a health maintenance organization to receive continuing care at a facility selected by that member, and for other purposes.

S. 1185

At the request of Mr. ABRAHAM, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1185, a bill to provide small business certain protections from litigation excesses and to limit the product liability of non-manufacturer product sellers.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1787

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1787, a bill to amend the Federal Water Pollution Control Act to improve water quality on abandoned or inactive mined land.

S. 1806

At the request of Mr. BINGAMAN, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1806, a bill to authorize the payment of a gratuity to certain members of the Armed Forces who served at Bataan and Corregidor during World War II, or the surviving spouses of such members, and for other purposes.

S. 1810

At the request of Mrs. MURRAY, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

S. 1874

At the request of Mr. GRAHAM, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1874, a bill to improve academic and social outcomes for youth and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive activities conducted by law enforcement personnel during non-school hours.

S. 1883

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1883, a bill to amend title 5, United States Code, to eliminate an inequity on the applicability of early retirement eligibility requirements to military reserve technicians.

S. 1898

At the request of Mr. DORGAN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1898, a bill to provide protection against the risks to the public that are inherent in the interstate transportation of violent prisoners.

S. 1921

At the request of Mr. CAMPBELL, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1921, a bill to authorize the placement within the site of the Vietnam Veterans Memorial of a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

S. 1991

At the request of Mr. THOMPSON, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1991, a bill to amend the Federal Election Campaign Act of 1971 to enhance criminal penalties for election law violations, to clarify current provisions of law regarding donations from foreign nationals, and for other purposes.

S. 1997

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1997, a bill to simplify Federal oil and gas revenue distributions, and for other puroposes.

S. 2018

At the request of Mrs. HUTCHISON, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the Medicare Program.

S. 2039

At the request of Mr. HUTCHINSON, the names of the Senator from Georgia (Mr. COVERDELL) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2039, a bill to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to provide emergency loans to poultry producers to rebuild chicken houses destroyed by disasters.

S. 2070

At the request of Mr. FITZGERALD, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 2070, a bill to improve safety standards for child restraints in motor vehicles.

S. 2084

At the request of Mr. LUGAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the charitable deduction allowable for contributions of food inventory, and for other purposes.

S. 2107

At the request of Mr. GRAMM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2107, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

S. 2139

At the request of Mr. HUTCHINSON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2139, a bill to amend the Federal Water Pollution Control Act to exempt agricultural stormwater and silviculture operation discharges from the requirement for a permit under the pollutant discharge elimination system, and for other purposes.

S. 2182

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2182, a bill to reduce, suspend, or terminate any assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act to each country determined by the President to be engaged in oil price fixing to the detriment of the United States economy, and for other purposes.

S. 2221

At the request of Mr. KOHL, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2221, a bill to continue for 2000 the Department of Agriculture program to provide emergency assistance to dairy producers.

S. 2232

At the request of Mr. GRAHAM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2232, a bill to promote primary and secondary health promotion and disease prevention services and activities among the elderly, to amend title XVIII of the Social Security Act to add preventive benefits, and for other purpose.

S. 2265

At the request of Mrs. HUTCHISON, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 2265, a bill to amend the Internal Revenue Code of 1986 to preserve marginal domestic oil and natural gas well production, and for other purposes.

S. 2275

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2275, a bill to amend the Mineral Leasing Act to prohibit the exportation of Alaska North Slope crude oil.

S. 2277

At the request of Mr. ROTH, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 2277, a bill to terminate the application of title IV of the Trade Act of 1974 with respect to the People's Republic of China.

S. 2288

At the request of Mr. ABRAHAM, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2288, a bill to amend the Internal Revenue Code of 1986 and the Social Security Act to repeal provisions relating to the State enforcement of child support obligations and the disbursement of such support and to require the Internal Revenue service to collect and disburse such support through wage withholding and other means.

S. 2300

At the request of Mr. THOMAS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2300, a bill to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for coal that may be held by an entity in any 1 State.

S. 2307

At the request of Mr. DORGAN, the name of the Senator from Nebraska (Mr. KERREY) was added as a cosponsor of S. 2307, a bill to amend the Communications Act of 1934 to encourage broadband deployment to rural America, and for other purposes.

S. CON. RES. 34

At the request of Mr. SPECTER, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. Con. Res. 34, a concurrent resolution relating to the observance of ''In Memory'' Day.

S. CON. RES. 69

At the request of Ms. SNOWE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Con. Res. 69, a concurrent resolution requesting that the United States Postal Service issue a commemorative postal stamp honoring the 200th anniversary of the naval shipyard system.

S.J. RES. 3

At the request of Mr. KYL, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Louisiana (Mr. BREAUX), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S.J. Res. 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S.J. RES. 43

At the request of Mr. L. CHAFEE, his name was added as a cosponsor of S.J. Res. 43, a joint resolution expressing the sense of Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru.

S. RES. 87

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. Res. 87, a resolution commemorating the 60th Anniversary of the International Visitors Program

S. RES. 253

At the request of Mr. SPECTER, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Res. 253, a resolution to express the sense of the Senate that the Federal investment in biomedical research should be increased by $2,700,000,000 in fiscal year 2001.

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SENATE CONCURRENT RESOLUTION 100—EXPRESSING SUPPORT OF CONGRESS FOR A NATIONAL MONUMENT OF REMEMBRANCE TO BE OBSERVED AT 3:00 P.M. EASTERN STANDARD TIME ON EACH MEMORIAL DAY

Mr. HAGEL (for himself and Mr. KERREY) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 100

Whereas the preservation of basic freedoms and world peace has always been a valued objective of this great country;

Whereas thousands of American men and women have selflessly given their lives in service as peacemakers and peacekeepers;

Whereas greater strides should be made to demonstrate the appreciation and gratitude these loyal Americans deserve and to commemorate the ultimate sacrifice they made;

Whereas Memorial Day is the day of the year for the Nation to appropriately remember American heroes by inviting the citizens of this Nation to respectfully honor them at a designated time;

Whereas Memorial Day needs to be made relevant to both present and future generations of Americans; and

Whereas a National Moment of Remembrance would provide citizens in the United States an opportunity to participate in a symbolic act of American unity: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) expresses its support for a National Moment of Remembrance at 3:00 p.m. eastern standard time on each Memorial Day in honor of the men and women of the United States who died in the pursuit of freedom and peace; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe a National Moment of Remembrance on each Memorial Day.

● Mr. HAGEL. Mr. President, I rise today with my colleague from Nebraska, Senator BOB KERREY, to submit a resolution expressing Congress' support for a national moment of remembrance, to be observed on Memorial Day each year, in order to appropriately honor American patriots lost in pursuit of peace and liberty around the world.

Should Congress pass this resolution, ''Taps'' will be played at 3 pm (Eastern Standard Time) on Memorial Day each year, in honor of those who have sacrificed their lives for their country. In other words, this resolution seeks to put the ''memorial'' back into Memorial Day.

It is my hope that this moment of remembrance will bring all Americans together in a spirit of respect, patriotism and gratitude. Our intention is to help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our great Nation.

No Greater Love, a nonprofit organization which assists the families of Americans who died in service to their country or in terrorist acts, has helped support this resolution as part of their ''Proud to Remember'' campaign. We are all grateful for their efforts.●

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AMENDMENTS SUBMITTED

LAUNCHING OUR COMMUNITIES' ACCESS TO LOCAL TELEVISION ACT OF 2000

JOHNSON (AND OTHERS) AMENDMENT NO. 2891

(Ordered to lie on the table.)

Mr. JOHNSON (for himself, Mr. THOMAS, Mr. GRAMS, Mr. ROBB, Mr. WELLSTONE, Mr. HARKIN, and Mr. BAUCUS) submitted an amendment intended to be proposed by them to the bill (S. 2097) to authorize loan guarantees in order to facilitate access to local television broadcast signals in unserved and underserved areas, and for other purposes; as follows:

In section 4(d)(2)(D), insert after the phrase ''acceptable to the Board'' the following: ''or any lender that (i) has not fewer than one issue of outstanding debt that is rated within the highest three rating categories of a nationally recognized statistical rating agency; or (ii) has provided financing to entities with outstanding debt from the Rural Utilities Service and which possess, in the judgment of the Board, the expertise, capacity and capital strength to provide financing pursuant to this Act''.

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AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Wednesday, March 29, 2000, at 9:30 a.m. on sports gambling.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, March 29, 2000, at 10:00 a.m. for a hearing entitled Meeting the Challenges of the Millennium.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, March 29, 2000, at 10:30 a.m. for a hearing entitled Meeting the Challenges of the Millennium.

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

COMMITTEE ON FINANCE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, March 29, 2000, for hearings regarding the Inclusion of a Prescription Drug Benefit in the Medicare Program.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, March 29, 2000 at 2:30 p.m. to mark up S. 1507, Native American Alcohol and Substance Abuse Program Consolidation Act of 1999, and S. 1509, Indian Employment, Training and Related Services Demonstration Act Amendments of 1999; followed by a hearing on S. 1967, to make technical corrections to the status of certain lands held in trust for the Mississippi Band of Choctaw Indians. The hearing will be held in the Committee room, 485 Russell Senate Building.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 29, 2000, at 9:30 a.m., to receive testimony on Presidential primaries and campaign finance.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 29, 2000, at 2:00 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on Wednesday, March 29, 2000, at 9:30 a.m., in SD226.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Senate Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 29 at 2:30 p.m. to conduct a hearing. The subcommittee will receive testimony on S. 1778 to provide for equal exchanges of land around the Cascade Reservoir; S. 1894, to provide for the conveyance of certain land to Park County Wyoming; and S. 1969, to provide for improved management of, and increased accountability for, outfitted activities by which the public gains access to and occupancy and use of Federal land, and for other purposes.

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

COMMITTEE ON FINANCE

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, March 29, 2000, for hearings on the nomination of Elizabeth Michelle Andrews Smith.

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

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THE FEDERAL GAS TAX

Mr. WARNER. Mr. President, I want to turn to the subject of the cloture vote that will be held tomorrow. It is scheduled on legislation to suspend 4.3 cents of the Federal gas tax and then the possibility, at some point in time, of the suspension of the full 18.4-cent gasoline tax; the 4.3, of course, is included in that.

Now this proposal was laid before the Senate last night by our distinguished majority leader, Senator LOTT. Senator LOTT is a man of principle. I rise with

convictions of my own, and I hope he will accord me the same respect I accord him. He firmly believes it is in the best interest of the country—the measure he is bringing before the Senate. I believe it is my duty to oppose that, and my remarks give the reasons for doing so.

I ask unanimous consent that several documents be printed at the end of my statement.

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

(See Exhibit 1.)

Mr. WARNER. Mr. President, in this effort, I am joined by the following organizations as of this moment. Within 3 hours this afternoon, they have come to my door in great numbers. I urge Senators to listen to the following. Opposing this measure—the substance of the bill—are the National Governors' Association. The distinguished Presiding Officer was a former Governor and was active in that association. Also, there is the National Association of Counties, U.S. Conference of Mayors, National Conference of State Legislators, Association of Road and Transportation Builders, Associated General Contractors, Building and Trades Unions, American Highway Users Federation, American Automobile Association. That list is growing by the hour.

I believe the Senate, at this critical hour, should be directing its attention in a constructive way to point out the failures of the Clinton energy policy. My colleague, the junior Senator from Alaska, has been a tireless worker on this effort. I believe either today or tomorrow he will be addressing the Senate on this subject. We should be focusing our attention on how, legislatively or otherwise, we can help the American free enterprise system to increase production. That production has been stymied time and time again by a number of Government regulations, such that today America is dependent for 56 percent of its petroleum energy requirements—56 percent coming across the ocean to our shores.

We are now finding ourselves in this great Chamber, watching intently as to what OPEC might do. A series of nations, the majority of whom—certainly not Iraq and Iran and others—we have come to their defense time and time again when their security and freedom have been challenged. Yet, we are sitting here by the hour waiting to see how they might provide this great Nation, the United States of America, an energy program of imports combined with our own domestic production to meet our needs, to continue to strengthen this economy, which is not only helping to support our Nation and provide jobs but, indeed, is relied on by economies throughout the world—all because of this petroleum.

We recognize that the price of gasoline has reached such a high level that it is beginning to have tragic consequences on families, on small businesses, on truckers, and many others across this Nation. Indeed, this Chamber is directing its attention to see what relief we may give. But I say most respectfully to those who are proposing the suspension of this 4.3-cent tax and the possibility of another trigger requiring that to be subsumed into an 18.4-cent tax, that this is not a wise course, and I oppose it. I oppose it because the proposal is fraught with uncertainty. We could be taking an action which would not translate into relief for the drivers of our vehicles—those who are suffering from this. There is simply too much uncertainty in this course of action. That is one reason.

The second reason is it would impact negatively on legislation which I and others fought for years for and finally got through in the form of new highway legislation. I will address that in detail.

I ask the question: Is the repeal or temporary suspension of the 4.3 cents going into the pockets of the drivers? Can we give them that assurance? That is the question each of you will have to answer if you want to support this proposal.

What is the guarantee that this tax cut will be passed on to the consumer? What is the likelihood it might go in part or in whole into the pockets of the middlemen, the wholesalers, or the distributors? How are the drivers protected from the oil refiners and wholesale marketers from taking off some of this for their own reasons? Will the free marketplace enable them to charge the same price at the gas pump even after you achieve the rescinding of the 4.3? What is there to indicate that the price at the gas pump is going to come down? I can find no certainty.

I come back time and time again to one word— ''uncertainty.''

If it is not to be passed on to the consumers and the high prices continue, I think Americans will feel betrayed. They are now mad. But they could be more irate if they are betrayed by what could be perceived as a course of action. That could happen. But there is no certainty 4.3 cents will be put into their pockets.

What is the impact of this hollow tax cut? Is it a significant impact on our budget surplus? Very clearly—the way the bill is drawn, it will have an impact on that surplus.

The Department of Transportation estimates that the 9-month suspension—as proposed in this legislation—of this portion of the gas tax will result in approximately $6 billion less in the highway trust fund. That money, which by law in the context of the highway legislation that I worked on, will be taken out. That means there will be a shortfall in the next 9 months of $6 billion.

While the legislation as proposed by the distinguished leader has a unique provision—I am not sure I have ever seen one like it before—calling on the surplus—that is the general revenues and surplus—to replenish the lost revenue in the highway trust fund, there is some trigger mechanism in there.

But I ask my colleagues in the Senate: Do we want to be spending a significant part of our limited surplus for this uncertainty? If we knew it was going into the consumers' pockets, that might be one thing. But I have yet to find anybody who says it is absolutely going to bypass all the middle people and go into their pockets.

Do we want to take that surplus, which we are examining for debt reduction, tax reduction and other purposes, do we want to suddenly have $6 billion with just the 4.3 cents go into this type of scheme? If we go to 18.4, then it could well consume all the surplus. The question you have to ask yourself is, Is that what we want to do with the surplus? This Senator says no.

In other words, I would rather see such tax legislation as can pass this Chamber, tax legislation which guarantees by law taxpayer relief—the marriage penalty tax for one and the estate tax relief for another, specifically—relief that they need. And there is certainty. That is the word; there is certainty. But there is uncertainty with this proposal.

Do we want to use the on-budget surplus to give a tax cut to gasoline wholesalers? I don't. Do we want to use our surplus for other, more certain tax legislation? Yes, I do. That is the position I take this evening.

Let's go back and look at the highway legislation that we worked on several years ago, called TEA–21. For over a decade in the Senate, I, along with many other colleagues on both sides of the aisle with strong bipartisan support—the senior Senator from Montana, Mr. BAUCUS, our former colleague, Senator Chafee from Rhode Island, myself, and others—teamed up in the Environment and Public Works Committee. I was then chairman of the transportation subcommittee, a position now occupied by our distinguished Presiding Officer, who I believe is in concert with me on the views with regard to this tax. Over a period of years we worked towards several goals, and we achieved them.

We wanted to first restore faith with the drivers who were promised over the years that the gas taxes they paid at the pump would come back to their respective States to be used for new highways, improvements in safety, and the like. But it never happened. We had the donor-donee situation, where various States got higher than they sent to Washington for taxes; others got less. And finally we struck a note of fairness in that legislation. It was landmark legislation. It has worked in our States. That is why the Governors in all 50 States are opposed to this. That is why the highway administrators in all 50 States and their organizations are opposed to the legislation. They made it work.

Tens upon tens of thousands of contracts are operating today to modernize and improve our highways and

other transportation facilities. Millions of people are engaged in employment and others in providing the supplies and engineering and design. The system is working as it was intended when this Senate together with the House of Representatives put this legislation into law.

TEA–21 guaranteed that all the taxes motorists paid at the pump would be placed in the highway trust fund. It would go into the trust fund, and, indeed, 100 percent went for highways and highway safety.

Before TEA–21, the gas tax was increased by 4.3 cents. I voted against an increase in taxes of 4.3 cents. But it went into the general revenues. As a part of the legislative process in devising TEA–21 right on this floor, we voted—I believe the vote was 80–18—to take that 4.3 cents which was going into the general revenue and put it into the highway trust fund. Now we are asked to suspend that source of income going into the highway trust fund. I am opposed to it.

As our Nation's transportation infrastructure aged and crumbled, it was imperative that we transfer the 4.3 cents from general revenues to the highway trust fund. Eventually, TEA–21 guaranteed spending reform which resulted in a 40-percent increase in funds for transportation over the past 2 years. Today, we are just beginning to see the benefits of TEA–21 with more projects under construction, jobs being created, products moving more efficiently across the country, and, most importantly, improvement in highway safety.

Do we want to now turn back the clock and inject uncertainty—that is the key word, uncertainty—into the funding profile needed for our highway program?

While the legislation has an untested triggering mechanism to restore general revenues to the highway trust fund, what happens if that trigger is pulled and it doesn't work? Again, uncertainty will jeopardize highway safety for the driving public and thousands of jobs once created by TEA–21. In order to accomplish these significant budget reforms in TEA–21, adequate funding in the highway trust fund was critical to meet the many demands for the highway dollars. The highway trust fund is the sole source of revenue to improve our highways and bridges and maintain our bus and rail systems.

The consequences of a suspension of 4.3 cents of the Federal gas tax are very significant if that triggered mechanism doesn't work. First, State and local transportation activities will lose approximately $6 billion just from the 4.3. Second, there will be a tremendous loss of high-paying jobs. I have heard upwards of a quarter of a million jobs would be lost. Certain representations have been made by some of my colleagues, and I am not in a position to agree or disagree, that all the contracts that are currently signed in an operation have adequate funding. That could well be correct. However, I could not get the same representation from those individuals regarding the 18.4. If that suddenly comes in, it could jeopardize some of the contracts that are outstanding.

As Members come to the floor to vote tomorrow, they must have in mind an answer if the triggers go in effect—there are several triggers to the 18.4—what happens to the current contracts out there now and the people who are on the highways of this Nation working with trucks and all the other equipment to improve these roads. State and local transportation activities, as I say, will lose significant funds.

Second, there will be a tremendous loss of the highway-paying jobs. I have covered that.

Third, the safety of American drivers would be jeopardized. I am going to have printed in the RECORD the AAA letter which goes to the question of safety on the highways of America.

Fourth, there would be severe disruptions in maintaining the planning schedules. In other words, every week in my State the highway departments, as they do in other States, are analyzing the needs of that State and beginning to project the work, contract for the work, design the work. Suddenly, they hear from Washington; wait a minute, the funds that may not come in. We promised the transfer from the general revenues. Try to explain the triggering mechanism, and what happens. Uncertainty comes into the equation.

We all know it takes years, far too long for a highway or transit project to make it from the drawing board to construction. Severe swings or even the uncertainty of the availability of funds in transportation funding will make it nearly impossible for States to effectively manage their highway programs. Consistent funding levels are critical to the seamless steps of planning, designing, engineering, the permitting process, contracting, and construction. A stable program—where States, local governments, and contractors have the benefits of a long-term funding cycle—translates into a reliable supply of new and improved highways. That is elementary.

Do we want to stop the modernization of our Nation's transportation system to give the gas middleman a few more pennies in his pocket? It could well happen. Or do we keep on course to improve transportation and highway safety for all Americans while providing more meaningful and lasting tax relief with such limited surplus as we may have?

Those are the fundamental questions.

I read off the various organizations, and I will make a brief reference to the following from the American Association of State Highway and Transportation Officials:

DEAR SENATOR WARNER: I would like to express AASHTOs profound concern with, and opposition to, bills recently introduced in the House and the Senate that would repeal or suspend all or a portion of the Federal motor fuel taxes.

We appreciate the economic hardships caused by the sharp rise in the price of oil to the trucking industry, to the motoring public and to other sectors of our committee. However, we are concerned that the recently introduced legislation, designed to relieve the current economic distress, will inadvertently jeopardize the financial stability of the federal program that supports the various surface infrastructure on which motorists, the trucking industry, and indeed the economy depend.

From the Small Business Legislative Council, addressed to Senator LOTT, with a copy came to me:

On behalf of the Small Business Legislative Counsel (SBLC), I want to indicate that we must object to the initiative to temporarily roll back the Federal gas tax. While small businesses are clearly suffering as a result of the highway gasoline prices, we are long time staunch supporters of reserving the integrity of the highway trust fund and making sure that we have the proper infrastructure to deliver our goods and services.

From the American Automobile Association, one of the great hallmarks in our transportation system for many years, they write:

Even more troubling is the proposal to temporarily suspend the 18.4 cents per gallon Federal tax prices if prices top $2 per gallon this year.

That is an average; it is a complex formula. It could happen. I understand in California today the prices are over $2. It would not be just one State that triggered it. It would be a national average.

Continuing:

Despite assurances that revenues lost by the Highway Trust Fund will be replaced with revenues in the budget surplus, this action fundamentally alters the basic principle governing surface transportation funding. The Federal excise tax is a user fee. Motorists are paying for road and bridge repairs and safety programs through the fees paid at the gas pump.

Now, from the American Road and Transportation Builders Association. They listed 10 points which will be printed.

Last, I did not know what a coincidence it would be that the Presiding Officer, the Senator from Ohio, would be in the Chair. I obtained the following editorials which appeared in his State today, again, solidly supporting the distinguished Senator's stance on opposition to these taxes. It is very clear. I will read one editorial which appears in the Akron Beacon Journal:

And all that gas tax, the difference that 4.3 cents can make.

George Voinovich doesn't like paying $1.60 or more for a gallon of gas. In that sense, the Ohio Senator stands with the majority of his fellow Republicans, heck, the majority of Americans. Where he departs from the party line is determining what to do about the increase.

Not surprisingly, Voinovich takes a practical approach. On Thursday, he joined Sen. John Warner, a Virginia Republican, and Sen. Max Baucus, a Montana Democrat, to voice their bipartisan opposition to repealing the 4.3-cents-per-gallon tax levied in 1993 for deficit reduction. All three understand the cost if the tax is repealed.

Cost? Old motorists might save a few cents. What they would lose is money for highway repair and construction. In 1997, Congress altered the purpose of the tax, dedicating the 4.3 to the highway use only.

What would Ohio lose? If the repeal took effect in July, the State would forfeit $650 million the next three years. The State Department of transportation is already budgeted $300 million in Federal money for new construction. That would disappear.

In its place? The headaches of drivers as they navigate the roads in desperate need of repair. Voinovich knows deficient roads exact their own toll.

All across America today, tonight, people will be joining in notifying their Members of Congress that this piece of legislation, no matter how sincere, how principled in its presentation to this body, is not in the best interests of the country for the reasons I have stated.

EXHIBIT 1

[From the Akron Beacon Journal, Mar. 27, 2000]

ALL THAT GAS TAX—THE DIFFERENCE THAT 4.3 CENTS CAN MAKE

George Voinovich doesn't like paying $1.60 or more for a gallon of gas. In that sense, the Ohio senator stands with the majority of his fellow Republicans, heck, the majority of Americans. Where he departs from the party line is determining what to do about the increase.

Not surprisingly, Voinovich takes the practical approach. On Thursday, he joined Sen. John Warner, a Virginia Republican, and Sen. Max Baucus, a Montana Democrat, to voice their bipartisan opposition to repealing the 4.3-cents-per-gallon tax levied in 1993 for deficit reduction. All three understand the cost if the tax is repealed.

Cost? Oh, motorists might save a few cents. What they would lose is money for highway repair and construction. In 1997, Congress altered the purpose of the tax, dedicating the 4.3 cents to highway use only.

What would Ohio lose? If the repeal took effect in July, the state would forfeit $650 million the next three years. The state Department of Transportation has already budgeted $300 million in federal money for new construction. That would disappear.

In its place? The headaches of drivers as they navigate roads in desperate need of repair. Voinovich knows deficient roads exact their own toll.

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS,

Washington, DC, March 15, 2000.

Hon. JOHN WILLIAM WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: I am writing to you on behalf of the American Association of State Highway and Transportation Officials (AASHTO) which represents the highway and transportation departments of the 50 States as well as the District of Columbia and Puerto Rico. I would like to express AASHTO's profound concern with, and opposition to, bills recently introduced in the House and Senate that would repeal or suspend all or a portion of the federal motor fuel taxes.

We appreciate the economic hardships caused by the sharp rise in the price of oil to the trucking industry, to the motoring public, and other sectors of the economy. However, we are concerned that the recently introduced legislation, designed to relieve the current economic distress, will inadvertently jeopardize the financial stability of the federal program that supports the very surface infrastructure on which motorists, the trucking industry, and indeed, the economy depend.

Each penny of motor fuel tax currently generates almost $1.7 billion per year in revenues to the Highway Trust Fund's Highway and Mass Transit Accounts, with the funds dedicated to highway and mass transportation improvements. The loss of revenue from a repeal of federal motor fuel excise taxes would have a devastating impact on the ability of states to deliver, as promised to their citizens, critically needed surface transportation improvement projects. Projects that would be eliminated or delayed include those designed to reduce accidents and fatalities and to improve the overall operation and efficiency of the surface transportation system.

While the Transportation Equity Act for the 21st Century (TEA 21) established record levels of federal surface transportation investment, the U.S. Department of Transportation still estimates that the level of investment needed to maintain current highway conditions alone is $211 billion over the next four years. The U.S. Department of Transportation maintains that poor road conditions are a factor in an estimated 30 percent of traffic fatalities. A repeal or suspension of a portion of the federal motor fuel tax would virtually eliminate all of the gains we made with TEA 21, and put us that much further behind in meeting our surface transportation needs.

We respectfully urge you to examine the loss of revenues to the Highway Trust Fund and the impact on highway and mass transportation funding to your state resulting from a repeal of the federal motor fuel tax. I have attached a table that shows the state-by-state effect of a repeal of 4.3 cents of the tax. We hope that you will consider alternatives to a repeal or suspension of the federal motor fuel excise tax that would not seriously impair the abilities of the states to deliver much-needed projects that will maintain and improve the safety, condition and performance of our surface transportation system.

Sincerely,

THOMAS R. WARNE,
Executive Directors.

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,

Washington, DC, Wednesday, Mar. 29, 2000.

TOP 10 REASONS WHY REPEALING PART OF THE FEDERAL GAS TAX IS A BAD IDEA!

On Thursday, March 30, the U.S. Senate is expected to take up legislation—S. 2285—that would: (a) repeal 4.3 cents of the 18.4 cents-per-gallon federal gasoline tax from April 15, 2000, to January 1, 2001; or (b) repeal the entire 18.4 Federal gas tax during that time frame if the national average price of gasoline exceeds $2.00 per gallon. The bill proposes to use the ''on-budget surplus'' to ''reimburse'' the more than $20 billion that could be lost to the Highway Trust Fund under this scheme.

1. S. 2285 introduces uncertainty and risk into state highway funding. Federal highway investment is already guaranteed under the 1998 highway bill known as the Transportation Equity Act for the 21st Century (TEA–21). There is no need to risk this guarantee for a promise that things will be taken care of using the ''on-budget surplus.'' Uncertainty will slow down state highway and mass transit improvement programs.

2. S. 2285 could utilize the entire FY 2000 ''On-Budget Surplus.'' According to the Senate Budget Committee's Informed Budgeteer of March 13, 2000, the Congressional Budget Office has reestimated the FY 2000 ''on-budget surplus'' to be $15 billion. Repealing the entire federal gas tax from April 15 to September 30—a possibility under S. 2285—would cost the Highway Trust Fund approximately $15 billion. This would leave no room for other Republican budget priorities . . . or to protect Social Security and Medicare. A $9 billion supplemental appropriation bill is currently pending in the House.

3. Cutting highway investment jeopardizes lives. According to the U.S. Department of Transportation, 12,000 Americans die each year in auto crashes in which poor road conditions or alignments are a factor. Traffic accidents are the leading cause of death of young Americans 6 to 28 years of age and result in more permanent disabling injuries than any other type of accident. Cutting the federal highway user fee could cut programs that are aimed at helping reduce that public health crisis.

4. American jobs would be put at risk. Rolling back 4.3 cents of the federal gas tax motor fuels tax would risk eliminating over a quarter million American jobs that are sustained by public investment in highway construction programs—with concurrent losses of federal and state income tax revenue and increases in unemployment-related government expenses.

5. S. 2285 could negatively affect state bond ratings. The perception of uncertainty about the flow of federal highway funds to the states that S. 2285 would create could affect the bond ratings of states that have borrowed funds for highway projects against future federal-aid revenues. The National Highway System Act allows federal-aid highway and mass transit funds to be used to pay principle and interest costs on bonds for highway and mass transit projects. Bonds issued under this provision are called GARVEE bonds. Here are a few examples:

Ohio: $90 million for the Spring-Sandusky project with a moral obligation to seek gas tax or general revenues if there is a shortfall in federal aid.

Mississippi: $921.7 million for a four-lane highway program, with the state gas tax as back up.

New Mexico: $100.2 million for State Route 44, with no back-up (a ''naked GARVEE'').

New Jersey: $151.5 million to purchase 500 new buses, backed solely by anticipated funding from the Federal Transit Administration.

States that have passed enabling legislation or are planning to issue GARVEE Bonds in the near future include Alabama, Arkansas, Arizona, California, Colorado, Florida, Nevada and Virginia.

6. The uncertainty raised by S. 2285 will hurt publicly-traded companies in the transportation construction sectors. These companies have already taken a hit on Wall Street over the past month with just the suggestion of a cut in federal highway investment. Many of these companies have made very substantial capital investments in anticipation of increased highway work under TEA–21. S. 2285 could leave them hanging in the wind!

7. S. 2285 would only save the average American motorist 46 cents a week. The motorist driving 12,000 miles a year in a car getting 20 miles per gallon would save $18.28 between April 15 and January 1, 2001, with a 4.3 cents gas tax cut.

8. S. 2285 acknowledges consumers may not even benefit from the proposed tax rollback at the pump. The bill would direct the Comptroller General of the United States to ''conduct a study of the reduction of taxes under this Act to determine whether there has been a passthrough of such reduction'' with details to the Congress ''not later than September 30, 2000.''

9. Gasoline prices can be expected to decline in the next two to three months by between 5 cents and 21.25 cents per gallon due

to OPEC's quota increase. According to a Department of Energy's Energy Information Agency (EIA) study released on March 6, crude oil prices would drop to $25.50 per barrel by August and $23 per barrel by the end of the year if OPEC increased its quota by 1.7 million bpd starting in April. Also according to EIA, for each $1 per barrel decrease in the price of crude oil, gasoline prices drop approximately 2.5 cents per gallon at the pumps. According to market analysts, such price adjustments take between 6–8 weeks. However, if current gasoline prices reflect the peak crude prices, then the gasoline price decline will be closest to the higher figure.

10. Greenspan says ''Save the Surplus''. Federal Reserve Chairman Alan Greenspan told the Senate Special Committee on the Aging March 27, ''Saving the surpluses—if politically feasible—is, in my judgment, the most important fiscal measure we can take at this time to foster continued improvements in productivity.''

AAA,
Washington, DC, March 28, 2000.

AAA wishes to go on record in its opposition to measures that seek to suspend all or portions of the federal excise tax on gasoline. While attractive at first glance, this course of action will do little to address the root cause of our gasoline price problem today, which is a shortage of supply caused by curtailed production of crude oil, by OPEC states.

AAA recognizes that many motorists are suffering because of high gas prices. But, the benefits to motorists from reducing the gas tax are, at best, minimal. Temporarily suspending 4.3 cents of the gas tax would translate to less than $1 per week in possible savings to motorists. The resulting loss of revenue to the Highway Trust Fund, however, would impede the important work of rebuilding our nation's transportation infrastructure and improving highway and motorist safety. That is an unacceptable risk for AAA's 43 million members.

Even more troubling is the proposal to temporarily suspend the entire 18.4 cents-per-gallon federal tax if prices top $2 per gallon this year. Despite assurances that revenues lost to the Highway Trust Fund will be replaced with revenues from the budget surplus, this action fundamentally alters the basic principle governing surface transportation funding. The federal excise tax is a user fee. Motorists are paying for road and bridge repairs and safety programs through the fees paid at the gasoline pump.

Congress recognized the importance of fully investing in the nation's infrastructure when it passed TEA–21 in 1998 and ensured that federal gas tax dollars are dedicated for their intended purpose. Because of this historic legislation, motorists now trust that their taxes are invested exactly where they belong—improved mobility across all surface transportation modes—and safety.

Make no mistake about it. Lower receipts into the Highway Trust Fund will compromise safety for the traveling public. Is that truly what Congress wants to do? Reducing the federal gasoline tax will do nothing to increase fuel supply. That is where Congress and the Administration should focus their attention. To focus legislative efforts on the federal gas tax, rather than the real problem—supply—is a shortsighted and regrettably expedient response to the problem.

In the meantime, AAA is doing its part to reduce demand by issuing its ''Gas Watcher's Guide'', which details the many ways in which motorists can conserve fuel. A copy is enclosed for your review. The guide shows motorists that how a vehicle is used can be just as important as which vehicle is used.

Thank you for your consideration of AAA's view.

Sincerely,
SUSAN G. PIKRALLIDAS,
Vice President,
Public & Government Relations.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. MAJORITY LEADER: On behalf of the Small Business Legislative Council (SBLC), I want to indicate that we must object to the initiative to temporarily roll back the Federal gas tax. While small businesses are clearly suffering as a result of the high gasoline prices, we are long time staunch supporters of preserving the integrity of the highway trust fund and making sure that we have the proper infrastructure to deliver our goods and services.

We understand that you intend to pay for this roll back using the ''surplus.'' Right now we have many priorities for the use of that surplus. Repeal of the death tax, increasing direct expensing, full deductibility for the self-employed's health care costs, FUTA tax relief, repeal of the installment sales repeal and national debt reduction to name just a few.

As you know, the SBLC is a permanent, independent coalition of nearly 80 trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, tourism and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

We appreciate your outstanding leadership on behalf of small business. We believe there must be a better way to provide relief for small business from rising gasoline prices without jeopardizing other small business priorities.

Sincerely,
JOHN S. SATAGAJ,
President and General Counsel.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

ACIL, Air Conditioning Contractors of America, Alliance of Independent Store Owners and Professionals, American Association of Equine Practitioners, American Bus Association, American Consulting Engineers Council, American Machine Tool Distributors Association, American Moving and Storage Association, American Nursery and Landscape Association, American Road & Transportation Builders Association, American Society of Interior Designers, American Society of Travel Agents, Inc., American Subcontractors Association, American Textile Machinery Association, Architectural Precast Association, Associated Landscape Contractors of America, Association of Small Business Development Centers, Association of Sales and Marketing Companies, and Automotive Recyclers Association.

Automotive Service Association, Bowling Proprietors Association of America, Building Service Contractors Association International, Business Advertising Council, CBA, Council of Fleet Specialists, Council of Growing Companies, Cremation Association of North America, Direct Selling Association, Electronics Representatives Association, Florists' Transworld Delivery Association, Health Industry Representatives Association, Helicopter Association International, Independent Bankers Association of America, Independent Medical Distributors Association, International Association of Refrigerated Warehouses, International Franchise Association, and Machinery Dealers National Association.

Mail Advertising Service Association, Manufacturers Agents for the Food Service Industry, Manufacturers Agents National Association, Manufacturers Representatives of America, Inc., National Association for the Self-Employed, National Association of Home Builders, National Association of Plumbing-Heating-Cooling Contractors, National Association of Realtors, Manufacturers of RV Parks and Campgrounds, National Association of Small Business Investment Companies.

National Association of the Remodeling Industry, National Community Pharmacists Association, National Electrical Contractors Association, National Electrical Manufacturers Representatives Association, National Lumber & Building Material Dealers Association, National Ornamental & Miscellaneous Metals Association, National Paperbox Association, and National Retail Hardware Association.

National Society of Accountants, National Tooling and Machining Association, National Tour Association, National Wood Flooring Association, Organization for the Promotion and Advancement of Small Telephone Companies, Petroleum Marketers Association of America, Printing Industries of America, Inc., Professional Lawn Care Association of America, Promotional Products Association International, The Retailer's Bakery Association, Saturation Mailers Coalition, Small Business Council of America, Inc., Small Business Exporters Association, SMC Business Councils, Society of American Florists, Turfgrass Producers International, United Motorcoach Association, and Washington Area New Automobile Dealers Association.

Mr. REID. Mr. President, before my friend from Virginia leaves the floor, I want to say a couple of things in his presence.

When I came to the Senate, the Senator from Virginia was a Member of the Senate. I had the good fortune of being assigned to the Environment and Public Works Committee, as was the Presiding Officer when he came to the Senate.

I worked putting myself through law school in the Capitol complex.

I never talked to a Senator during that period of time. I always had a kind of a vision of what a Senator was like. I have to say, the Senator from Virginia fills what I think a Senator should be. If there were ever a gentleman Senator, the Senator from Virginia fits that bill.

We have worked together on committees over the years. When we were in the majority, I was the chairman of a subcommittee. I was a junior Member of the Senate at the time, but the respect shown as the chairman of that subcommittee was as it should be from the Senator from Virginia.

We are no longer in the majority, and the Senator from Virginia is now the chairman of the Armed Services Committee. Even though we have not always worked together on issues, and we have voted differently on occasion, I have the greatest admiration for the way the Senator from Virginia handles himself as a person and as a Senator.

I say with the deepest respect, the Senator's statement today amplifies—and the people of Virginia should understand—the courage it takes to be, in this instance, a minority in a majority who speaks out against what, at first glance, seems very popular—reducing taxes.

In short, I commend, applaud, and appreciate this Senator for the courage he has shown. One of my jobs on this side of the aisle is to make sure we have enough votes on issues or at least know where the votes are. The Senator's statement today will allow the Senate to act tomorrow in a bipartisan fashion and defeat this motion to invoke cloture. We need to do more things in the Senate in a bipartisan fashion. We do not always need this line dividing us. We need to work together more often.

I hope this will be the beginning of this Senate working together on more issues. I appreciate the example set by the gentleman Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague, the assistant leader of the minority, a great Senator in his own right. We have worked together and will continue to work together. These are matters of conscience. Bottom line, it is the fervent hope of all Americans that a Senator, when he or she votes, votes what is in the best interest of the United States and as a matter of their own personal conscience. That I do, and I know my distinguished colleague from Nevada follows that credo. I thank the Senator.

Mr. REID. Mr. President, I came to the floor when I heard the Senator from Virginia beginning to speak on this issue and, of course, stayed to hear him complete his remarks. I underscore and underline what the Senator said.

It was maybe 10 or 12 years ago that every weekly publication in America, and many newspapers, featured articles about the deteriorating infrastructure of this country—highways, roads, bridges, dams. They were falling apart. They still are, but we have made great progress. Why? Because we dedicated money in a trust fund to be used for only one purpose, and that is highways.

When someone buys a gallon of gasoline in Ohio, Virginia, or Nevada, they can rest assured that money is going to go toward our deteriorating infrastructure. It is so badly needed.

I am going to Nevada on Friday, and we are going to have a celebration. Why are we going to have a celebration? Because we are going to cut the ribbon to the largest highway public works project in the history of Nevada. It was done with the help of the Senator from Virginia. It was a direct allocation to the people of the State of Nevada to take care of a very serious traffic problem we had in downtown Las Vegas. It is something known as the spaghetti bowl. That will be completed on Friday. It is a project that cost over $100 million.

From where did that money come? From people all over the country, including the people in Nevada, buying gasoline and diesel fuel and paying the taxes on that gallon of fuel. It went into the fund. There are other spaghetti bowls around America to which this tax has gone.

No one is happy about the cost of a gallon of gasoline, and I am not here to justify the cost of gas. I think it is too high. I wish it were lower. We, in America, should look at this as a glass being half full, not half empty. The reason I say that is, in spite of the spiraling gas prices which none of us like, we have the lowest gas costs in the world. Other countries buy gas by the liter, and they pay a lot for it.

I hope, with the OPEC nations going to produce 1.7 million barrels of gasoline a day extra and Norway and Mexico and other countries producing more, we are going to get over 2 million barrels of gasoline a day. It will take some time for the price of gas to drop. We cannot be rushing forward on these issues. We have to be calm and deliberate.

This is a tax bill, and we should handle tax bills by having hearings in the Finance Committee. We have two very fine people there, some of the most experienced legislators not only in the Senate today, but in the history of the country—the Senator from Delaware, Mr. ROTH, the chairman of the committee, and the ranking member, the Senator from New York, Mr. MOYNIHAN. They have wide-ranging experience.

Senator MOYNIHAN is not only a ranking Democrat on the Finance Committee, he was chairman of the Environment and Public Works Committee. They should have a hearing on this and talk about—the good and the bad about lowering this gas tax. We have not had a single hearing. This bill is here as a result of what we call rule XIV. There is no companion bill in the House. If this bill is passed, it will either be held here at the desk indefinitely, or if we send it to the House, it will be blue slipped. It is a tax bill. It will go nowhere. I am sorry to say, this is for show.

We have a tax bill, H.R. 3081. This is what we need to do. There is no one in this body who does not want to see a decrease in the price of gasoline. This is not the way to go about it.

The Senator from California, Mrs. BOXER, has suggested maybe we should direct the 300,000 barrels a day that flow from Alaska to places, other than the United States, to the United States. Use Alaska oil for us, not them. That would help.

In fact, this legislative action that is going to take place tomorrow is a step in the wrong direction. I will not go into the details. The Senator from Virginia has done a good job of that. Let's be more careful and more calculating in what we do.

Because my two colleagues from Virginia and Ohio are here, both members of the majority, I am only going to touch briefly—because I do not think this should be a partisan issue—on George W. Bush's stand on this issue. I am disappointed in Governor Bush. I hope he does not think the solution to every problem is lowering taxes. I wish he would reassess his view on this. He has come out for lowering this gas tax. I am sorry he has done that.

That is enough on partisan issues. We have been very bipartisan and will continue to do so.

Mr. President, do you know who would love this proposal? The oil cartel. Put yourself in the position of an OPEC minister. You set these limits as high as you want or as low as you want, and the oil prices are pushed up. You are afraid, the higher the price of gasoline, that people will use less gasoline and heating oil and cut your exports. Suppose, however, you can count on the U.S. Government to reduce gasoline taxes whenever the price of crude oil rises. They have a great deal going then. Then Americans are less likely to reduce their oil consumption and conspire to drive prices up, which makes such a conspiracy considered more attractive.

This is directly from the New York Times. It is not original with me.

They further go on to state: This tax cutback would lead directly to cutbacks in necessary and popular Government services. This is one instance where everyone agrees that if you cut taxes, it would lead directly to cutbacks in necessary and popular Government services.

We have talked about what those Government services are; namely, taking care of the deteriorating bridges, roads, and highways we have in America.

Tax cuts are not the answer to this problem.

I hope people on this side of the aisle and people on that side of the aisle will come here tomorrow and vote this down and, hopefully, pave the way, in the ensuing weeks and months, so that we can do other things in a bipartisan fashion.

I say to my friend, again, from Virginia, thank you very much for your leadership on this issue. I say to the Presiding Officer, a member of our committee, the Environment and Public Works Committee, thank you very much for your courage and your leadership on this issue. Obviously, from what has been read by the Senator from Virginia from the newspapers at home, they see that you have your eye on the prize and know what you are doing. Congratulations.

Mr. WARNER. Mr. President, again, I thank my colleague for what I regard as a very moderate and tempered and sincere approach to this issue. There is always a temptation to lurch into what are the political unknowns or intentions here. But our distinguished assistant leader of the minority party, I think, just stated his case very factually. I respect him for that.

I say, before the distinguished leader leaves the floor, I think the Presiding Officer might have a perspective here. If you just wait a minute, I shall take the Chair and enable the Presiding Officer to address the Senate.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Ohio is recognized.

Mr. VOINOVICH. First of all, I thank the Senator from Virginia for relieving me in my responsibility of presiding over the Senate, and thank him also for his very kind words about my involvement in this issue that I think is very important to our fellow Americans. I commend the Senator from Virginia for his ability to stand up on an issue that is fairly controversial, and to speak from his heart. I also appreciate the kind words from the Senator from Nevada.

I speak today as a Senator from Ohio, and also as a lucky freshman who is chairman of the Transportation and Infrastructure Subcommittee in the Environment and Public Works Committee of the Senate.

I also speak from a perspective as a former Governor of the State of Ohio, and the former chairman of the National Governors' Association, the chairman of the association when we negotiated TEA 21 with this Congress and the President; one of the most significant pieces of legislation that this Congress passed. As the Senator from Nevada has pointed out, it was a piece of legislation that responded to the tremendous infrastructure needs that we have throughout this great country of ours. Even in spite of that wonderful piece of legislation, we still have some great needs to fill in order to really have a transportation system that will allow us to compete in this 21st century.

One of the things we were concerned about in that legislation was the issue of being able to depend upon a flow of money for a certain period of time so that we could properly plan for new highway construction in our States.

We needed something that was dependable and something that we could work with our contractors and others that do work in our States, so we could say we are going to be doing this program over a period of years and not have these peaks and valleys that so many States experience.

We were pleased Congress decided to take the 4.3-cent gas tax that had been used for deficit reduction and use it for our highways. I might say, in 1993 I was not in favor of Congress using the gas tax for deficit reduction because it was a user's tax. From a federalism point of view, our feeling was that that was a tax that should be earmarked for the user—the user being the people who use our highways—in order to repair and maintain and build new highways, to allow them to move goods, and also to eliminate some of the traffic problems and the pollution problems created by traffic jams that we have throughout the country.

I was pleased that Congress decided to take that and say: We are going to make it a user tax. We all felt good about that and we felt relieved.

We now have before us the situation where our gas prices have increased substantially. I am not going to go into all the reasons for it.

A 4.3-cent reduction in the gas tax, frankly, may have some short-term political benefits. But when people consider the fact that if they drive 15,000 miles per year, and they average 15 miles per gallon, that they will save $43 with our 4.3-cent reduction in the gas tax. They will be very cynical about Congress' response to a problem that they are confronting at the gas pump—particularly when they come to realize that it will have, even on a short-term basis, an interruption in some of the highway projects that are underway throughout this country.

As the Senator from Virginia said, in the State of Ohio, we are talking about, over 3 years, $650 million. That 4.3 cents is the construction money that Ohio needs to move forward with their new highway construction. I would suspect in Nevada and Virginia it is the same thing. Other money is used just for maintenance and repair. This is the money we are using for new construction.

In addition—this is something that has not been even spoken about—that 4.3 cents, when Congress agreed to allow it to be used for the highway trust fund, was the money that guaranteed donor States, such as Ohio—and I do not know whether the Presiding Officer's State is a donor State or not—but it was the thing that allowed us to be guaranteed 90.5 cents on every $1 we sent to Washington.

I want you to know this is a big deal because one of the first things I did when I became Governor of Ohio in 1990 was to say, we are a donor State. At that time, we were only getting back 79 cents per $1. So one of the first things I did was to try to lobby, through the National Governors' Association, an increase for the donor States. You may remember, ISTEA brought up a lot of the donor States. I think we went from 79 cents up to 87 cents. With TEA 21, we are now at 90.5 cents. That is very important in terms of our guaranteed funding. It is also very important in terms of our new construction program.

I know there are some who suggest that we use the budget surplus to make up for the money we would lose from reducing the highway gas tax.

But the fact of the matter is, if you want to look at the big picture, what we are saying is, we are going to use the budget surplus that could be used to reduce taxes or reduce the national debt, or be used for prescription drug benefits in Medicare, and so many other things—we're going to use that general pot of money to fund highways, which are used by a certain select group of people in this country, mainly, highway users.

We are basically saying to the highway users: You are having a problem at the pump. Therefore, we are going to reduce your taxes by 4.3 cents, and we are going to find the money from the general fund of the United States. So we will make everybody in the United States subsidize that 4.3 cents we are reducing on the gas tax.

In spite of the fact that I am not happy about the high cost of gasoline, I think the people who use the highways ought to be the ones who pay for the new highways, and the repairs, and for new construction. This bill would say we are going to open up the general fund of the United States and use it to make up the difference. I think from an equitable point of view, that is not fair. I think this proposal, from a public policy point of view, is one that is not well taken.

The passage of this reduction may take away from the fact that we have a real problem in this country. The problem in this country is that we have no energy policy. The reason we have the increase in the price of gasoline in this country, in my humble opinion, is the fact that this administration was asleep at the switch. They didn't do their homework. As a result of that, the price of oil crept up.

Now they are cramming in every way possible to try to influence the people who supply the oil to bring the price down. What we should be doing is following the leadership of Senator Frank MURKOWSKI and others who have come to the floor of the Senate, and work conscientiously to develop an energy policy for the United States of America. We should be concerned about the fact that we are relying too much upon foreign oil.

Last week, Senator THOMPSON had a hearing of the Governmental Affairs Committee which included people from the administration. I asked them: Do you believe we should be less reliant on foreign oil? Their answer came back: Yes. I said: Statistics show we are going to become more reliant on foreign oil.

I then asked the question: Do you have a number where you want to be; i.e., 50-percent reliant, 45-percent reliant? They didn't have an answer. They didn't have a number. Then I said to them: Logically, one would say that if you wanted to reduce your dependence on foreign oil, you would set a goal and say we are going to reduce it to 45 percent, and we are going to reduce it by X year, and here is the way we are going to achieve that goal. That would involve opening up more opportunities—ANWR, for example. That would also mean looking at alternative fuels. That would mean looking at our Tax Code to encourage our small oil strippers who can't afford to be in the business, to get back in the business. That would mean having a national policy, that puts all of these things on the table, and that looks at environmental concerns.

Yes, we want to protect the environment. Yes, we want to protect our national defense, which is something we're not talking about. The national defense of our country is in jeopardy. Reports have said that. We can't be reliant on these other nations, particularly those who are our enemies. We have been at war with one of them for 10 years now.

I think this situation with these high gas prices should be an opportunity, on a bipartisan basis, to bring everybody to the table to develop and start talking about what should be the energy policy of the United States. It should not to be like so many instances around this country where, when something happens, we treat it like a barking dog. You give it a bone, the price will go down, everybody will continue to do the same thing they did before, and we will have another crisis. It is time to get this problem out of the drawer and onto the table, and deal with it in a responsible fashion. We need to set out a plan we can feel confident in that will reduce our reliance on foreign oil and protect our national economy and our national defense.

We should not be participating in a short-term proposal to reduce the gas tax which will not make a whole lot of difference and may indeed take the focus away from the real problem; that is, that the United States of America does not have an energy policy.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. WARNER. Mr. President, I thank my colleague. He has stood with me throughout this battle, succeeding me as chairman. He fully understands. He brings a perspective to the Government. He understands the problem of long-term stability in contracting on our highway programs. Of course, that is predicated on this trigger mechanism working. Perhaps the distinguished chairman of the Budget Committee will know.

This is so serious, but I wish to inject a little humor. One of our colleagues today said this reminds him of pool. It is a three-bank shot. Picture the ball. That is the 4.3. You hit it off one bank, and suddenly it gets stripped off and goes around the other balls, which is the Budget Committee, so they don't have any voice in this. It goes off another bank. When it hits that bank, it picks up funds from the general revenue. Then it comes over and hits another bank to get around the Appropriations Committee, which usually has some authority over appropriating around the surplus, and then slowly goes into the pocket of the highway trust fund. So this is a three-cornered bank shot. Maybe our distinguished chairman of the Budget Committee can throw a little light on this triggering mechanism and how it works.

I thank my colleague.

Mr. VOINOVICH. I think one of the significant things about this proposal is the number of people who are opposed to it.

The AAA—a very respected organization in this country which represents the folks who drive on America's highways—with the high gas price, you would think they would be saying reduce the tax, or, get rid of the tax. But the AAA is saying: No, we don't want you to reduce the tax. We know it is not going to make a lot of difference in terms of the price, and we are more concerned about having highways that are safe and well-maintained and that are repaired. They are more interested in seeing new construction projects undertaken.

Last but not least, I want to correct something that was said on the floor. The Senator from Nevada indicated that Governor Bush supports the repeal of the 4.3-cent gas tax. I talked with Governor Bush yesterday or the day before. He clearly said he did not support—how did he put it? I want to be very careful about how I say this—he is not in favor of reducing the 4.3-cent gas tax. That is what he said, and it was spoken as the Governor of the State of Texas who understands how important highways are.

I also point out that the National Governors' Association has said they are opposed to this proposal. The National Association of Counties, the National Council of State Legislators, all of the people who have been dealing with highways and the users are saying this is not going to make a real difference. Let's get on with dealing with this problem.

Mr. DOMENICI. Will the Senator yield?

Mr. VOINOVICH. I yield to the Senator, my good friend from New Mexico.

Mr. DOMENICI. First, I thank the Senator for his good remarks. He is right on. I think he should add to his arsenal of words and discussions about the energy crisis the following: The United States of America has the greatest intelligence organization. We spend so much on intelligence and information gathering. We have an agency within the Department of Energy that is independent. We put a lot of money in it. They call themselves the ''analysts of energy.'' They are supposed to know everything you can know about crude oil. Tonight, as the cartel and its member countries concluded a meeting and said, this is what we are going to do, the United States of America has no way of finding out whether they have or have not. We do not know how much they are producing, how much they are exporting. That may come as a shock to you, but I can guarantee you what I am telling you is right. We don't know.

Now isn't this something? We are now sending diplomats, such as my friend and former colleague from New Mexico, to go over and kind of beg these countries to consider our economy and worry about our future and that we are in this together, we are bosom buddies, and we bailed you out of a few wars; don't do us in so bad; put a little more oil on the market so the price will go down. We don't know, unless they choose to tell us, day by day how much they are putting in the market, how much is being exported to the world communities. We sort of know how much the world needs. Our chairman of the Energy Committee has reported over and over again what that number is. But if you ask the person from the energy agency of the United States, Do you know how much they put on the market months ago?—give us the month and tell us how much—they will tell you: We don't know. As a matter of fact, they will tell you they lost 500 million barrels somewhere. I don't mean that it sank underground in a big hole and depleted away; they just lost it in transit, didn't know what happened to it.

I submit that we ought to worry about all the things you are talking about, but we had better get our heads together and find out who we are going to assign the responsibility of finding out how much of this international oil is being put on the market. After all, we ought to know. We are paying the money for it. Our future is dependent upon it. If they cut down the spigot and we don't know for 6 or 7 months what they did, shame on us, don't you think? We have to know that.

Mr. VOINOVICH. If the Senator will yield further. One of the concerns I have is, what kind of promises have we made to these people in order to get them to turn on the oil spigot? I just heard earlier today, for example, that Iraq, who has been our enemy—

Mr. WARNER. And still is, I might add.

Mr. VOINOVICH. Still is. In consideration of their giving us more oil, we are shipping them some technology they say they need in order to produce more oil. This is an awful position for the United States of America to be in, that we are at the mercy of someone who has been an enemy of ours, whom we went to war against and lost American lives over, and we are negotiating with them. It underscores how vulnerable we are because of a lack of an energy policy.

(Mr. ALLARD assumed the Chair.)

Mr. WARNER. Mr. President, on that point, this has been a great concern to me in my responsibilities on the Armed Services Committee. As the three of us are debating here in the spirit of the Senate, we have aviators flying missions over Iraq, containing that nation from further aggression, further human rights violations, possible further aggression from the very members of the OPEC cartel to which the distinguished Senator just referred having this meeting. They are risking their lives. What are we asking Americans to risk their lives for, at the same time we are sending spare parts to Iraq to increase oil production?

I asked in the Armed Services Committee the other day what, if any, commitments we made. I was assured by administration officials there was none. Iraq came up here the other day

and committed to the world market 700,000 barrels as part of the 1.7, which my distinguished colleague from New Mexico just addressed. Then, at the same time, we have naval units in the Persian Gulf, right off Saudi Arabia, off the Emirates, off Kuwait, right off the coast of these nations, risking sailors' lives, and other nations have joined. Great Britain is flying with us over Iraq. They are taking risks as they try to enforce the embargo of the illegal export of oil from Iraq which, I understand from one of our colleagues, is coming now into the United States. How can we ask these young men and women flying these missions to take the risk of life in the face of this flawed energy policy?

I thank my colleagues. This has been a very good debate. I started off solo, and little did I know I would have the support of my two distinguished colleagues. I thank them both.

Mr. DOMENICI. Mr. President, before I conclude on this subject, after which time I want to make a short speech about TED STEVENS, my friend and everybody's friend here in the Senate, I want to talk about this administration for a minute.

Nobody will deny that President Bill Clinton is about as articulate and as smart a President as we have ever had. He can get on television and tell us things, and people believe him. When in fact we are doing things, it is good to have a President like that because people find out what we are doing.

As I look back on this administration now, I used to say there are two difficult things—because I am a budget man, a fiscal policy guy; that is what I have been doing around here. I used to say there are two major problems left for America. If we solve them, we have our fiscal policy house in order like we never thought we would. We are going to be on the path of surpluses, of low taxation, which is when America does well, when we are taxed at low levels. That is one of the most significant differences between our country and its business success and production of jobs and employment and those who compete with us. We tax business low, not high. We let business pay money to employees, not to welfare programs. This is pretty exciting stuff.

One of the two things we never fixed is Medicare, which is in no better shape today than when the President walked into the office. In fact, it is closer to bankruptcy. No major reform. No prescription drugs. I used to say that. Then I would say the other one that is major is Social Security—this gigantic program that has taken so many seniors out of poverty, and we all have to be proud of that. I used to say, if this President would leave us a permanent solution to that, he would leave a great legacy. But he has ignored the two big problems of the country.

Tonight, as Senator VOINOVICH was on the floor talking, I was reminded that there is a third problem America has that this President has not touched, which is America's dependence on crude oil from foreign countries to operate our cars and use in our daily lives, almost to the point that we could not survive without it. What has happened? Growing dependency. It used to be that I thought when we got to 50 percent, I would join Senator Bentsen, or someone, on the floor saying put a program out. The prediction is that we will be at 65-percent dependency in the next 10, 15 years.

It is not so important that we are 65-percent dependent, but when you are that dependent, if somebody decides to cut your supply by just a million or two out of the 65, the prices go up. That is what is happening right now. The world needs X amount, and they are producing about X minus 2.5 or 2.7 million barrels a day. Look at what happens to the prices.

So we became vulnerable during this administration, which kind of happily moved along saying: Isn't it neat? We have cheap oil, and it's feeding this magnificent economic growth, and, boy, aren't we on the gravy train?

Tonight, we are talking about the fact that that is not a gravy train. We are really in big trouble as the world's most powerful nation, and not a constructive thing has happened, unless one concludes it is constructive to have Secretary Richardson going to all these nations—some of them twice, some three times, I assume—urging that they can't hurt their friend America by continuing to underproduce oil. We have to produce more so the price will come down. That can't be an energy policy—to go out to those big countries and rely on your friendship to get some relief; that is not an energy policy.

How can we, as a great nation, say to our children and grandchildren: That is the legacy we are leaving you? Boy, we hope we have a great Secretary of State and a great Secretary of Energy in about 8 or 10 years, so they can meander around the world and know all these leaders and go there and have dinner with them and talk about being their great friends. What if it turns out that in a few years they are up to here with us?

Some are already saying it. We have been so inconsistent with Kuwait, our business friend, that they are asking publicly: What is it America wants of us?

They have been trying to be helpful. We saved them. Incidentally, while we saved them, they paid an awful price in terms of dollars to pay for that war. America didn't pay much for that war. Between Kuwait, Saudi Arabia, Japan, and others, they paid almost every penny for the cost of that war. It was the slickest thing you ever saw. I was sitting with the man who worked with the President and who set all of it out in a formula for how these countries would pay. They paid it. We were thrilled to have those countries go out and pay for that war. They paid for it. They went into hock and mortgage to pay for it.

They are wondering: What do you want of us, America? We are trying to do everything you are asking of us. But we don't know what to do.

That is pretty tough stuff to come from one little country. It is little. But for a small country, it has more barrels of oil under each square piece of its earth than any other similar piece of soil in the world. That is Kuwait. It is small but hugely laden with oil supplies.

I am delighted that the gas tax pumps Senator VOINOVICH up enough to come to the floor and not only talk about that gasoline tax which pays for our highways. No matter what it was for when it was passed, it is now in our highway trust fund. It is part of the formula that we used.

I will tell you, if you temporarily repeal it for 1 year, it will not hurt the allocations for the year 2001. Everybody will get what they currently plan on getting. But that means we have to eventually put the money back in.

We are running around talking about trying to pay for future military needs and trying to take care of some new Medicare needs, if we can get reform, and, frankly, we ought not to be cavalierly talking about these billions that we are going to have to take out of the general fund.

I want to say for the record so everybody will know when they hear about their gasoline tax that the rule of thumb is for every penny of tax for roads and the like, the U.S. Government gets $1 billion. That is a pretty rough calculus. If it is 4.3, it is about $4.3 billion. If it is 18 cents that is repealed temporarily, or otherwise, it is about $18 billion. That is per annum, per year. The rule of thumb still applies. It applied a few years ago. Nobody has changed it, to my knowledge right now. It might change as the price goes up. We may see some change. But I don't think so because these are not percentages. They are pennies per gallon.

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ALASKA'S MAN OF THE CENTURY

Mr. DOMENICI. Mr. President, I wish to make a few remarks about a friend of mine. I will have been in the Senate at the end of this year for 28 years. When I arrived, a Senator was already here named TED STEVENS from the great State of Alaska. He was strong, articulate, and he was tough. He was moving up in the ranks.

There are approximately 6 billion people alive on this Earth right now, and only 619,000 of them are living in Alaska. After a long process, it was decided that Senator STEVENS should be the ''Man of the Century'' for Alaska.

We have all attended banquets and events for the ''Man of the Year'' or the ''Woman of the Year.'' But Alaska did it up right. They found one of their own, and said: If you look at the century—for part of which they certainly were not in the United States—who is the man of that century? And it was

our own TED STEVENS, currently the chairman of the Appropriations Committee.

It is phenomenal how people more times than not find reality. They find out what gold is, what is really important, and what is big, strong, and sturdy. It is clear that when it comes to stature, he might not be a tall or big man, but he matches Alaska's mountains; no doubt about it. He is a mountain of a man. I am very grateful to be able to call him my friend.

Other Senators have already put in the RECORD all of the things he has done around here in his years as Senator and how many times he has had to run. A few times he was Senator for only a couple of years, and then he had to run again. He has run more times than the number of years of service would directly yield for a 6-year term, as the occupant of the chair and I serve.

When you add it all up, Alaska has done it right. They have concluded that when you look back on the people of Alaska, even long before there was statehood, they are really saying there has not been a man like him. Alaska hasn't had a man like TED STEVENS. He is unique.

I want to say on the floor tonight that I am a few days late. I had left town when I found out about this last week. I am glad to have the opportunity tonight.

I want to say I am thrilled to have him as my friend. He has a tough job. So do I. I do the budget, and he helps me. He does appropriations, which has to be done every single year with the claims all the Senators put upon him, and with all of the claims others place in behalf of the people of this country for new programs and new expenditures. He has an awful lot of that on his shoulders.

I say to him that we are lucky we have him here. We are thrilled that he came from Alaska. If I were an Alaskan, I would have joined them in voting for him as the ''Man of the Century.''

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MEASURE READ THE FIRST TIME—S. 2323

Mr. DOMENICI. Mr. President, I understand that S. 2323 is at the desk, and I ask for its first reading.

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

The assistant legislative clerk read as follows:

A bill (S. 2323) to amend the Fair Labor Standards Act of 1938 to clarify the treatment of stock options under this act.

Mr. DOMENICI. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

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EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the executive calendar: No. 450.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

f

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of Rudy deLeon, of California, to be Deputy Secretary of Defense.

Mr. DOMENICI. Mr. President, I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and that any statements relating to the nomination be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nomination was confirmed.

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LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

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ORDER FOR CLOTURE VOTE—S. 2285

Mr. DOMENICI. Mr. President, with reference to the satellite loan guarantee legislation, I ask unanimous consent that notwithstanding rule XXII, the cloture vote on the motion to proceed to S. 2285 occur immediately following the conclusion of S. 2097, the satellite loan guarantee bill, but in any event no later than 6 p.m. on Thursday.

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

ORDERS FOR THURSDAY, MARCH 30, 2000

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate completes its business today it adjourn until the hour of 9:30 a.m. on Thursday, March 30. I further ask unanimous consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of S. 2097, the satellite loan guarantee legislation.

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

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PROGRAM

Mr. DOMENICI. For the information of all Senators, the Senate will begin debate on the satellite loan guarantee legislation at 9:30 a.m. Amendments to the bill are expected to be offered and debated throughout the day.

It is expected that action on the bill can be completed prior to adjournment. Therefore, Senators may expect votes on amendments and final passage of this bill.

Following the disposition of the bill, there will be a cloture vote on the motion to proceed to the gas tax legislation. After that cloture vote, the Senate will begin a period of morning business with a statement expected by Senator BROWNBACK on the marriage tax penalty.

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ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DOMENICI. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Thursday, March 30, 2000, at 9:30 a.m.

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CONFIRMATIONS

Executive nominations confirmed by the Senate March 29, 2000:

DEPARTMENT OF DEFENSE

RUDY DELEON, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF DEFENSE.

THE ABOVE NOMINATION APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.