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## Senate

The Senate met at 12 noon and was called to order by the Honorable PAT ROBERTS, a Senator from the State of Kansas.

### PRAYER

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

Almighty God, a week of responsibilities stretches out before us. As we face them, we thank You for Winston Churchill's reminder that "the price of greatness is responsibility." Father, You have entrusted the Senators with heavy responsibilities. Thank You that You will not ask more from them than You will give the strength to carry. Help them to draw on Your artesian wells of wisdom, insight, discernment, and vision. Be with them in the lonely hours of decisionmaking, of conflict over issues, and the ruthless demands of overloaded schedules. Tenderly whisper in their souls the reassurance, "I have placed you here and will not leave you, nor forsake you." In Your grace, be with their families; watch over them; and reassure the Senators that You care for the loved ones of those who assume heavy responsibilities for You. May responsibility come to mean "responsibility," a response of trust in You to carry out what You have entrusted to them. In the name of Him who lifts burdens and carries the load. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 14, 2001.

To the Senate:

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

STROM THURMOND,  
President pro tempore.

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

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the time until 1 p.m. shall be under the control of the Senator from Illinois, Mr. DURBIN, or his designee.

The distinguished Senator from Nevada is recognized.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The distinguished Senator from Oregon is recognized.

### ENERGY POLICY

Mr. WYDEN. Mr. President, the people of this country always come through when there are tough problems, as long as they know everyone is pitching in and doing their fair share.

That is the problem with much of what is coming out of Washington, DC, today, when it comes to this country's energy policy. Oregonians are telling me, for example, at townhall meetings that what alarms them about the energy debate in Washington, DC, is that it seems everybody is supposed to tighten their belt except for the powerful. I don't believe that passes the fairness test for most Americans. Even business leaders at home tell me the country just is not going to rally behind an energy plan that is not balanced, an energy plan that does not say: Everybody has to do their fair share.

There is not a whole lot of balance in a plan that would open up the Arctic National Wildlife Refuge to drilling now, although it will not produce any gas for at least 8 to 10 years, when our consumers are getting clobbered at the gas pump today.

Where is the balance in a plan that cuts funding for renewable energy—solar, wind, and geothermal—while building as many as 1,900 new powerplants? Where is the balance in a plan that would provide large new tax breaks for the energy industry and tells consumers the answer is to spend their tax relief on misguided energy policies? With all due respect, the idea that Americans should have to use their much needed tax relief to prop up ill-conceived energy policies is the ultimate in throwing good money after bad.

I want to take a few minutes to talk about where I think Congress ought to go with respect to the energy issue and what could constitute some of the core principles of an effective bipartisan energy policy.

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



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First, it is time to provide significant and real financial rewards for conservation. Everybody talks about conservation. We all know it makes sense to conserve energy. But there are very few actual financial rewards for conserving. I think it is time to put real dollars behind those who are willing to make the tough decisions with respect to conservation. For example, if it is a hardship to move your energy use from peak hours to times when demand is lower, let's reward that financially. Let's reward real-time pricing so as to take steps that are meaningful to decrease electric power shortages that are now causing price spikes and blackouts.

Second, I think it is time to lift the veil of secrecy around energy markets in this country. It is clear that energy is being commoditized, but it is not possible to get real information about supply and demand and transmission, which is what is needed when energy is being bought and sold in markets all across this country.

In electricity markets today, power is, in fact, being traded as a commodity, but basic information about how electric power systems and markets work is just unavailable in much of the United States. If electricity is going to be traded as a commodity, let the Congress take steps to ensure access to information so those markets can function efficiently.

I intend to introduce legislation shortly to ensure that Americans in every part of this country can get access to information about transmission capability, outages, and the information that is needed to be in a position to make energy markets work in a fair way.

Third, to encourage responsible power production, reward developers who demonstrate a commitment to good environmental policy. I do not think energy production and meeting this country's environmental needs ought to be mutually exclusive. There are ways to do both. I think there ought to be an effort by Congress to reward energy developers who meet tough environmental standards by moving them to the head of the line, the head of the queue for permits. This country needs new powerplants. I think there is bipartisan support for that effort. But we ought to say to power producers and power generators, when you are going to be an environmental leader, we are going to move you to the head of the regulatory queue.

Fourth, we need to bring free enterprise back into the energy markets. In my home State of Oregon, four companies essentially control 70 percent of the gas that is sold at the pump. I believe if there were real competition at the gas pump, prices would come down. Competition works in Oregon and across this country. But a variety of anti-competitive practices are squeezing competition out of the oil industry. I do not think it is an accident that people of my State have lost more than

600 gasoline stations in just a few years. It is true in much of the country that three or four companies control delivery of gas at the pump. Unfortunately, the Federal Government seems to have taken the position with respect to competition that, unless you have a handful of big energy producers huddled up, say, at a steak house in a downtown hotel dividing up energy markets, there is really nothing wrong.

In fact, we learned last week that even though west coast gasoline markets are being redlined—there is significant evidence that those west coast gasoline markets are being redlined—the Federal Government is not prepared, under the laws as written today, to take significant action to deal with it.

Just because something is not illegal doesn't mean it is not anti-consumer and that it does not have anti-competitive ramifications. So I think it is extremely important we look now to steps that actually produce competition in the gasoline markets rather than to conclude that just because you do not have energy producers huddled up at a steak house dividing markets everything is all right.

Finally, it seems to me that good science ought to be the basis of a bipartisan effort to address our energy predicament in this country. The Vice President recently stated the United States has to build 1,300 powerplants to meet projected increases in demand for energy over the next 20 years. However, scientists at the Energy Department's National Laboratories recently said that new technologies could reduce projected growth in energy demand by 20 percent to 47 percent, which could translate into as many as 600 fewer powerplants.

Certainly on a bipartisan basis this Senate can agree that we cannot ignore the science. More efficient transmission lines, moving away from the old model of a central powerplant and towards cleaner energy with combustion-free fuel cell technology, is just one of the options available. When it comes to the oil and gas sector, that fuel cell technology could be making cars run cleaner and more efficiently within a few years. Instead of subsidizing just the old fossil fuel industries with an energy proposal that says, go do your thing, our energy policy could be jump-starting a variety of renewable energy technologies with real promise for the future.

What I have discussed today—first, financial rewards for conservation; second, lifting the veil of secrecy around energy markets; third, creating incentives for energy developers to comply with tough environmental laws; fourth, bringing some free enterprise back into energy markets; and, fifth, looking at the science that comes out of the Energy Department itself—are five initiatives that the Senate could use on a bipartisan basis to build a sensible energy policy.

I was struck at the end of last week when the President of the United

States said that Americans should use their tax relief as the primary way to deal with the energy crisis in this country. I don't think Americans ought to have to use their much needed tax relief to prop up misguided energy policies. I think that is just throwing good money after bad. I think it is important—and the distinguished Presiding Officer, the Senator from Kansas, and I have home roots in a place that knows something about energy production—to create incentives for energy production in this country. I think it is possible to do it while rewarding those who are going to meet tough environmental standards.

So I am hopeful that this week, as Congress focuses on energy policies and the President unveils his proposal, that we recognize this country is ready for bold and bipartisan leadership on the energy issue. This Congress can provide it. We can insist on policies that make sense for the environment and for consumers and for the energy industry, but it has to be a policy that says everybody does their fair share. It has to be a policy that says everybody has to be part of the solution and we are not just going to say to the country: You tighten your belts while the power folk get a free ride.

I believe it is possible to bring together responsible leaders in industry, the environmental sector, and the consumer movement to create an energy policy that will get us beyond the very difficult months ahead and build a sound foundation for the future.

I yield the floor.

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

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

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, I ask unanimous consent to be able to speak for 10 minutes as if in morning business.

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

#### RURAL MENTAL HEALTH ACCESSIBILITY ACT OF 2001

Mr. THOMAS. Mr. President, last week we had the opportunity to introduce a bill called the "Rural Mental Health Accessibility Act of 2001."

I am pleased to be joined by Senators CONRAD, DOMENICI, JOHNSON, ROBERTS, and NELSON from Nebraska to bring forward the opportunity for us to strengthen medical provisions for mental health in rural States in particular.

As you might imagine, rural States have many unique problems. We have small towns and small cities where not all medical specialties are present. We

have to build sort of a network of health care for small towns. One of the things that has been most difficult to provide in those rural areas is mental health in small towns where kids need some counseling, and where there are real problems with no one there who is a specialist in mental health.

This Rural Mental Health Accessibility Act reflects on those unique needs and provides States and local communities flexibility.

The Federal programs that assist in health care needs in Wyoming are different than they are in Pennsylvania, or in Rhode Island. We need to have flexibility in all cases, particularly in the case of mental health which is more of a speciality.

This act provides for creative and collaborative provider education to help provide education for the mental health provider so they can come to those rural areas and give some assistance in education.

It increases access to mental services to vulnerable children and seniors in unserved rural areas throughout these States.

Certainly the circumstances are unique. With the stigma associated with mental illness, people do not seek the services. They are not handled there, and it cannot be done easily.

Seventy-five percent of the 518 nationally designated mental health professional shortage areas are located in rural areas, which, I guess, is not hard to understand.

One-fifth of all rural communities have no mental health services of any kind.

Frontier communities have even more drastic numbers. Ninety-five percent have no psychiatrists. Sixty-eight percent have no psychologists. Seventy-eight percent have no social workers.

You can see that it is really necessary to have a network where people can move around to provide the services that the communities do not have.

Suicide rates among rural children and adolescents are higher in urban areas. That is a very surprising statistic. We don't think of it that way. In fact, it is true.

Twenty percent of the Nation's elderly population lives in rural areas. Only 9 percent of our Nation's physicians practice in rural areas.

Often the primary care physicians are the only ones who are the source of treatment in these particular areas.

Primary care physicians do not necessarily have the specialized training in terms of mental health.

To address these issues, this bill does the following: Create the Mental Health Community Education Grant Program; States and communities to conduct targeted public education campaigns focused on mental illness, focused on suicide, and focused on substance abuse. These are things that all communities to some extent are trying to keep out of the public eye, kind of acting as if it really isn't true. But, in-

deed, we know that it is, and especially in rural communities.

I must tell you, frankly, that I am surprised at the suicide rate in a rural State such as Wyoming, which is higher than most places. It really points out the need for the kind of health services that we are hoping to provide.

It creates an Interdisciplinary Grant Program; permits universities and other entities to establish interdisciplinary training programs so they can provide, hopefully, training for these kinds of health providers.

Mental health and primary care providers are taught side by side in the classroom, so that with clinical training in rural areas we can help provide for all of these kinds of needs that exist. We encourage more collaboration, certainly, amongst providers, so we can have this network we talk about.

It actually authorizes \$30 million for 20 mental telehealth demonstration projects. And it is equally divided. I think as we get more and more into high-tech telemedicine, it will be even more important. Of course, to do that you have to have equipment, you have to have people on both ends who have some training to provide these kinds of services.

It provides mental health services to children and elderly residents at long-term care facilities located in mental health shortage areas.

Projects also provide mental illness education and targeted instruction on coping and dealing with the stressful experiences of childhood, adolescence and aging. One might even think it is appropriate where we have some of the kinds of problems we have in public schools. There is often the necessity to have help in these stressful experiences.

It requires a study. The Director of the National Institute of Mental Health of the Office of Rural Health Policy will report to Congress on the efficacy and effectiveness of mental telemedicine.

So I think it is something that is very much needed, something we can help provide in communities where it does not now exist. Frankly, without some special assistance, it probably will not exist in the foreseeable future.

There are a number of supporting organizations. The Rural Mental Health Accessibility Act is strongly supported by the National Rural Health Association, the National Alliance for the Mentally Ill, the American Psychiatric Association, and the American Psychological Association.

So I believe it is critically important that we consider this legislation as we talk about health care. Again, I cannot overemphasize the need for flexibility and taking a look at all the areas to be served. It is one thing to serve in a downtown metropolitan center—and they have their difficulties, of course—but it is also difficult to serve in Medicine Bow, WY, where you have to reach out from somewhere else to bring in

people to provide these kinds of services.

So, first of all, I thank the Presiding Officer for being a sponsor, but also I thank him for the time and the support he has given to helping those in need of health care and mental health care.

I suggest the absence of a quorum.

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

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I believe we are in an hour of time allocated to the Senator from Wyoming.

The PRESIDING OFFICER. Under the previous order, the time until 2 p.m. is under the control of the Senator from Wyoming, Mr. THOMAS, or his designee.

#### TAXES

Mr. THOMAS. Mr. President, I rise to talk, again, about taxes.

The legislation now before the Senate includes education, which we will be debating this afternoon and which we will be working on until the tax bill comes from the committee, and taxes—probably two of the most important issues the Senate will address this year. Certainly everyone is most interested in education, and there are a number of broad topics within education that are legitimate to discuss. One of them is the role of the Federal Government in financing education.

Most would agree that the basic responsibility for elementary and secondary education lies with local government and State government. Traditionally, the Federal Government has provided about 7 percent of the total financing for education. It is an important contribution but certainly a relatively small one in terms of the total cost.

One of the other issues will be that of deciding how much flexibility there will be in terms of expending Federal moneys made available, whether or not, as was the case in the last administration, where the dollars which were allocated to education were generally assigned to the purpose for which they were allocated, either for smaller classrooms or for building improvements, new buildings, in reality, the real decision as to how moneys are used by local districts ought to be what the way local leaders believe they should be.

The needs are quite different in one place or another. I come from a State of small communities. The needs there are quite different often than they would in be in downtown Pittsburgh, PA. We need flexibility.

There will also be and there have been, in fact, great discussions about the amount of money that ought to be

spent and, more importantly, how we are able to have accountability in terms of the dollars that are spent to see, in fact, if those dollars that are being spent are creating a better education opportunity for children. We will be back on that later. We should be.

Of course, with any program we discuss comes the question of taxes. We find ourselves in an interesting position, a somewhat enviable position of having a projected surplus over time, a substantial surplus over the next 10 years, a surplus each year during that time. There is some question if that can be counted on. Whenever you project into the future, there is always an element of uncertainty. Nevertheless, we have to make decisions in the future. Whether one is in business, whether it is a family, whatever, we have to make decisions for the future. Sometimes they are not exactly the same, but I feel confident, as do the people who make the projections, that this is a fairly modest projection in terms of the surplus over time.

There are broad issues involved, and great detail in taxes, obviously, but there are also some concepts that ought to be debated: What kind of taxing limits should be placed on people; should we have taxes that offset what we believe are the fundamental costs, the necessary activities of the Federal Government? To be sure, not everyone would agree on what those necessary activities are. Nevertheless, if you have a surplus in Washington, beyond the needs the Congress has adjudicated to these items, you can bet your life it will be spent. Then you ask: What should be the concept? Where do we want to be down the road? Do we want more and more Federal Government? Do we want to spend on all the programs? Do we want to be somewhat conservative and try to make a decision as to which programs are best done at the Federal level and which decisions are best left to local governments and people and taxpayers themselves?

These are some of the philosophical issues that lie behind the debate. We argue all the time as to whether or not it will be \$20 million or \$50 million or \$1 billion for this. Before that, we ought to establish in our own minds what the role of taxation is at the Federal level. Are we there to support the needed programs? If not, there is no end to the amount of money that can be spent.

Then there is the question of simplification, particularly around April 15. How can we make tax laws more simplified; how can we make it easier; how can we get away from all of the pages of activities taxpayers have to go through? But at the same time we talk about that, we will have 20 or 30 different ideas on this floor during the next couple of weeks as to how we ought to have a tax break for this or a tax incentive for that, to the point where we almost become more involved

in using taxes as a method of impacting behavior and directing behavior than we do to using it as an income source to pay for basic services.

Again, there is a difference of view about that. We will see a great deal of that.

The other area, of course, is, as we look into tax reductions and surpluses, we have to ask: What are the things we really need to be careful about? One, obviously, is to have the money to fund those programs that are decided to be essential programs: defense, education, and all of those.

Recall that almost two-thirds of the budget is nondiscretionary. Almost two-thirds of the budget is already predetermined. It is Social Security, health care; it is Medicare. It is those things for which there are not alternatives to be decided each year. Out of a \$1.9 trillion budget, we make determinations for about \$661 billion. So there are some basic things we talk about.

The President has put forth a plan. He has, obviously, indicated the two areas of his highest priority: education and tax reductions, with the general concept that taxpayers ought not to send more of their money to Washington than is necessary to carry out the functions of the Government.

His plan is to give a tax cut to every family that pays income taxes. He replaces the current tax brackets by reducing them to lower rates: 39 to 33, 15 to 10, and so on, so everyone who pays taxes would have a tax reduction. He doubles the child credit to a \$1,000 and reduces the marriage penalty. That is really a fairness issue.

The idea that a man and a woman who are single have two jobs, earn X amount of dollars, pay X amount of taxes, they are married, they continue to make the same amount of money, but they pay more taxes, is a fairness issue and one that needs to be dealt with.

Under his plan, one in five taxpaying families with children would no longer pay any income tax at all, completely removing 6 million Americans from the tax rolls. Remember that there is a large percentage of Americans who don't pay Federal income tax. Families of four making \$35,000 would have a 100-percent tax reduction in what they pay, and on up. So, of course, the more taxes that are paid, logically the reduction would accommodate more reduction in dollars. That is the case.

We need tax reductions, obviously, because our taxes are the highest we have paid as a percentage of gross national product since even in World War II—higher than that now. Obviously, we have asked taxpayers to send more of their money into Washington than is necessary to provide the essential functions. And therefore, a tax reduction is legitimate—not only legitimate now, of course, but also even more needed because of the economy turndown, the economy stabilization, whichever it is, the lack of growth that we have had,

and certainly having less taxes paid and more money available to be used by the taxpayers themselves—their money. It will help that economic turndown.

It also deals with debt reduction. We have a very large debt, of course—about \$2.5 trillion in publicly held debt as opposed to Social Security. It is debt that has been placed because of you, me, and all of us who are now adults. If we don't do something, it will have to be paid for by young people who are beginning to have their first pay checks; 12½ percent of their earnings will be withheld to pay for a debt we helped to create.

Over this 10-year period, about \$1.5 trillion of that would be reduced, leaving about \$800 million. That is a tremendously large number. But, as a matter of fact, that is about all that is eligible to be removed over that time because it is held and secured. So we would have debt reduction in this plan. The debt reduction now held in private hands is \$2.4 trillion, reduced to \$800 billion. That is a pretty good reduction. We would have relief for every taxpayer—\$1.35 trillion over 11 years would be reduced in terms of taxpayers having to send their money to the Federal Government.

In addition to that, there would be an immediate surplus this year of about \$100 billion—for the next 2 years—that could be used to get it back to taxpayers more quickly so it could be put back into the private sector and help strengthen the economy. At the same time, we have commitments to protect seniors for today and tomorrow—the \$2.5 trillion of Social Security. That portion of Social Security that comes in during this time would be set aside for Social Security so that we would be able to meet our obligations there. And, of course, there are some discussions going on about some changes in Social Security, to increase the amount of moneys that would be there. The budget includes \$300 billion for a reserve fund for reforming Medicare, which needs to be done, of course, and to have an opportunity to make Medicare more useful, make Medicare more easily useful and accessible. One of the issues would be to create a prescription drug benefit. Hopefully, that would be done, as well, at the same time some changes are made in Medicare so that it would fit together.

At the same time, there would be sufficient spending increases. Discretionary spending in this year's budget would be 5 percent. Somebody on the news said today that was below inflation, which isn't the case. Five percent is inflationary growth—in fact, beyond that. It would boost the veterans fund over 10 years, veterans hospitals, for veterans retirement, for doing those kinds of things. It raises defense spending, which I think is needed. Certainly, if we are going to have a voluntary military, the payments to those folks, the payrolls need to be competitive somewhat to what you could do in the

private sector. This is needed so that people don't get trained in the military for a specialized job and then leave for more pay in the private sector. So defense spending would be increased.

It provides for \$80 billion over 10 years for assistance to farmers and ranchers. We are in the process, during the next year, of coming up with a new farm bill before the one now in place runs out. There will be something to replace that. Hopefully, an effort will continue to move toward a marketplace in agriculture but also to provide some kind of a safety net so we don't go through the sort of trauma that we have over the last several years.

It also expands child tax credits and earned income tax credits—an \$18 billion increase over that time. So there are a lot of great details that could be talked about, obviously, and will be talked about, and indeed should be talked about.

The real question is, If you have a surplus, what should you do with it? You should certainly accommodate those things that are high necessities and priorities in the budget, and then you ought to return that money to the taxpayers, the people who paid it in. That is the way it ought to be. We ought to be able to understand that it is really the responsibility of the Federal Government to provide these programs but not to excessively spend the money that could very well be either spent by the taxpayer or, indeed, if there are special programs that need to be done, we would make an opportunity for the States and local governments to make the taxation they need so the things could be done there.

Mr. President, we are going to enter into a very lively debate. I suppose taxes and budgets probably personify as well as any other thing the differences in view about how people would approach governance. That is perfectly legitimate. That is what this place is for, to talk about differences in view. There are those who think that we ought to be spending much more on the Federal Government; the Federal Government ought to be funding every need that exists; and the Federal Government ought to grow and have more expansion into people's lives.

I am one of the others who believe there ought to be a limitation on the role of the Federal Government, that governance closer to the people is the kind of governance that is best, and we ought to tax to the extent necessary to pay for those functions. But when it is beyond that, we ought to do something about leaving taxpayers' money in the taxpayers' pockets.

Those are the decisions that are before us. Those are the decisions that we will be dealing with, hopefully this week, certainly next week, and they are tough. I just hope that we have an opportunity. We have a 50/50 Senate now, which is an unusual division of parties, and somewhat of an unusual division philosophically. Yet our challenge is to come together with some-

thing that is good for the country. Nobody would argue with that. But everybody has a different view of what is good.

I hear people say you need to do it "the right way." I don't know of anybody who wants to do it the wrong way.

There are differing views and there should be. The President has laid out a program that is quite good. There are those who would like to discredit the President's program, of course, in order to create their political ideas. But that is not why we are here. We are here to resolve problems that exist. We are here to govern. That is our job. We need to move forward. We have been a little slow. I think we have to really come to grips with the fact that we are here to make decisions, to move forward, to do something with education, to do something with taxes, and we are here to take on many of the other issues. That is our task.

Mr. President, I think there will be others joining me in a few moments. In the meantime, 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. CRAIG. 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. CRAIG. Mr. President, it is my understanding we are in a period for morning business.

The PRESIDING OFFICER. The Senator is correct.

#### TAX RELIEF

Mr. CRAIG. Mr. President, today I join with several of my colleagues to talk about an issue that has dominated the Senate and the Congress of the United States for many months. That dominance, I think, has been shared in most of the minds of our American citizens as we have worked to complete a budget for fiscal year 2002. Tax relief is an important component of that budget and an important issue to the American people.

As a matter of fundamental fairness, the most heavily taxed generation in America's history, in my opinion, deserves tax relief. There is plenty of room in this budget for tax relief. Listening to some of the speeches in this Chamber last week, one would assume we were dramatically cutting the budget of the American people in order to give some of that money back. That is simply not true.

The budget resolution increases overall spending by about 5 percent. Important national needs will be met. We are taking less than a third of the total surplus—surplus tax dollars—to provide tax relief. Without question, there is room in this budget to provide tax relief to that overtaxed American consumer taxpayer and to adequately fund a budget for America's citizens.

According to the Tax Foundation, May 3 was tax freedom day this year. In other words, the average working American had worked from January 1 through May 3 just to pay his or her taxes. Said another way, on May 3, the American worker finally was beginning to put money in his or her pocket and provide money for the breakfast table of his or her family.

The average American works the first 123 days—the first one-third of the year—to support the appetite of Government, and still we heard in this Chamber this past week the siren song saying that appetite was not big enough, that somehow it needed to grow ever increasingly larger.

May 3 is the latest tax freedom day in the history of this country. Tax Freedom Day occurred as early as April 18 in 1992, before the record tax hike enacted in 1993. But from 1992 to now, another half-month has been added to the amount of time the average worker is required to work just to meet his or her tax obligation.

May 3 is actually a national average because, because it brings in the State and local tax burdens. In Idaho, for example, at least that burden is less than in other States, and Idaho's Tax Freedom Day fell on April 25, making its citizens the tenth least taxed group of citizens of any State in the Nation. There is no wonder Idaho is a fast-growing State. Somehow the word is out that if you live and work in Idaho, because of our attitudes about government and the way we manage our government in Idaho, and thanks to my colleague, our Governor, Dirk Kempthorne, who once served with us in the Senate, we tax citizens less, even though we provide adequate government for their needs.

Americans have never been more heavily taxed than they are now. The average American family pays 37 percent of its income in all taxes at all levels, half again as much as our parents paid in the 1950s.

Stop and think about that. Compare the wages, compare the cost of living, compare everything else then relative to now, and yet today taxes have dramatically increased, by about half, compared to our parents' generation.

No wonder the personal average savings rate in America is now a negative 1 percent. Government is taking away what the people otherwise would save—what they would save for their retirement, for their children's education, for their parents' care, or to build a better standard of living. Oftentimes we hear economists analyze the negative savings rate in our country compared with other nations of the world, and they say: It is a matter of culture. Certain nations have a culture of savings.

My suggestion to our citizens is this: If you were granted the opportunity or the incentive, my guess is you would be saving a great deal more than you are saving now. When you are paying 37 percent of your income for taxes at all

levels, you simply have less to live on, less to save, and, therefore, you are using more of what you have for necessities.

The total Federal tax take this year will be 20.7 percent of the total economy. In other words, 20.7 percent of the gross domestic product of this country is required to pay for Government, the highest level ever, except for one year, 1944. Of course, we can all remember where the nation was in 1944. We were at the peak of World War II. We had committed this country to saving the world and saving the free world from tyranny and knocking down the powers of fascism. We had committed all of our resources to doing that. Only at that time, compared with now, did we have comparable tax burdens.

In fact, in the six years of highest taxes in American history, two fell during World War II and the other four have been the most recent four.

Where is the war today? Are we committed to saving all of the world from the direct threat of a powerful enemy of the kind we saw in World War II? That is not at all the case. Simply, our Government's domestic appetite has dramatically grown from 1944 to today, and as a result of that, our hard-working Americans have fallen victim to that appetite.

Can anyone seriously claim that the Federal Government is now engaged in a life-and-death struggle, compared to World War II? I don't think so. Oh, we have a lot of problems to solve and challenges to meet. There is no doubt about it. We are attempting to address them. On the floor this week we are debating education and are committed to putting a substantial increase in Federal funding into what is a traditional State and local funding priority, to help enhance the ability of State and local educators and education-providers to improve the conditions under which our children learn.

Still, on top of all that, we have the opportunity to provide the tax relief that will go a long way toward helping our economy and freeing the American people.

The new budget provides for paying down more than \$2.4 trillion worth of debt in the next 10 years. Some Senators said we are going to give all the money back to the taxpayers, that we are not going to deal with the debt. Somehow in the midst of all this debate, somebody did not look at the plain numbers in the budget resolution to recognize that, if we stay this course, over the next 10 years we are paying down \$2.4 trillion of that debt. That is nearly twice the amount of tax relief that is in the budget and 50 percent more in debt relief than in the amount of tax relief requested by the President.

So we clearly will have more debt paid down than tax relief. But in the balance of both, my guess is Alan Greenspan is going to say: "Good job. That means Government will not grow larger. That means the appetite of Gov-

ernment has been curtailed. That means a freeing up of the domestic productive economy of this country, which means that monetary policy and fiscal policy are a good deal more in synch."

This Senator is glad we are paying down the debt. I hope in my time of service here I can turn to my children and grandchildren and say: Of all the things my generation and I have not done for you, there is one good thing we did do for you in my lifetime, and that was to rid our country of debt and therefore to rid you of your obligation as current and future taxpayers of having to respond to that debt by a very large chunk of your tax dollars being consumed by it. That ought to be the responsibility and obligation of my generation. Clearly, we have set a course with this budget and this budget resolution for doing so.

I think we have to go even further than that. The budget already calls for paying down debt at a fast pace - the fastest pace at which the debt can be paid down.

The budget includes overall spending increases of about 5 percent. Frankly, in my State of Idaho, folks are not so sure why Government should grow at all, that 5 percent is maybe even too large. There is no question there are some very real needs out there. We are going to meet some of those needs. At the same time, it is important to recognize we can in fact give tax relief and pay down debt.

This year's tax relief will only be about 5 percent of total revenues over the next 10 years. It will be about one-half of President John Kennedy's tax cut, adjusted for the times and the size of the economy. Yet we hear people now suggesting this is a devastating tax cut, that this simply destroys the revenue flow of Government. Yet in another era, another time, comparing economies in a fair way, the Kennedy tax cut was nearly double the one we are dealing with today.

This year's tax relief will be about a third of the package that was enacted under President Ronald Reagan. Yet of course it was the Ronald Reagan tax cut that fueled the booming economy of the late 1980s.

The PRESIDING OFFICER. The Senator has reached 10 minutes.

Mr. CRAIG. Mr. President, let me wrap up. With the passage of the budget resolution, and now with the beginning of the work of the Finance Committee to produce a tax bill, we are clearly receiving the message from the American people. We are acting on their goal for us, to deliver back to them in both the immediate and long term, some tax relief—to offer up to them the right—government may act like it is a privilege, but it is a right to keep a little more of their own, hard-earned money.

Now is the time to stop the government tax man from being the uninvited guest at every wedding, the unwelcome intruder at family funerals, and the rude bill collector at every graduation.

Maybe, just maybe, next year's Tax Freedom Day will come not in May but in April once again. If that is true, we will have accomplished a great deal more than anyone thought we could, not too long ago.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I join my colleagues to talk a little about taxes this week since we are expected to bring up some tax relief legislation here the latter part of this week. I think it is time for us to remember that tax freedom day was May 3 of this year. This is the latest it has ever been.

What does that mean? It means the average American family will work the first 123 days of the year to pay the combined tax bill from all levels of government. That is Federal, State, and local. Obviously, the Federal bite out of the family's budget is the largest of all three of those. I hope I have time to get into a little more detail on that. But certainly it is time for a tax cut.

We frequently discussed the budget surplus, but I think it is more accurate to refer to it as a tax surplus. The tax surplus represents an overpayment by taxpayers and should be refunded to those who overpaid. Tax cuts will benefit all Americans by making the economy stronger. Low taxes help reward work, savings, and investment. Low taxes provide the fuel for our economy to create new jobs and raise our standard of living. I think it is reasonable to conclude if we raise taxes, just the opposite is going to happen.

In today's economy, it would be ill advised if we did not make a sincere effort to cut taxes. This allows people to keep their own money and helps our economy. It makes sense. People are in a better position than the Government to know what they believe. I believe in the people's priorities instead of Washington's priorities.

This tax cut we are going to be talking about is real money that can be used for things such as helping to buy a home, helping to pay for a college education, or help in purchasing a computer to help the kids through school so they can learn math and become more proficient in English. Some have attempted to shift the focus on tax cuts by claiming we cannot afford tax cuts. In fact, tax cuts do not jeopardize debt repayment or the Government's other obligations.

I would like to take a moment to look at that. The budget that has been proposed now allows the Government to return a major portion of the surplus to its rightful owners, the taxpayers. It continues to pay down our national debt, and it continues to protect Social Security and Medicare surpluses. The Congressional Budget Office forecasts the 10-year surplus is large enough to allow the Federal Government to retire all available debt held by the public.

I would like to refer my colleagues to my efforts over the past 4 years. Four years ago, I introduced legislation to pay down the debt in 30 years. Then I looked at the amount of revenue that was coming into the Federal Government, part of this tax surplus, and I determined 2 years ago we ought to be able to pay down this debt within a 20-year period. So I introduced legislation to pay down the debt within 20 years. This year, we are looking at paying down the debt in 10 years and still being able to provide for a \$1.6 trillion tax cut.

The Congress has backed off on what was originally proposed by the President and finally agreed on somewhere between \$1.35 and \$1.4 trillion in tax cuts. Certainly we have allowed ourselves plenty of margin.

The tax bill that is supposed to be coming to the Chamber contain many important provisions. Many of them have been referred to by the President. First, the tax rates are lowered across the board. This will benefit Americans in all categories who pay taxes. This year, taxpayers will get immediate relief when the 15-percent rate is lowered to 10 percent on a significant portion of that income.

The tax bill also lowers the top rate significantly, increases the child tax credit, provides tax relief for education expenses, and eliminates the death tax.

I am particularly pleased to support repeal of the death tax.

The United States retains among the highest estate taxes in the world, and top estate tax rates can reach over 55 percent. This is money that was already taxed when it was earned.

The estate tax can destroy a family business. This is the most disturbing aspect of the tax. No American family should lose its business because of the estate tax.

Similarly, more and more large ranches and farms are facing the prospect of breakup and sale to developers in order to pay the estate tax.

We feel it acutely in Colorado, especially because of the rapid growth and demand for real estate in Colorado.

One change which is not included is a reduction in the capital gains tax. I hope that this can be added to this tax bill or one later in the year. This change would actually increase revenue to the Treasury.

I support a reduction in the top rate from 20 to 14 or 15 percent. I also believe that we should include indexing so that taxes are paid only on real capital gains, not those which result only from inflation.

In 1997 we reduced the capital gains tax from 28 to 20 percent.

Many of you will recall the debate over whether this would raise or lower revenues. We now have the answer—revenues from capital gains increased dramatically after the rate cut.

In fact, in just the 4 years since the rate cut, 1997 through 2000, the Government has received \$200 billion more capital gains revenue than forecast before the rate cut.

That is \$200 billion of added revenue in just 4 years.

I think the Tax Foundation does some very good work. I have been looking at a chart that was put out by the Tax Foundation.

From 1992 until the year 2001, we actually see a large spike in rates of increases for taxes and the total tax revenues that are being paid to the Federal Government.

We see the tax burden days go from April 18 to May 3—within a period of a little less than a decade. I think this is a phenomenal amount of revenue increase that has come from working Americans.

Of the 123 days that America spends laboring for Federal, State, and local taxes, it is interesting how this breaks out. Fifty days of that goes toward individual income taxes, 42 days goes to Federal and State, and for local it is 8 days.

For social insurance taxes, 29 days goes to that category. And all of that is Federal. There is no State or local part in that aspect of the tax.

Of the 123 days, 16 days go toward sales and excise taxes. Three days of that is allocated towards Federal and 13 days is allocated towards State and local. Property taxes—the Federal Government has no property taxes, but State and local governments do. Ten days out of that 123 days goes for property taxes for State and local governments.

Let's look at the corporate box that has been analyzed by the Tax Foundation. Corporate income taxes make up 12 days of the total of 123 days. The Federal part of it is 10 days and the State and local part of it is 2 days.

If we look at other business taxes, there is a total of 3 days put in that category. The Federal Government doesn't have any, but State and local has a total amount of 3 days. For all other taxes is that general category. There are 2 days allocated to that box. One of them is Federal and one is State and local.

I think those are some interesting factors coming out.

Then there are those who say the tax cut is way too much. We know what happens.

If we go with the President's tax cut that he proposed—I remind the Senate that it hasn't gone as much as the President proposed—then basically what you are doing over the next 9 or 10 years is holding the tax burden day on May 3, 2001.

What happens if we don't have any tax cuts? Suppose we didn't go with any tax cut at all? We would see the tax freedom day move out to May 9. This is not a particularly remarkable tax cut, but it is something that certainly is badly needed.

I am looking forward to the debate because I think it is very important that we move forward with the tax cut right now. If my memory serves me correctly, we have raised taxes retroactively. I don't see what the problem

is with trying to cut taxes retroactively, particularly in light of the fact that we have the surpluses we are facing today.

In summary, Americans are spending more than ever on taxes. In fact, we now pay more taxes than we do for food, shelter, and clothing combined. Since when did the Federal Government become more important than life's essentials? It is time to reverse this trend by cutting taxes across the board. Lower taxes would help our economy and would also help America's families.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

#### U.S. TRADE POLICY

Mr. HAGEL. Mr. President, last week President Bush laid out an aggressive trade agenda for America. Few policy areas will be more critical to the future prosperity of not only the United States, but the world.

Trade is essential to the continued growth of our economy. U.S. exports totaled more than \$1 trillion last year, an increase of 12 percent from 1999. Those exports accounted for 11 percent of our GDP in 2000.

The impact and importance of trade extends far beyond our borders. The nations of the world live in a global community—underpinned by a global economy. We are all directly affected by the development and growth of markets around the world. Stability, security, economics, markets, communications, trade, and investments are all interconnected.

Taking advantage of the opportunities of this hopeful new world will require vision and leadership—bold Presidential leadership with the vision to see through the haze of the present and into the possibilities of the future. This will require leadership that is wise enough to seize the moment and help move the world forward. Nations of today are not the nations of yesterday. We must rise above past differences and old conflicts. This is not without risk. But the risk must be taken.

Trade connects people. Increased commerce and the bridges it builds has broad implications for human rights, democracy and increased stability and freedom around the world.

Trade binds nations together in strategic and political alliances. Throughout history trade and commerce have been key instruments that have helped break down totalitarian governments and dictatorships, and opened the doors to democracy and higher standards of living for all people—improved health, better diets, and hope for the future. Trade and international investment have helped pave the way for peace in many areas of the world. Trade and democracy are interconnected. Trade and investment lead to political and economic stability.

The key to this is a strong trade agenda that pursues our interests while balancing them with other priorities.



First and most important is the granting of Trade Promotion Authority to the President. Every day that goes by without this authority is another day of wasted opportunity. We cannot afford for America to stand idle while other nations negotiate trade agreements that give an advantage to the competitors of American goods and services. Congress needs to get this done, and get it done quickly.

We have many other challenges that lie ahead. We need to move the Jordan and Vietnam Trade Agreements through Congress.

We also should look to our own hemisphere. Canada and Mexico are our largest trading partners. American exports to Western Hemisphere nations comprised more than one-third of all U.S. exports in 2000. We must strengthen our ties to our Western Hemisphere neighbors.

This is good for all peoples in this hemisphere. We need to move on renewing the Andean Trade Preference Act this year. And we should pursue a trade agreement with Chile, and a free trade agreement for all the Americas.

We will face another hurdle in again granting normal trade relations to China. Establishing a stable trade relationship with China is in our best interest.

Turning our backs on China will not improve human rights in China, promote greater freedom, or improve the stability in Asia—rather, it would have a dangerous and negative impact on all these important efforts.

This year we must help lead efforts to launch another round of World Trade Organization negotiations.

The challenges are many, and they are great, but so are the opportunities. President Bush has laid out a strong, forward-looking agenda on trade. He has an excellent team in Ambassador Zoellick, Secretary Evans, and those charged with moving this agenda forward.

I look forward to working with the President and his team on America's trade agenda. It is fundamental to our future.

Trade and investment are building blocks for the world's mutual interests. We have the opportunity to make the world more stable, more secure, more prosperous, and more democratic. Let's not squander this very historic and unique opportunity.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the hour of 2 having arrived, are we now back on the education bill?

The PRESIDING OFFICER. We will be momentarily.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

### BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

Pending:

Jeffords amendment No. 358, in the nature of a substitute.

Kennedy (for Murray) amendment No. 378 (to amendment No. 358), to provide for class size reduction programs.

Kennedy (for Dodd) amendment No. 382 (to amendment No. 358), to remove the 21st century community learning center program from the list of programs covered by performance agreements.

Cleland amendment No. 376 (to amendment No. 358), to provide for school safety enhancement, including the establishment of the National Center for School and Youth Safety.

Biden amendment No. 386 (to amendment No. 358), to establish school-based partnerships between local law enforcement agencies and local school systems, by providing school resource officers who operate in and around elementary and secondary schools.

Specter modified amendment No. 388 (to amendment No. 378), to provide for class size reduction.

Voinovich amendment No. 389 (to amendment No. 358), to modify provisions relating to State applications and plans and school improvement to provide for the input of the Governor of the State involved.

Carnahan amendment No. 374 (to amendment No. 358), to improve the quality of education in our Nation's classrooms.

Reed amendment No. 425 (to amendment No. 358), to revise provisions regarding the Reading First Program.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized to call up his amendment No. 460.

Mr. REID. Mr. President, I ask unanimous consent that the time not run on this amendment. I will wait until the manager of the bill arrives. I ask unanimous consent that that be part of the order, and pending that, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 460 TO AMENDMENT NO. 358

Mr. REID. Mr. President, pursuant to order, I send an amendment to the desk. It is at the desk. I ask the amendment be read at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID) proposes an amendment numbered 460.

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

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

The amendment is as follows:

(Purpose: To provide assistance to entities that emphasize language and life skills programs for limited English proficient students)

On page 254, line 21, insert before the period the following: "(including organizations and entities that carry out projects described in section 1609(d))".

On page 257, between lines 18 and 19, insert the following:

"(d) AFTER SCHOOL SERVICES.—Grant funds awarded under this part may be used by organizations or entities to implement programs to provide after school services for limited English proficient students that emphasize language and life skills.

Mr. REID. Mr. President, in the State of Nevada in Las Vegas, there is a very innovative teacher. Her name is Priscilla Rocha. She is a wonderful woman who has been a friend of mine for many years. She is also a member of the State board of education. She teaches the fourth grade, and she has had almost 20 years of experience. She has taught in Texas. As I indicated, she now teaches in Las Vegas.

About 3 years ago, she started an afterschool program in her classroom in response to the many struggles she saw with children who had limited English proficiency. She observed that the parents were not equipped with English skills or the academic background to help these children with their homework. Children were going home in some instances with no supervision because both parents worked. She found that these children kept falling further and further behind in their academic work, and she recognized that it was only a matter of time until the children dropped out of school.

What she calls her homework center operates as follows: Children in grades 1–5 are referred to the program by teachers and school counselors. Parents are first notified, and they have to sign a consent that the children can enter into this afterschool homework program. She has found it easy to get college students to help by tutoring the children on a one-to-one basis. She has also found that some children need to stay in the program only for a matter of weeks. Others need to spend a matter of years in the program.

Currently, the Las Vegas program is funded through a HUD community block grant from Clark County and the city of Las Vegas. This is held in a school classroom, but direct funding does not come from the school district. The funding goes to a community-based organization that Ms. Rocha helped found in 1992 called Hispanic Association for Bilingual Literacy in Education, or HABLE. Ms. Rocha is the Executive Director of HABLE. This program has been a remarkable success. Starting with six students in 1993,



she has worked with about 250 students since then. Most of these children do not speak and did not speak a single word of English when they came to Ms. Rocha. Now almost 100 of these kids have graduated from high school, and a like number, almost another hundred, are on the way to successfully completing high school in the next few years.

It was hard to find examples that I should bring to the Chamber today because there are really so many, but I have chosen a few with the help of Ms. Rocha. For instance, Evilia Gomez was one of the original fourth graders to start with Ms. Rocha in 1993. While she has always been a bright girl and had been a good student in Mexico, when she came to America, she didn't speak a word of English. We find that far too often students like Evilia simply are put in a special education program. "They can't read; they must be dumb if they can't read."

Well, this little girl wasn't dumb. The fact that she couldn't speak did not mean that she was slow or learning disabled. With the extra attention she was given, she rapidly learned English and quickly transitioned to regular classes. She did so much extra course work that she graduated from Las Vegas High School 2 years early as valedictorian of the class. Of all the students who graduated from Las Vegas High School in the class of 1999, a girl who didn't speak a single word of English 6 years earlier ended up with the highest grade point average of any student in that very large high school. Not only is this a special child, this is a special program, and we need to replicate it.

Another girl in Las Vegas, Johanna Rangel, has a similar success story. She didn't graduate as valedictorian, but she did extremely well. She is one of the original six who worked with Priscilla when this program started. When she came to this program, she didn't speak a single word of English. Now she is President of a Latino students' organization at Desert Pines High School and is involved in many extra curricular activities. She will graduate in a month. She did extremely well in school, and she plans to attend college this fall.

She is quick to point out that her success is due to her being able to come to the program Priscilla Rocha developed, and she believes the program is the reason she was able to graduate from high school. In fact, she said, when she invited Ms. Rocha to her graduation:

This would not have been possible without you. I wouldn't be graduating without your help.

There are many others. You have to understand that Johanna's parents didn't speak a word of English when they brought her from Mexico to the United States. They couldn't help with her homework; no matter how badly they wanted to help, they couldn't. They didn't speak English. Her risk of

failure and thus dropping out, was dramatic, but this program turned things around for her.

Children want to learn. They want to be productive. There is a lot going on in America today about English as an only language. States are passing, have passed, and are trying to pass laws saying that there should only be one language.

Mr. President, there is only one language anyway. If you want to succeed in America, you don't need to pass a law saying English is the only language. It is the only language. If you want to succeed, you have to speak English. It used to be if you wanted to be a diplomat, you had to speak French. Not anymore. The language of diplomacy is English. If you want to fly an airplane anywhere in the world, the air traffic controllers' language is English.

So not only did Johanna want to succeed, she wanted to learn to speak English. She needed help. Her parents could not help in that regard. So I am excited about this program. We have all kinds of success stories.

Alvaro Rodriguez is a 10-year-old fourth grader who began Ms. Rocha's program at the start of this school year. He and his family came straight from Mexico. None of them were able to speak a single word of English. By the end of this school year, Alvaro will start transitioning into regular reading and writing programs in English. Next year, he won't be in a special program. He will be a fifth grader and he will be mainstreamed.

Carla Rojas, another 10-year-old, is benefitting from this program. She came to Las Vegas from Mexico in the middle of this school year. It is hard enough for a 10-year-old to change schools in the middle of the year, but Carla was put into a school where she didn't understand a single word of what the teacher or the kids were saying. This program has helped her so much that by the end of this year it is believed that she will be adapted so well that she will be able to take classes with everybody else this coming year.

Priscilla Rocha says of Carla: "She is a very smart and energetic girl. All we have to do is give her the little push she needs."

So these programs work well, as they should work well. The increasing diversity of our Nation enriches our communities. It also challenges our public schools to meet both the English language and literacy needs of our expanding limited English proficient student populations. The families of these students speak their native languages at home and often have limited English skills, making it difficult for parents and family members to help children with their unique academic language struggles.

Think about it. You go to school and they are speaking one language there, and you go home and they are speaking a different language. How do you improve upon what you don't know? It is hard to do.

That is why programs such as the one I have outlined are so important. To address the need for literacy for these students, my amendment expands the current 21st century learning centers in this bill to include programs for limited English proficient students.

I have talked about the Homework Center in Las Vegas. It is vital to the education of these limited English proficient students who don't have the resources at home to support them. These programs need to have the support of the entire education system. Why? Because it means economic security and quality of life. We can't ignore the fact that across this country the dropout rate for limited English proficient youth remains chronically and unacceptably high at almost 45 percent. Almost half the kids who have trouble with their language skills drop out of school.

Over half a million students drop out of school every year; 3,000 students drop out of school every day in America. Every child who drops out is less than they can be. It puts a burden on the criminal justice system and our welfare system. It is something with which we certainly need to do better. We have about 5 million Americans who lack a high school degree and are not in the process of getting one. In our prisons in America today, line them all up; 82 percent of them have no high school education. Is there a correlation between education and getting in trouble? Of course. I didn't speak improperly. I said 82 percent of the people in our prisons have not graduated from high school. Does that mean that the 82 percent who haven't graduated are a bunch of dopes? The answer is no. The vast majority of those students, for one reason or another, didn't keep up, or could not keep up; they didn't have the incentives, and many of them have language problems. This amendment will help with those language problems.

The primary reason children drop out of school is a lack of success in school. They believe they can be a bigger hit out on the street beating up on somebody or selling dope. They don't understand the importance of an education. If they do understand the importance of an education, they have dropped back so far that they know they can never catch up. They can catch up, but they think that they can never catch up.

This is not just a problem of a few kids not getting an education. A high school dropout rate impacts the economy and quality of life, not only for the children that drop out, as I have mentioned, but their families and for each and every one of us.

Every time a child drops out of school, we have failed a little bit. It hurts us. It hurts us because it doesn't sound right morally, but it hurts us economically, and it hurts the social fabric of our country.

We need an educated workforce. If this continues, we will have increased

unemployment rates and increased prison incarceration, people on welfare and other Federal programs, and unemployment rates of high school dropouts are more than twice that of high school graduates. Remember, we are pushing kids to go beyond high school—maybe not to college, but the unemployment rates of high school dropouts are more than twice those of high school graduates.

The probability of falling into poverty is three times higher for high school dropouts than for those who finish high school. That is 300 percent higher.

The median personal income of high school graduates, during the prime earning years, ages 25 to 54, is 200 percent that of high school dropouts.

The median personal income of college graduates is more than three times that of high school dropouts.

The children, sadly, of high school dropouts have a much greater chance of dropping out of school. It becomes a pattern.

The problem is worse for America's Hispanics—a growing segment of our population. Hispanics students have a dropout rate of more than 30 percent—three times compared to the overall rate of 11 percent.

Afterschool programs tailored for limited English proficient students will go a long way toward helping to keep these fine young people in school.

There is an increasing need all over America for language services. Nearly 20 percent of the students in U.S. schools speak a foreign language at home. According to the National Clearinghouse for Bilingual Education, that figure will grow.

In some parts of the country, non-English speakers are referred to special education, as I have indicated, based solely on their inability to speak English the way teachers and others believe they should. Some may think if they don't speak English correctly, they must be dumb. Not so. Some school systems—and I believe this may be in violation of the civil rights laws of our country—continue to assign students to special education programs on the basis of criteria that essentially measures and evaluates English skills of students.

Currently, students fail to receive the right programs because the guidance and funding districts receive is inadequate to develop comprehensive programs for limited English proficiency students.

I say to my friend, the Senator from Vermont, who is managing this bill, I have always appreciated his forceful advocacy of fully funding IDEA—programs for those with special needs. The reason I do that is, it is the right thing to do for the children, and it is the right thing to do for the school districts because it leaves them money to do things like this—special programs, such as helping a kid who doesn't speak English. The way it is now, they are so strapped for money, all they are

able to do is the basics. If we fully fund the IDEA program, as we should do, it will allow some money for these programs that will make a difference in kids' lives.

More funding is needed to develop effective special education programs for diverse students to meet the many challenges that they face.

Funding would provide schools with the support they need to devise language programs that fit the needs of the districts.

School districts all over America are scrambling to meet the basics. Some have more problems than others. Some have problems with crumbling schools. In Nevada, especially in southern Nevada where 70 percent of the people live, we have problems with the inability to build enough new schools.

We need to build one new school in the Clark County school district every month to keep up with the growth. We hold the record. One year we dedicated 18 new schools in the Clark County School Districts.

Schools have problems for various reasons. We in southern Nevada have the problem of not being able to keep up with the growth. We need help with construction. We need help with class size reduction. I am speaking today about the need to fully fund IDEA and to also allow this amendment to be adopted so that we have the ability, within this new education bill we are going to pass, to fund programs for kids who do not speak English as well as they would be able to with a little bit of direction.

I appreciate President Bush focusing on education, but we cannot educate kids on the cheap. It costs money to educate kids. Most of the controversy in the school choice debate attached to the President's proposal is to let low-income parents use Federal aid to apply to private school alternatives when their children are in public schools and they believe the schools do not provide services for their children's needs.

I believe a better approach is to look at something that Priscilla Rocha has done in Las Vegas. We do not need to take these kids out of public schools. What we need to do is take care of funding, let people like Priscilla Rocha be inventive, give her the resources so she, and other educators like her, can have afterschool programs that are important and help the limited English proficient student. I believe a broader approach to the President's parental choice option is necessary, one that calls for a revamping of a 30-year-old underfunded policy for limited English proficiency education.

The principles behind properly funding these programs are simple. For one, the millions of American children with limited proficiency in English should not be consigned to years of classes that avoid helping them gain rapid English proficiency. For that, increased funding is necessary.

If one of these children is put in a special education class, think what

that does to that child. They know they are as smart as the kid next to them, they just cannot talk, or maybe they do not know they are as smart as the kid next to them. That is even more sad.

I think of literacy as an empowerment issue. I think that education empowers us, and that education does not mean you have to be a doctor, lawyer, or college professor. It means being able to read and write. It means having an opportunity to go to a technical school to be an automobile mechanic.

Mr. President, when you and I graduated from high school, if we wanted to be an automobile mechanic, we got out of high school and started working on cars. Students cannot do that anymore. They have to be able to read manuals. They have to attend classes and get a certificate before anyone will hire them.

Automobile agencies in Las Vegas for a number of years—I did not realize this—imported people to work on these cars from Utah because Utah issued certificates. Our community colleges in southern Nevada offer training and a degree in the automotive field. A student can then go to Pete Findley Oldsmobile or Fletcher Jones Chevrolet or any of the automobile dealerships, and they will hire them. It takes an education.

Literacy is an empowerment issue. While these children are in America, we want them to have the very best, and having the very best is not an act of generosity on our part. It is an act of doing the right thing, not only for them but for us. Every child who drops out of school not only hurts himself or herself and his family, but hurts us. We have to recognize that making programs available to help these kids through school is good for all of us.

Look at the practicality of literacy as an empowerment issue. It is not a question of picking one method or another. It has more to do with the idea that we have millions of children with limited proficiency in English. These children should be equipped with the necessary tools to prosper in America.

The sooner you speak English, the sooner you are a fully functioning citizen who can participate in society.

I have given the example of Priscilla Rocha's program, but I am sure there are many others around the country that work. I am familiar with Ms. Rocha's program because she has been a friend of mine for many years. I know what a caring individual she is.

I am not advocating a set program. I am advocating that we make sure this education bill allows us to do what, in my opinion, the country needs.

The 21st Century Community Learning Centers program in this legislation expands eligibility to include programs that emphasize language support for limited English proficient students.

There are all kinds of afterschool programs around the country that work. For example, there is a program in Madison, WI. The city operates a

safe haven afterschool program for more than 200 children at three elementary schools in communities with high crime and poverty rates.

The program activities include homework help, academic enrichment, arts and crafts, supervised games and physical education, and field trips. As the program enters its third year, the schools report improved attendance and reduced conflicts during afterschool hours. Children in the program also show greater interest in completing their homework.

Another example can be found in New York City where the YMCA of Greater New York, in partnership with the New York City Board of Education, is working to bring extended school services to 10,000 public school children by turning 200 of the city's underserved public schools into virtual Y's from 3 p.m. to 6 p.m. after school each day.

There are all kinds of programs. Second, third, and fourth graders take part in these programs.

A program in Charleston, WV, helps 60 students who live in a community plagued by crime and drugs attend a summer camp operated by Chandler Elementary School.

I have given examples of programs that help 10,000 schoolchildren, and one that helps 60 schoolchildren. Is one any better than the other? Probably not, but they both work.

Finally, a program in Waco, TX, the Lighted School Program, has kept middle schools open after school until 7 p.m. at night Monday through Thursday for activities and services to approximately 200 students who attend regularly. Nineteen local organizations provide activities and services. Baylor University contributes 115 college students as mentors. Each works with one child for a full school year.

The recreation department of that city leads supervised field trips and games. Two art centers send instructors to the schools to lead hands-on activities, and library staff help children read and act out stories.

Children who participated in the Lighted School Program say they appreciate having a safe place to go after school, that it keeps them off the streets and it is more fun, they say, than sitting at home in front of the television. Several say if the program did not exist, they would be in big trouble.

There are programs that do help. My afterschool literacy amendment will not substitute for school-based academic instruction but will complement it.

My amendment expands the existing 21st Century Community Learning Centers Program. This program helps fund a variety of valuable programs. This grant program is directed at inner-city and rural schools that are working in partnership with community organizations to provide learning and enrichment programs outside of regular school hours for children and adults.

A community learning center is an entity within a public elementary,

middle, or secondary school building that provides educational, recreational, health, and social service programs for residents of all ages within a local community. It is generally operated by a school district which is legally responsible within a State for providing the public education for these students.

There are many examples of afterschool programs including: literacy programs; senior citizen programs; children's daycare services; summer and weekend school programs; nutrition and health programs; expanded library services; telecommunications and technology education programs; parenting skills; employment counseling, training, and placement; and services for individuals with disabilities. These are already included in the bill. I want to make sure there is no confusion, that everyone understands we need to make sure the 21st Century Community Learning Center also includes school-based instruction for children who have limited English skills.

It is important we do that. These programs, I believe, are essential to decreasing the number of students who dropout of school. Just think, instead of having 3,000 children dropping out of school, let's say we have 2,500, if there are 500 kids we can keep in school, I think it will be well worth it.

I hope we send a message by voting unanimously as a Senate for this legislation. I hope it has a strong vote. It is something that is important to the country. I think it is important to this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I commend the Senator for his excellent presentation. He has put his finger on one of the most serious problems we have in this Nation, and that is the dropout problem.

We have to be very careful when we find somebody is proud of their record because their averages have improved, because then we find out the reason they have improved is so many kids dropped out of school that the ones who are left average a higher percentage of successful students. So we have to be very careful when we examine these matters.

Also, the Senator did a very excellent job pointing out the group of students who have the most difficult problems staying in school are those with language difficulties, Hispanics in particular.

His amendment is an excellent one. I would love to accept it, but I understand it can further serve another purpose, which, as we are aware, happens on Mondays. So I ask at some point, when the Senator is ready, we call for a vote.

Mr. REID. Mr. President, I ask for the yeas and nays.

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

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I yield my time if there is any.

Mr. JEFFORDS. I yield back my time.

Mr. REID. I ask the amendment be set aside for further business.

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

Mr. REID. 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. BOND. 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. BOND. Mr. President, as we begin this critical week with debate on the education bill, I wanted to make some points that I think apply throughout the debate on education, and I wanted to share with my colleagues some of my hopes, aspirations, and concerns. I thank the manager on the minority side for allowing us to do so.

Mr. JEFFORDS. Mr. President, I appreciate the Senator coming. I know he has an important message. I look forward to listening to him.

Mr. BOND. I thank the manager.

Mr. President, there have been numerous times that I have come to the Senate floor to say—and I come, once again, to repeat—that education is a national priority, but it is an obligation and responsibility of those at the State and local level. The education of our children has traditionally been—and ought to be in the future—carried out and implemented at the local level.

I remember a couple of years ago when we were talking about Federal control that one of my colleagues, who is now no longer with us, was in a debate with a representative in the Department of Education. The Department of Education person said: I care just as much about your children and their needs and their operations in school and their success as you do, to which he replied: Well, that's great. Do you know their names? No. Do you know what their scores are? No. Do you know what their challenges are? No. Do you know where their schools are? No.

The simple fact is that none of us here in Washington, no matter how much we are concerned about education in general and children in general, can know what the problems are and what the challenges are and how best to meet those challenges for students in each local school district throughout this Nation.

I think we would all say that each child is different. Each school district is different. Each school is different. I think for that and other good reasons the Federal role in education has been a limited one, and I believe it should be.

The underlying bill before us—S. 1—recognizes the nature and the scope of this role. The legislation creates a leadership role for the Federal Government in encouraging States to adopt commonsense systems based upon standards, measurements, and accountability. The underlying bill as reported out of our committee did not attempt to micromanage the local schools and classrooms.

S. 1 also would give us the opportunity to redefine how we measure success. For too long, many of my colleagues here have supported throwing more and more money at education. And the Washington-based education establishment generally has determined our success in education programs based on the dollars spent—not on the academic achievements, not on the progress, and not on what our children are learning in school to be better prepared for their role in this increasingly complex and competitive society.

If more money were the answer, we wouldn't be debating this bill because we wouldn't have the problem. We have poured more and more Federal money into education, and the academic achievement of our students has been level or in some cases it has fallen behind.

In pouring more money into public education, we have gone to great lengths to detail precisely how those teachers—the men and women who know the names of the child in their classroom, and know what his or her problems are, more and more they are being told what to do by Washington.

According to the Education Commission of the States:

In the 1999-2000 budget, the federal government spent almost \$44 billion on elementary and secondary education programs. This funding was spread across 35 different education programs in 15 different federal departments.

We did a little research a couple years ago and found out there are over 760 education programs. It was that proliferation of good ideas from Washington that led me at the time to propose what we call the Direct Check For Education, to combine some of those biggest programs, cut the redtape, send it back to the school districts, and tell the school districts these are all things we think you ought to consider but do not require them to dot every i and cross every t, jump through the hoops, and fill out forms and fill out reports and play "Mother May I" with the Federal Government.

All of these programs that exist today were started with good intentions, and they have gotten more money. Look at the money. Shown on this chart are the appropriations for ESEA programs in billions of dollars. Starting in 1990, it looks as if, oh, around \$7 billion was spent, and now it has gone up to, oh, I would say close to \$380 billion.

This shows what has happened in the average national scale math scores for 9-year-olds. That is measured on the

chart with the green line. It is a flat line. If that were a line on a key chart in a hospital measuring the heartbeat of the patient, it would say the patient is dead. All the money has produced no appreciable benefits. That is the math scores.

Maybe we can look at another chart to see if we got any better results. How have we done in reading? This chart has the appropriations for ESEA programs in billions of dollars. It is the same type of chart as the last one. It shows the national 4th grade reading scores: a flat line, no life in the patient. We are not getting any better. We are spending more money to do no better.

I am afraid we are about to hijack S. 1 and turn it into a replay of the same kind of Federal micromanagement and Federal direction of education that has managed to use a whole lot of money without getting any results.

These Federal programs—the Education Commission of the States says 35; I say over 760—have gotten us burdensome regulations, unfunded mandates, and unwanted meddling. The folks at the local level—whether they be parents or teachers or school board members or administrators—say they have less and less control. Jobs of our teachers and administrators are harder than they should be. We have eroded the opportunity for creativity and motivation.

I don't know how many of you have taken the opportunity to do what I have done in Missouri. Over the last 3 years, I have traveled throughout the State—in the metropolitan areas, the suburban areas, the rural areas—and I have met with representatives of teachers, of school board members, of administrators. I have asked: What is the problem here? And too many of them have come back to say: We are spending our time as glorified grantsmen, trying to get more money from the Federal Government, trying to jump through the hoops, trying to do what the Federal Government wants us to do. We don't have the time to prepare our lessons and to prepare our students for the education they need for a lifetime.

This is a serious problem. This is what the teachers, the administrators, the school board members are telling us throughout my State. It comes through loud and clear, and it is on a bipartisan basis. From the most conservative Republicans to the most liberal Democrats, the people in Missouri, who are involved at the local school level, tell us there is far too much time, effort, and energy wasted on complying with Federal dictates, Federal mandates.

Some of our schools say that, although the Federal Government only provides an average of about 5 percent—I guess in Missouri it is a little less than the national average of the dollars going to education—it, in effect, controls about 50 percent of what is done because these Federal mandates

and these Federal dictates—all these good ideas that went into these programs—tell the local schools how they ought to handle the programs they would otherwise be doing to educate their kids. And most of them say, well over 50 percent of the redtape and the headache and the requirements and the hassle they go through comes from the Federal Government.

How can we afford to keep spending Federal education dollars in the same way we have been doing it for years if it is not achieving any success? I do not think we can. I do not think we should stand for it. I have talked to too many parents and teachers, school board members, community and business leaders who say: Our children deserve better. This country deserves better.

Over the past several years, I have opposed the creation of specific new programs and their dictates on the style of their education, even these amendments that have been offered in good faith. These amendments were good ideas, if we had taken our good ideas and ran for membership on a school board. I am sure many of my colleagues could make great contributions if they were on the school board in Mexico, MO, or the R-6 school district or the St. Louis city school board or the Jefferson City school board, but we are not.

The problem is, there are different needs and different challenges in Missouri, in Washington, in Arizona, in Maine, or in Florida. When we pass a law, when we pass a dictate or a requirement, we do not know how that is going to impact the kids who are the ones who have to be taught. We may understand education in general, but there are educational needs that are specific and direct in each school district as the individual student involved.

I cannot believe, if my colleagues went back home, spent some time, saddled up the horses, went out and just rode the circuit, that you wouldn't hear the same things. I know, first hand. Our State has some of the best teachers, the best principals, superintendents, and school board members in the country. They are outstanding people. They are really concerned.

You think we are concerned about education. Well, we were concerned about education last week and will be this week, but we have to be concerned about the budget, we have to be concerned about tax policy, and we are going to be concerned about energy policy.

These dedicated men and women are spending their lifetime dedicated to one thing; that is, teaching our children. What do the people who are actually involved in education have to say?

The superintendent of Springfield, MO, public schools said:

... the amount of paperwork that the federal government causes local school districts to engage in is often overwhelming. The extra effort and time often reduces productive classroom time and energy that could

better be spent working directly with children.

Mr. Berrey of the Wentzville R-IV school said:

Limiting federal intrusion into decisions best left to local communities is what I believe our founding fathers had in mind.

From the Neosho, MO, R-5 school district:

The individuals who are working most closely with the students are indeed the ones who can best decide how this money can be spent for the benefit of students' education.

The superintendent of the Special School District of St. Louis County said:

As head of a school district specializing in special education, I fully understand how my district's financial needs differ from other school district's needs. In order to best utilize the limited funds that are at my disposal, I need maximum flexibility in determining how to put those funds to the best use.

The president of the board of education of the Blue Springs, MO, school district said:

Without local control, the focus is taken away from the needs specific to the children in each school system.

But I think maybe the superintendent of the Taneyville, MO, R-II school district sums it up well:

I feel that State and Federal government has tied our school's hands with mandated programs and mandated uses for the monies we are receiving. The schools are likened to puppets on a string. Pull this string this way and the school does this; pull it another way and the school does that. School systems and communities are as different from one another as individual people are different. What works for one will not work for another.

I offer those because that is the kind of information all of us need as we move forward on any kind of education bill, certainly one as important as the reauthorization of the Elementary and Secondary Education Act. My colleagues haven't been in a position to listen to those people and ask them questions directly, but I suggest to them, if they go home and ask questions, they will hear the same, with similar eloquence and similar heartfelt concern, in their States.

To me the issue is simple: We must give our States and localities the flexibility to utilize the limited amount of Federal resources as they see fit and hold them accountable in the form of academic achievement. We must recognize and reward States and localities that succeed in improving academic achievement. There also should be consequences for States and localities that fail.

We have a choice between having Washington, DC, control our schools and the local level. Who is most likely to waste money? There is no contest there. Unfortunately, we have demonstrated in Washington collectively that no matter how good our ideas, how well intentioned our efforts are to provide direction and counseling and hope for schools, we may not be doing the right job; we may be causing them more problem.

A little girl hustling to school—she was late for school—said a little prayer that she would get to school on time. She went about another half block and got going too fast and fell down on her face. She offered up another little prayer: I would like you to help me to get to school, but don't push so hard. I fell down.

Sometimes we are pushing a little too hard. Sometimes what we try to do to help the people who are trying to deliver education try to uplift and empower our children pushes them down on their face. I think it is time that we consolidate those programs, that we take all these great revenues and give parents a say. Let school boards determine the policy, let administrators know how to run their school, and let teachers who know the names and the problems and the opportunities and the potential of each child make those educational decisions.

S. 1, the underlying bill, consolidates a myriad of Federal programs into a set of programs designed to allow States and local school districts to make decisions on their own, to determine their priorities, recognizing that education reform will take place in the classroom, not because of all of the wonderful, great ideas we have in Washington, DC. The underlying concept of S. 1 is the right way to go.

Amendments on class size are absolutely unnecessary. Class size reduction is an option in S. 1's larger, more flexible program for improving the quality of classroom teaching. It should be an option, not a mandate.

Let me ask this question: Has it been shown that a fifth grade class must have only so many children in it to be successful? I have talked to a lot of administrators who say the most important thing for teaching that fifth grade class and each child in it is to make sure the quality of the teacher is good. If we can't come up with two quality teachers, all we do, in splitting up the class, is say to those children who go with a less qualified teacher that they don't get as good an education.

What if the school district has already devoted its money to reducing class size, used its local funds? What they need is better pay to keep those teachers there.

On classroom funding, are we going to say: You can only use this money to hire more teachers? What if the principal said: I have some great teachers, but they are going to go into the private sector if I don't give them a pay increase? How does that make sense for us to say to every school district in the Nation: Thou shalt hire more teachers? It doesn't make sense to me.

Local school districts are best equipped to determine what they need. Many have already reduced class size where they thought necessary. They might have done that at the expense of some other things: Teacher pay, technology, class books. Maybe they need professional development for the teachers they have. How do we know? I will

guarantee you, we don't know. We can't know for every school district in the Nation. That is why we ought not be mandating that Federal dollars be spent for a purpose that may or may not be the top priority need of that district.

Mandating specific resources for class size reduction really takes money off the table for other schools that have already addressed that specific issue. As I said earlier, they may have decided that professional development for their teachers to improve the quality of teaching is more important to obtain academic success for the students and schools.

We always deal with limited budgets. There is not going to be an unlimited source of money going into anything we need. The question is how best we spend the money we have. All of us agree that a good, quality education is our top national priority. We can't say we are going to have all the specific programs and we are going to meet every need of every school district because State and local funds still cover at least 90 percent—in most States more—of education funding. We are not going to replace that. We shouldn't because we didn't run for this office to be a national school board.

The President and the Secretary of Education are men deeply committed to education, but they are not good superintendents of schools or principals or even teachers, in this instance, because they have to deal with all the schools and they can't know all the kids' names.

The American public is and should be interested in the debate in Washington because they overwhelmingly believe that good education for our children is a top priority. But they also know what really matters is what goes on in the schools and the classrooms around the country. As much as we like to argue among ourselves, what is said in this Chamber or even in the other body is not going to drive the education of a student or make sure that student is better educated. That depends upon a teacher and the school in which that child studies.

Individuals on one side of this debate believe that the Olympians on the hill, those of us in Washington with fine titles, those of us with national responsibilities in the Congress or those in the Education Department, a group of very concerned individuals, know what is best for the folks down in the valley.

I happen to be on the side who believe that the great ideas, the accomplishments, the successes that are going to make our children better educated for the future, that are going to help them meet the challenges of this wonderful but challenging century are going to be made by the folks in the valley, the men and women who staff our schools, who are the teachers, administrators, superintendents, principals who run the school boards, and who are the parents who, above all, are the ones with the greatest stake in the education of their children.

I hope this body does not hijack S. 1 and make it into another system of categorical grants: Jump through this hoop and you will get some dollars. But then you will have to fill out reports and check in with Washington to see how you used them, and then you will have to file more reports, or you can jump through this hoop if you make a successful application. And if you jump through the right hoops and somebody in Washington agrees that it is OK, then you have to follow up with more reports and redtape and forms and tell them what you did. I don't think that is the way we ought to be going on education.

I urge my colleagues, as we look at these amendments before us, to ask these basic questions: Is this amendment or provision going to enable somebody who is teaching children in a school in my State to do a better job? Is it going to be across the board? Is it going to enable every teacher in every school district? Or is it only going to affect a few school districts, where our priority happens to be that school's priority?

Mr. President, I urge my colleagues to rethink how we are going in terms of setting up too many hoops for schools to jump through. We want to see better education, but Federal hoops are not the way to get there.

I thank the Chair and yield the floor.

Mr. JEFFORDS. Mr. President, I commend the Senator for his dedication to education. He is a very valuable member of my committee. I have listened carefully to his message, and I thank him.

I yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the Senator from Vermont thanks the Senator from Vermont for yielding to the Senator from Vermont, and the Senator from Vermont thanks the Chair for recognizing both Senators from Vermont.

Someday somebody looking through trivia in the RECORD will try to figure out what the heck that was all about.

Mr. President, what is the parliamentary situation? Are there amendments pending?

The PRESIDING OFFICER. There are amendments pending. It would take unanimous consent to set them aside.

#### AMENDMENT NO. 424

Mr. LEAHY. Mr. President, I ask unanimous consent that amendment No. 424 be added to the list of those amendments that are now pending. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. HATCH, for himself, Mr. LEAHY, Mr. THURMOND, and Mr. KOHL, proposes an amendment numbered 424.

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

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

The amendment reads as follows:

(Purpose: To provide for the establishment of additional Boys and Girls Clubs of America)

On page 893, after line 14, add the following:

#### SEC. \_\_\_\_ BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1966 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking “1,000” and inserting “1,200”; and

(B) by striking “2,500” and inserting “4,000”; and

(C) by striking “December 31, 1999” and inserting “December 31, 2006, serving not less than 6,000,000 young people”; and

(2) in subsection (c)—

(A) in paragraph (1), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “2002, 2003, 2004, 2005, and 2006”; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “90 days” and inserting “30 days”; and

(ii) in subparagraph (A), by striking “1,000” and inserting “1,200”; and

(iii) in subparagraph (B), by striking “2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000” and inserting “4,000 Boys and Girls Clubs of America facilities in operation before January 1, 2007”; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

“(A) \$60,000,000 for fiscal year 2002;

“(B) \$60,000,000 for fiscal year 2003;

“(C) \$60,000,000 for fiscal year 2004;

“(D) \$60,000,000 for fiscal year 2005; and

“(E) \$60,000,000 for fiscal year 2006.”.

Mr. LEAHY. Mr. President, does this become the 12th amendment, or one on the list on those now pending?

The PRESIDING OFFICER. It is on the list of those that are now pending.

Mr. LEAHY. I thank the Presiding Officer.

Mr. President, I join with the chairman of the Senate Judiciary Committee in offering this amendment. As the Senators know, this reauthorizes Department of Justice grants for new Boys and Girls Clubs in each of our 50 States.

This bipartisan amendment authorizes \$60 million in Department of Justice grants for each of the next 5 years to establish 1,200 additional Boys and Girls Clubs across the Nation. In fact, this will bring the number of Boys and Girls Clubs to 4,000. That means they will serve approximately 6 million young people by January 1, 2007.

I am very impressed with what I see about the Boys and Girls Clubs as I travel around the country. In 1997, I was very proud to join with Senator HATCH and others to pass bipartisan legislation to authorize grants by the Department of Justice to fund 2,500 Boys and Girls Clubs across the Nation. We got very strong bipartisan support. We increased the Department of Justice grant funding for the Boys and Girls Clubs from \$20 million in fiscal year 1998 to \$60 million in fiscal year 2001. That is why we have now 2,591 Boys and Girls Clubs in all 50 States and 3.3 million children are served. It is a success story.

I hear from parents certainly across my State how valuable it is to have the Boys and Girls Clubs. I hear it also from police chiefs. In fact, one police chief told me, rather than giving him a couple more police officers, fund a Boys and Girls Club in his district; it would be more beneficial. This long-term Federal commitment has enabled Vermonters to establish six Boys and Girls Clubs—in Brattleboro, Burlington, Montpelier, Randolph, Rutland, and Vergennes. In fact, I believe the Vermont Boys and Girls Clubs have received more than a million dollars from the Department of Justice grants since 1998.

Last week at a Vermont town meeting on heroin prevention and treatment, I was honored to present a check for more than \$150,000 in Department of Justice funds to the members of the Burlington club to continue helping young Vermonters find some constructive alternatives for both their talents and energies, because we know that in Vermont and across the Nation Boys and Girls Clubs are proving they are a growing success at preventing crime and supporting young children.

Parents, educators, law enforcement officers, and others know we need safe havens where young people can learn and grow up free from the influence of the drugs and gangs and crime. That is why the Boys and Girls Clubs are so important to our Nation's children. Indeed, the success already in Vermont has led to efforts to create nine more clubs throughout my home State. Continued Federal support would be critical to these expansion efforts in Vermont and in the other 49 States as well.

I was disappointed when the President's budget request called for eliminating funding for Boys and Girls Clubs from the Department of Justice's programs for State and local law enforcement assistance. I realize there was an effort to bring down the budget to compensate for what has been a very large tax cut, but I think this money should have been left in. I think the administration makes a mistake in cutting out the money for the Boys and Girls Clubs.

In fact, based on last year's appropriations, the failure of the Bush administration to request funding for the Department of Justice grants for Boys and Girls Clubs amounts to a \$60 million cut in our Federal drug and crime prevention efforts. I have written to the administration. I hope the President will reconsider this decision. I hope he will realize that the Boys and Girls Clubs is not a Democratic initiative or a Republican initiative; this is a commonsense initiative that both parties have endorsed.

Those of us who have children or grandchildren know instinctively how important it is. If we have any doubt, we can just talk to any of the parents in the towns or communities where there are Boys and Girls Clubs; they will tell you how valuable they are. In



fact, the Boys and Girls Clubs of America are the most successful youth organization in the country today, according to the Chronicle of Philanthropy.

I worked together on the Senate Judiciary Committee with Attorney General Ashcroft, and I applaud him because he is a big booster of the Boys and Girls Clubs. He spent a lot of his youth at a club in Missouri, he told me.

I am hopeful that the Attorney General will also support additional Department of Justice funding for more Boys and Girls Clubs. He was very helpful to the debate when Senator HARKIN and I offered an amendment to add one-half billion dollars to the Department of Justice Department in fiscal year 2002 that would fund programs that assist State and local law enforcement. Our amendment, the Leahy-Harkin law enforcement budget amendment, passed the Senate unanimously. It does continue funding for the Boys and Girls Clubs and their Department of Justice grants.

In fact, the budget resolution conference report retained most of the funding increases in the Leahy-Harkin law enforcement amendment.

I hope the amendment today to reauthorize the Department of Justice grants to the Boys and Girls Clubs of America will clear the way for the administration to endorse Federal funding for this effort. It is something on which Senator HATCH and I have joined forces. We want to demonstrate this is not a Liberal, Conservative, Republican, or Democratic effort. It is a commonsense effort because these clubs make such a real difference in the lives of millions of America's young people.

Mr. President, I see others in the Chamber, and I yield the floor.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senator from North Carolina be recognized and that I follow him after his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina.

Mr. HELMS. Mr. President, the Senator is most gracious, and I certainly appreciate it. I ask unanimous consent that it be in order for me to present my remarks seated at my desk.

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

Mr. HELMS. I thank the Chair. What is the pending amendment? Are there pending amendments, Mr. President?

The PRESIDING OFFICER. Yes, there are pending amendments.

Mr. HELMS. I ask unanimous consent that they be laid aside temporarily so I may offer an amendment.

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

AMENDMENT NO. 574 TO AMENDMENT NO. 358

Mr. HELMS. Mr. President, I call up amendment No. 574 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 574.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of Federal funds by any State or local educational agency or school that discriminates against the Boy Scouts of America in providing equal access to school premises or facilities)

At the appropriate place, add the following:

**TITLE —EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES**

**SEC. 1. SHORT TITLE.**

This title may be cited as the "Boy Scouts of America Equal Access Act".

**SEC. 2. EQUAL ACCESS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any public elementary school, public secondary school, local educational agency, or State educational agency, if the school or a school served by the agency—

(1) has a designated open forum; and

(2) denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country, as members or leaders.

(b) TERMINATION OF ASSISTANCE AND OTHER ACTION.—

(1) DEPARTMENTAL ACTION.—The Secretary is authorized and directed to effectuate subsection (a) by issuing, and securing compliance with, rules or orders with respect to a public school or agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (a).

(2) PROCEDURE.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d-2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

(c) DEFINITIONS AND RULE.—

(1) DEFINITIONS.—In this section:

(A) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(B) SECRETARY.—The term "Secretary" means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) YOUTH GROUP.—The term "youth group" means any group or organization intended to serve young people under the age of 21.

(2) RULE.—For purposes of this section, an elementary school or secondary school has a

designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

Mr. HELMS. Mr. President, I ask unanimous consent that the amendment be laid aside.

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

AMENDMENT NO. 648 TO AMENDMENT NO. 574

Mr. HELMS. Mr. President, I send a second-degree amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 648 to amendment No. 574.

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

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

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

**TITLE —EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES**

**SEC. 1. SHORT TITLE.**

This title may be cited as the "Boy Scouts of America Equal Access Act".

**SEC. 2. EQUAL ACCESS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any public elementary school, public secondary school, local educational agency, or State educational agency, if the school or a school served by the agency—

(1) has a designated open forum; and

(2) denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country, as members or leaders.

(b) TERMINATION OF ASSISTANCE AND OTHER ACTION.—

(1) DEPARTMENTAL ACTION.—The Secretary is authorized and directed to effectuate subsection (a) by issuing, and securing compliance with, rules or orders with respect to a public school or agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (a).

(2) PROCEDURE.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d-2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

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(B) SECRETARY.—The term “Secretary” means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) YOUTH GROUP.—The term “youth group” means any group or organization intended to serve young people under the age of 21.

(2) RULE.—For purposes of this section, an elementary school or secondary school has a designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

### SEC. 3. EFFECTIVE DATE.

This title takes effect 1 day after the date of enactment of this Act.

Mr. HELMS. Mr. President, for years, the Boy Scouts of America organization has been subjected to malicious assaults by some homosexuals and some liberal politicians simply because the Boy Scouts of America organization, and many individual scout groups, have steadfastly continued to uphold their moral and decent standards for scouting and the leaders of that great organization.

I have long admired and supported scouting—its leaders, and the Boy Scouts themselves. (I was one a long time ago, although we will not discuss how long ago that was.) In any case, it comes as no surprise to me that the Supreme Court properly upheld in June of last year the constitutional rights of the Boy Scouts of America—their rights to establish their own membership guidelines, which included no obligation whatsoever to accept homosexuals as Boy Scout members or leaders.

Nor was there any surprise that there came the customary discordant company of radical militants demanding that this landmark decision of the U.S. Supreme Court be undermined.

Mr. President, they never miss a beat, not one—those who demand that everybody else's principles must be laid aside in order to protect the rights of homosexual conduct, or they go on and on like Tennyson's Brook. These radical militants are up to the same old tactics when targeting an honorable and respectable organization, the Boy Scouts of America.

Where else do you suppose these people are aiming their attacks now? The answer: the public schools of America. School districts across America are now being pressured to kick the Boy Scouts of America out of federally funded public school facilities. Why and how come, you may ask. I will tell you. It is because the Boy Scouts will not agree to surrender their first amendment rights, and they will not accept the agenda of the radical left in this country.

I asked the Congressional Research Service for a report about how many school districts have already taken hostile actions against the Boy Scouts of America. The Congressional Research Service reported to me that at least nine school districts are known to have publicly attacked the Boy Scouts of America, and in the majority of these cases they have done so in an outright rejection of the Supreme Court's ruling protecting Boy Scouts' rights.

One of the more publicized instances occurred in Broward County, FL—a place which earned some notoriety last fall due to its ballot confusion during the Presidential election. Obviously, Broward County, FL, is in another state of confusion: Its school board voted unanimously to forbid—get this—forbid the Boy Scouts of America to use the public school facilities for their meetings, as had historically been the case, unless the Boy Scouts compromised with, guess who? That is right: the homosexual leaders of Broward County. Thankfully, the U.S. district court in Florida intervened at that point, and the court has issued a preliminary injunction prohibiting Broward County from moving forward in evicting the Boy Scouts from the school premises.

I am obliged to acknowledge that Broward County is not the only school district taking such action. In my own State of North Carolina, members of the Chapel Hill School District have demanded that the Boy Scouts of America change their policy (which was upheld, Mr. President, you will remember, by the Supreme Court in June of last year), or the Chapel Hill School District will send the Boy Scouts packing to find another meeting place. Either do it their way or get out of the school. That is what they are saying in Chapel Hill, NC.

Only if they will accept homosexuals as their leaders and fellow scouts will these Boy Scouts be allowed to continue their meetings on school property. But those very same meeting places at school remain open for more than 800 Gay-Straight Alliance clubs. These are homosexual school clubs that have been formed with the assistance of the Gay, Lesbian, and Straight Education Network, which is a radical group committed to promoting immoral lifestyles in the school systems of America.

With groups such as these welcomed in our public schools, while the Boy Scouts are kicked out, schoolchildren need, it seems to me, to have the Boy Scouts stick around, and that is what I want to do with this legislation, if I can, and if the Senate will go along with it.

This arrogant discriminatory treatment of Boy Scouts of America must not be allowed to continue, and that is why I am sitting here this afternoon offering amendments to reinforce the U.S. Supreme Court's decision upholding the first amendment rights of the

Boy Scouts of America and not oblige those Boy Scouts to compromise their membership or leadership guidelines, nor any of their moral principles.

Specifically, the pending first-degree and second-degree amendments propose that any public school receiving Federal funds from the Department of Education must provide the Boy Scouts or youth groups such as the Boy Scouts equal access to school facilities and must not discriminate against the Boy Scouts of America by requiring scouts or any other youth groups to accept homosexuals as members or as leaders or any other individuals who reject the Boy Scouts' oath of allegiance to God and country. The penalty for such violation, could constitute the risk of their Federal funding being eliminated.

This amendment provides the Office of Civil Rights within the Department of Education the statutory authority to investigate any discriminatory action taken against The Boy Scouts of America based on their membership or leadership criteria.

In other words, DOE will handle cases of discrimination against the Boy Scouts, in the same manner that DOE currently handles other cases of discrimination, which are barred by Federal law and may result in termination of Federal funds.

For those unfamiliar with the existing process: DOE has given their Office of Civil Rights oversight responsibility over discrimination complaints. The Office of Civil Rights typically notifies and warns a fund recipient—such as a school—to correct its actions or else.

However, it should be noted that according to CRS:

Historically, the fund termination sanction has been infrequently exercised, and most cases are settled at . . . the investigative process. . . .

Therefore, it's highly unlikely that any school will in fact ever have its funding cut-off; unless it adamantly refuses to provide the Boy Scouts of America equal access to school facilities.

Mr. President, 70 years ago, I remember raising my hand to take the Scout Oath. I have it written here but I really do not need it. How many times on Friday night would we stand with our hands up and say:

On my honor as a Scout, I will do my best to do my duty to God and my country, and to obey the Scout Law. To help other people at all times, to keep myself physically strong, mentally awake, and morally straight.

Mr. President. I hope the Senate will, as the U.S. Supreme Court has already done, uphold the constitutional rights of the Boy Scouts of America to continue to take this oath, meaningfully and sincerely.

I ask unanimous consent that the two memoranda, prepared by the Congressional Research Service and a legal analysis, which was prepared by the American Center for Law and Justice in support of my amendment on the grounds that it is constitutional—I ask

that all of these documents be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

Memorandum to Hon. Jesse Helms from American Law Division, CRS, Mar. 5, 2001  
FEDERAL CIVIL RIGHTS ENFORCEMENT BY THE OFFICE OF CIVIL RIGHTS OF THE U.S. DEPARTMENT OF EDUCATION AND RELATED MATTERS

At your request, this memorandum summarizes our recent discussions relative to enforcement by federal administrative agencies—in particular, the Office of Civil Rights (OCR) in the Department of Education—of Title VI of the 1964 Civil Rights Act and other federal statutes prohibiting discrimination in state and local programs receiving federal financial assistance.

OCR is responsible for enforcing federal laws barring discrimination based on race, sex, national origin, disability or age in all federal education programs or activities funded by the federal government at the elementary, secondary, or higher educational level. It derives its authority mainly from the following statutory sources: Title VI of the 1964 Civil Rights Act, which enacted a generic ban on race, color, or national origin discrimination in all federally assisted programs, educational or otherwise; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance; Section 504 of the Rehabilitation Act of 1973, banning discrimination because of handicap in all federally funded activities; and the Age Discrimination Act of 1975.

Federal agencies were authorized by Title VI to enforce nondiscrimination “by issuing rules, regulations, and orders of general applicability” and to secure compliance through imposition of sanctions, which may include the “termination or refusal to grant or to continue assistance” to recipients, or by “any other means authorized by law.” An early target of Title VI enforcement efforts were segregated “dual school” systems in the South, which had resisted the mandate of *Brown v. Board of Education* to desegregate with “all deliberate speed.” The Civil Rights Act enlisted the executive branch—in this case, the former Department of Health Education and Welfare—as an ally of the courts in effectuating compliance with desegregation requirements by means of threatened fund cutoffs. With statutory creation of the Department of Education in 1979, OCR was made the principal entity responsible for administratively enforcing the panoply of federal laws barring discrimination in programs and activities carried on by federally financed schools, school districts, and higher education institutions.

OCR enforces the noted statutes by conducting investigations of complaints filed in its ten regional offices or at national headquarters in Washington, or by conducting compliance reviews. Compliance reviews are internally generated and are intended as broad investigations of overall compliance by recipients of Federal financial assistance from the Department of Education. Institutions are targeted for such review by examining information gathered in surveys by OCR and from other sources. The surveys are intended to assist the agency in identifying potential areas of “system discrimination.” Upon finding an apparent violation of Title VI or other applicable law, OCR notifies the fund recipient, i.e. the state or local education agency, and must then seek voluntary compliance. If voluntary compliance cannot

be secured, OCR may pursue enforcement through fund termination proceedings within the agency or seek compliance by other authorized means. The administrative fund termination process entails notifying the alleged discriminatory entity of the opportunity for hearing before a DOE administrative law judge. Alternatively, and more often the case, the matter may be referred to the Department of Justice (DOJ) with recommendation for appropriate legal action.

Historically, the fund termination sanction has been infrequently exercised, and most cases are settled at one of four stages of the investigative process: early complaint resolution; during negotiations prior to a “letter of finding” by the agency of a violation, or following such a finding; and at the administrative enforcement stage, when the institution is given a final opportunity to correct any violation found by the ALJ. In addition, litigation instituted by DOJ, on referral from DOE, or by private parties pursuant to an implied right of action has been an important avenue for Title VI enforcement. Although much litigation has concerned public school desegregation, Title VI judicial remedies have also been invoked for claims of discrimination in school disciplinary proceedings, failure to provide bilingual or supplemental instruction for non-English speaking students, student grades and ability grouping, financial aid or scholarship programs.

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[Memorandum to Hon. Jesse Helms from American Law Division, CRS, Mar. 6, 2001]  
ACTIONS BY VARIOUS SCHOOL DISTRICTS ACROSS THE NATION TO RESTRICT ACCESS BY LOCAL SCOUTING ORGANIZATIONS TO PUBLIC SCHOOL FACILITIES

This memorandum responds to your inquiry, and our recent conversation, relative to the above.

In *Boy Scouts of America v. Dale*, the U.S. Supreme Court ruled, by a 5 to 4 vote, that the Boy Scouts have a constitutional right to exclude homosexual members and leaders. Since then, controversies have arisen in Broward County, Florida, New York City, and several other jurisdictions concerning continued local school board support of scouting programs. In Broward County, school authorities reportedly “evicted 57 Boy Scout troops and Cub Scout packs from school property in December [2000]” for violating a nondiscrimination clause in their agreement for use of the facilities. The Boy Scouts responded with a federal lawsuit in Miami district court, apparently still pending, which challenges the officials’ action as unlawful “viewpoint discrimination.” The action claims that the school district violated the Scouts’ right to free expression and equal access to public facilities. As we discussed, presumably neither Title VI of the 1964 Civil Rights Act nor Executive Order 13160, issued by former President Clinton, would prohibit denial by local educational agencies of school facilities or services to scouting organizations.

A search of the Westlaw all news database revealed that the following state or local educational agencies have taken, or are considering, actions to restrict Boy Scout access to public school facilities since the Supreme Court decision in *Boy Scouts of America*:

Broward County, Fla.: “Broward County’s school board voted unanimously to keep the Boy Scouts of America from using public schools to hold meetings and recruitment drives because of the groups ban on gays.” 11/16/00 Fla. Today 06, 2000 WL 20222668.

Chapel Hill N.C.: “The Chapel Hill-Carrboro school board voted [on January 11,

2001] to give Scouts until June to either go against the rules of their organization or lose their sponsorship and meeting places in schools.” 1/13/01 News & Observer (Raleigh NC) B1, 2001 WL 3447689.

New York City: “School Chancellor Harold Levy . . . said the city school system would not enter into any new contracts with the Boy Scouts of America,” and that all sponsorships and special privileges by city schools would be terminated, but that they “will be allowed to have access to school buildings after school hours on the same basis as other organizations, which means they would have to seek customary approval first.” 12/3/00 Star Ledger (Newark N.J.) 028, 2000 WL 29894638.

Los Angeles, CA: Los Angeles City Council has “directed all of the city’s departments to review contracts with the Boy Scouts and order an audit of those contracts to ensure they comply with a nondiscrimination clause.” Id., 2000 WL 29894638.

Madison, Wis.: “A resolution unanimously passed by the Madison School Board . . . harshly criticizes the Boy Scouts of America for its exclusionary policies, but the resolution does not change district policies towards the group.” 12/6/00 Wis. St. J. B3, 2000 WL 24297730.

Seattle Wa.: “Seattle Public Schools officials could decide as early as [January 2001] whether to restrict Boy Scouts of America’s access to students and school buildings.” 12/19/00 Seattle Post-Intelligencer B2, 2000 WL 5309920. No additional reportage on the current status of Seattle schools was located.

Minneapolis Mn: Under unanimously-passed Minneapolis School Board policy, “[s]couts no longer can pass out recruitment material in the city’s public schools and individual schools cannot sponsor troops; however, scouting units may still use school buildings for meetings and other events.” 10/11/00 Stat. trib. (Minneapolis-St. Paul) 01B, 2000 WL 6992730.

Worcester Ma.: “Superintendent of Schools Alfred Tutela . . . banned the Boy Scouts from holding meetings in the properties of the Wachusett Regional Schools District.” 9/15/00 Telegram and Gazette (Worcester) B1, 2000 WL 10219354.

Framingham Ma.: Scouts “were banned from recruiting in the district’s schools.” 12/29/00 Nat’l Post A 16, 2000 WL 30654763.

We hope that this is of assistance to you.

[Memorandum to Office of Senator Jesse Helms from American Center for Law & Justice, May 17, 2001]

THE BOY SCOUTS OF AMERICA EQUAL ACCESS

ACT (S. 1) IS FULLY CONSTITUTIONAL

#### INTRODUCTION

The American Center for Law and Justice (“ACLJ”) is a nonprofit, public interest law firm and educational organization dedicated to protecting religious liberty, human life, and the family. ACLJ attorneys have successfully argued constitutional law cases in federal and state courts across the United States. See, e.g., *Schenck v. Pro-Choice Network of Western New York*, 519 U.S. 357 (1997); *Lamb’s Chapel v. Center Moriches Union Free School District*, 113 S.Ct. 2141 (1993); *Bray v. Alexandria Women’s Health Clinic*, 113 S.Ct. 753 (1993); *United States v. Kokinda*, 497 U.S. 720 (1990); *Westside Community Schools v. Mergens*, 496 U.S. 226 (1990); *Frisby v. Shultz*, 487 U.S. 474 (1988); *Board of Airport Commissioners v. Jews for Jesus*, 482 U.S. 569 (1987). As reflected by these cases, the ACLJ has a substantial interest in preserving First Amendment freedoms for groups in various speech fora.

The Boy Scouts of America Equal Access Act (S. 1) is consonant with the Free Speech and Free Association provisions of the First

Amendment. The denial of equal access for speech or association by the Boy Scouts in a forum generally open to all other types of speech is unconstitutional viewpoint-based discrimination. See generally, *Lamb's Chapel v. Center Moriches Union Free School Dist.*, 113 S.Ct. 2141 (1993). And, as to this issue in particular, a Federal District Court in Florida has very recently ruled that such discriminatory exclusion of the Boy Scouts from public school facilities was unconstitutional, and enjoined the school district from such further discrimination. See generally, *Boy Scouts of America v. Till*, Case No. 00-7776-Civ-Middlebrooks-Bandstra (S.D. Fla. Mar. 21, 2001). The Boy Scouts of America Equal Access Act follows in that determination to prevent discrimination and seeks to insure equal and constitutional treatment of youth groups, such as the Boy Scouts, without regard to such organizations oath of allegiance to God and country, or the acceptance of homosexuality.

\* \* \* \* \*

The Boy Scouts of America Equal Access Act is not only constitutional, the equal access that it seeks to protect is mandated by the Constitution.

EXCLUSION OF THE BOY SCOUTS FROM AN OTHERWISE OPEN FORUM WOULD BE REGARDED WITH STRICT SCRUTINY BY THE COURTS

When a school district by policy or practice rents its facilities to community groups it has clearly created an open forum and cannot then exclude speech because of its content. As the Supreme Court has said, "[w]here the State has opened a forum for direct citizen involvement, exclusions bear a heavy burden of justification." *Widmar v. Vincent*, 454 U.S. at 268.

When the government excludes speech from an open forum, the government "must therefore satisfy the standard of review appropriate to content-based exclusions. It must show that its regulation is necessary to serve a compelling state interest, and that it is narrowly drawn to achieve that end." *Widmar v. Vincent*, 454 U.S. at 270. See also, *Perry*, 460 U.S. at 45; *Cornelius v. NAACP Legal Defense and Education Fund*, 473 U.S. at 800. When an otherwise available public facility has erected a content-based prohibition against religious speech in an open forum, for example, it must justify that burden by showing that it has a compelling governmental interest implemented by the least restrictive means. *Widmar v. Vincent*, 454 U.S. at 270; accord *Adams Outdoor Advertising v. City of Newport News*, 373 S.E.2d 917, 923 (Va. 1988). Like the *City of Hialeah* in *Church of Lukumi v. City of Hialeah*, 113 S.Ct. 2217 (1993), those that would target the Boy Scouts for special disabilities misunderstand that "the interest given in justification of [such a] restriction is not compelling." *Lukumi*, 113 S.Ct. at 2234. If Establishment Clause concerns were not a compelling reason for the targeted restrictions in *Lukumi*, then generalized concerns about the Boy Scouts taking a politically incorrect stand on the issue of homosexuality is also not compelling.

EVEN IN A NONPUBLIC FORUM SUCH CONTENT-BASED EXCLUSIONS ARE UNCONSTITUTIONAL

The Supreme Court has made it clear that even in the context of a non-public forum, this type of viewpoint-based exclusion is unconstitutional and discriminatory. As the Supreme Court explained in *Cornelius v. NAACP Legal Defense and Educ. Fund, Inc.*, 473 U.S. 788, 806 (1985), in a non-public forum "the government violates the First Amendment when it denies access to a speaker solely to suppress the point of view the espouses on an otherwise includible topic."

In *Lamb's Chapel v. Center Moriches Union Free School Dist.*, 113 S.Ct. 2141 (1993), the

U.S. Supreme Court declared that a religious speech exclusion (which is parallel to the moral viewpoint exclusion here) was unconstitutional viewpoint-based discrimination. The per se exclusion of a certain moral perspective is viewpoint-discriminatory. To make this point clear, the Court in *Lamb's Chapel* used non-public forum standards to emphasize that even in that context the Center Moriches School District has engaged in unconstitutional viewpoint-based discrimination because of its religious speech exclusion. See e.g., *Lamb's Chapel*, 113 S.Ct. at 2141.

In *Lamb's Chapel*, the Center Moriches school district allowed dozens of groups to engage in a host of First Amendment expressive activities, but denied a church the right to rent the facilities after school hours to show a film series to adults on child-rearing because of its religious content. *Lamb's Chapel*, 113 S.Ct. at 2144. In declaring the religious speech ban to be unconstitutional the Court stated:

The film involved here no doubt dealt with a subject otherwise permissible under Rule 10, and its exhibition was denied solely because the film dealt with the subject from a religious standpoint. *The principle that has emerged from our cases is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others.*—113 S.Ct. at 2147–48 (emphasis added, citations and quotation marks omitted).

\* \* \* \* \*

Like the school district in *Lamb's Chapel*, public school districts afford hundreds of thousands of people the opportunity to express themselves through a myriad assortment of words and phrases. And, as in *Lamb's Chapel*, the sole rationale for the exclusion of the Boy Scouts is a reliance upon the censorship itself as a justification for such a flat ban. This circular reasoning cannot withstand the strict scrutiny which must applied to such censorship. Such "overt, viewpoint based discrimination contradicts the Speech Clause of the First Amendment." 113 S.Ct. at 2149, (Kennedy, J. concurring).

Even if the public school facilities were deemed to be non-public fora, a policy targeting the Boy Scouts for exclusion would fail the governing constitutional test. The Supreme Court has explained that "[c]ontrol over access to a nonpublic forum can be based on subject matter and speaker identity so long as the distinctions drawn are reasonable in light of the purpose served by the forum and are viewpoint-neutral." *Cornelius*, 473 U.S. at 806 (emphasis added). The Boy Scouts exclusion fails even this deferential standard.

There is simply no reasonable basis for the per se exclusion of speech by private actors based upon speech content. Ultimately, some public school districts claim the sheer power to exclude the private speech of the Boy Scouts for no better reason than just because the school district says so. Such an assertion of a stark power to discriminate against a particular group because of its message is incompatible with the Constitution under any standard.

\* \* \* \* \*

#### CONCLUSION

The Boy Scouts of America Equal Access Act is fully constitutional, and properly exercises Congress power of the purse to insure the constitutionally recognized rights and privileges of all youth groups, like the Boy Scouts, are protected and honored. While it may be that exclusion of the Boy Scouts has become a cause celebre for some since the U.S. Supreme Court's decision in *Boy Scouts of America v. Dale*, 120 S.Ct. 2446 (2000), cen-

sorship and discrimination are not answers to disagreements over stands on moral issues. The First Amendment specifically permits a variety of viewpoints to be expressed in the marketplace of ideas, without fear of censorship or exclusion.

The Boy Scouts of America Equal Access Act bill merely mandates what is constitutionally required. As *Boy Scouts of America v. Till* clearly illustrates, however, there is a clear and present need for such legislation.

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

Mr. DORGAN. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. President, I ask consent to be recognized following the remarks of the Senator from Wisconsin.

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

Mr. FEINGOLD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Helms amendment in two degrees.

Mr. FEINGOLD. Mr. President, I ask the Helms amendment be temporarily laid aside so I can speak on the bill itself.

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

Mr. FEINGOLD. I rise to add my thoughts to this important debate about the proposed annual testing requirements for students in grades 3-8. This bill that we are debating would require states to implement annual testing in reading and math by the 2005-2006 school year; to develop standards for science and history by the 2005-2006 school year; and to implement annual assessments in science for students in grades 3-8 by the 2007-2008 school year.

I commend the Senator from Minnesota [Mr. WELLSTONE] for his commitment to ensuring that these tests are high in quality and do not have an adverse impact on students, teachers, schools, school districts, and States. I am pleased to be listed as a cosponsor of a number of his amendments to this bill to improve its testing provisions.

I actually heard a lot about this proposal for testing from the people of Wisconsin, and their response has been almost universally negative. My constituents oppose this proposal for many reasons, including the cost of developing and implementing additional tests, the loss of teaching time every year to prepare for and take the tests, the linking of success on these tests to ESEA administrative funds, and the pressure that these additional tests will place on students, teachers, schools, and school districts.

I share my constituents' concerns about this proposed Federal mandate. I find it interesting that proponents of the BEST Act say that this bill will return more control to the states and local school districts. I strongly support local control over our children's day-to-day classroom experiences. In my view, however, this massive new federal testing mandate runs counter to the idea of local control.

Many States and local school districts around the country already have

testing programs in place. We should leave the means and frequency of assessment up to the States and local school districts who bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may, therefore, not be the best approach.

I am extremely concerned that this new Federal requirement will teach our children that education is not about preparing for their futures, but rather about preparing for tests. That education is really about sharp number two pencils and test sheets; about making sure that little round bubbles are filled in completely; and—if their school districts and states have enough money—maybe about exam booklets for short answer and essay questions.

American students are already tested at many levels—in their classrooms, in their schools, in their districts, and in their States.

My home state of Wisconsin currently tests students in reading in grade 3 through the Wisconsin Reading Comprehension Test, and in reading, language, math, science, and social studies in grades 4, 8, and 10 with the Wisconsin Knowledge and Concepts Examinations. Wisconsin also will require a high school graduation test beginning in the 2003–2004 school year. And this is in addition to regular classroom tests and quizzes and tests given at the district level by many of the 426 school districts in my State. Then, for those students hoping to go to college, there is the pre-SAT, the SAT, the ACT and on and on.

I know; I have four kids who are just completing all that process, or have in the last couple of years. It is an awful lot of testing already.

One of my constituents who is a high school counselor said the high school students in her district spend so much time taking standardized tests that the district could award them one-half of a credit for testing. How much testing is worth one-half of a credit? During their 4 years in high school, the students in this district will spend 84 hours taking standardized tests—84 hours. This does not even include regular classroom tests, final exams, or instruction time spent on test preparation.

According to one teacher who recently contacted me regarding this legislation:

Already I see that teachers are spending too much time on test preparation rather than good instruction. The test administration itself takes valuable time away from instruction and does not provide new data on individual children for the well informed teacher. . . . [M]ultiple choice tests with some short answer [questions] only measure rudimentary knowledge. They rely on memorizing and regurgitating isolated facts and most items only allow one correct answer. Students are being evaluated on one single test. What if the student has a bad day? Lastly, the truly scary part is that standardized tests ensure that half of our students will always be 'below average.' How can we meet the benchmark that everyone will score proficient and advanced when the tests are designed to never let that hap-

pen? . . . Taking more tests is not going to improve learning.

I have heard from many education professionals such as these in my state that this new testing requirement is a waste of money and a waste of time. These people are committed to educating the children of my state, and they don't oppose testing. I think we can all agree that testing has its place. What they oppose is the magnitude of testing that is proposed in this bill.

One of the biggest concerns I have heard about this program is its cost. In my home state of Wisconsin, where the state imposes limits on the amount of money school districts can raise and spend annually, education budgets are already stretched to the breaking point, and federal funding is absolutely critical. And to add a federally-mandated testing program with little in the way of resources to implement it will only compound this problem. I am pleased that the Senate passed an amendment offered by the Chairman of the HELP Committee, Mr. JEFFORDS, to increase funding for this testing program but I remain concerned this bill still falls far short of authorizing enough funding for this program.

Under the provisions of the BEST Act, Wisconsin would have to develop new reading tests for grades 5, 6, and 7 and new math tests for grades 3, 5, 6, and 7. According to the Wisconsin Department of Public Instruction, the estimated cost to add these additional tests would be between \$2 million and \$5.3 million annually, depending on the type of tests chosen by the state. And this is over and above the \$1.5 million the state already spends on testing in grades 3, 4, and 8. And this figure does not include the cost of the state-mandated Wisconsin Knowledge and Concepts Examination for grade 10, which also fulfills the federal requirement to tests students in math and reading at least once between grade 10 and grade 12. And it does not include the cost of the Wisconsin High School Graduation Test. And it does not include the additional cost that the state will have to incur to develop and implement the additional science tests in grades 3, 5, 6, and 7 that this bill requires to begin in the 2007–2008 school year.

Teachers in my state are concerned about the amount of time that they will have to spend preparing their students to take the tests and administering the tests. They are concerned that these additional tests will disrupt the flow of education in their classrooms. One teacher said the preparation for the tests Wisconsin already requires can take up to a month, and the administration of the test takes another week. That is five weeks out of the school year. And this bill would require teachers to take a huge chunk out of each year in grades 3–8. In my view, and in the view of the people of my state, this time can be better spent on regular classroom instruction.

In addition to the financial cost and the instruction time lost, my constitu-

ents are concerned about the value of these tests to students, parents, and teachers. According to one teacher, the existing tests don't have any meaning to students and have little meaning to classroom teachers.

The impact of these tests on students varies. Some students have high test anxiety and, as a result, grow to fear tests. Others simply do not care about the tests, and fill in random answers on their test sheets. And for students who are struggling, a low test score on a standardized test can be demoralizing.

Most students, of course, try their best. But they are confused about why they are taking these tests, and many students and parents are confused by the results of these tests.

Many teachers are unsure about how to interpret the test results. They see statistics that tell them about the numbers of right and wrong answers and about percentiles, but the test results provide little in the way of information for teachers and parents to know where students are having problems. Because so many standardized tests are copyrighted and are used more than once, students, parents, and teachers do not have the opportunity to compare the students' answers to the correct answers. They are unable to determine which concepts the students need help with, or for which concepts the students have demonstrated understanding.

Our children are real people, not numbers. Yet the testing program contained in this bill would judge our students, teachers, schools, school districts, and states by test scores.

In my view, linking funding sanctions to test performance sends the wrong signal. As I noted earlier, students respond differently to tests. To link education funding to a series of high-stakes tests not only does a disservice to our children, but to our teachers, parents, schools, school districts, and states.

I also fear that this new annual testing requirement will disproportionately impact disadvantaged students. As the Senator from Minnesota, Mr. WELLSTONE, has said so many times on this floor, we must ensure that all students have an equality of opportunity to be successful in school. To that end, I am pleased that the Senate adopted an amendment to this bill offered by the Senator from Connecticut, Mr. DODD, and the Senator from Maine, Ms. COLLINS, that would authorize full funding of Title I over the next ten years.

I am also pleased to be an original cosponsor of the amendment that will be offered by the Senator from Minnesota which would modify the annual testing provisions of the bill to clarify that states will not be required to implement the annual tests unless Title I is funded at \$24.7 billion by July 1, 2005, which is consistent with the funding levels in the Dodd-Collins amendment.

Study after study shows that disadvantaged students lag behind their

peers on standardized tests. We must ensure that schools have the resources to help these students catch up with their peers before students are required to take these new annual tests. If we fail to provide adequate resources to these schools and these students, we run the risk of setting disadvantaged children up for failure on these tests—failure which could damage the self-esteem of our most vulnerable students.

The issue of standards and testing is addressed in the cover story in the May 2001 issue of Phi Delta Kappan magazine, which is published by the International Association of Professional Educators of the same name. In his article, "Undermining Standards," John Merrow discusses the dangers of high-stakes testing, arguing that "in many places testing has gotten ahead of developing and then implementing standards." He also expresses a concern about the impact of testing on the classroom environment and on classroom teachers: that "test preparation is dominating classroom time, stifling creativity and imagination, and taking the joy out of teaching."

Merrow also addresses the annual testing program proposed by the President and included in this bill. He says, "As I read President Bush's proposals, it seems to me that . . . about six things can happen, and five of them are bad. Such high-stakes testing may (1) lead to an even more arid curriculum, (2) drive away talented teachers, (3) tempt states to lower the bar in order not to lose federal money, (4) increase pressure to cheat, and (5) alienate educated parents. That's not 'reform with results,' at least not the results those who support public education would wish for."

Merrow continues, "Of course, the President's plan might actually work the way he hopes it will. That is if he backs away from making test scores the be-all and end-all of schooling, his plan might just scare school systems into putting more energy into learning."

As my constituents have told me, this proposal does scare them—but not in the way the President has intended.

I urge all of my colleagues to take a few minutes to read this article.

I am concerned that the emphasis that is placed on testing as a means of accountability in this bill could result in a generation of students who know how to take tests, but who don't have the skills necessary to become successful adults.

I yield the floor.

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

Mr. DORGAN. Mr. President, Senator SESSIONS has asked to be recognized for 2 minutes, I believe to call up an amendment. It would be fine with me if I could be recognized by consent following Senator SESSIONS' statement.

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

Mr. SESSIONS. I thank Senator DORGAN. I appreciate his courtesy.

I call up amendment No. 600. This is an amendment I call the "Crisis Hot Line Grant." It is an amendment for confidential reporting of individuals suspected of imminent school violence.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

Mr. REID. There is no unanimous consent request made to set it aside.

The PRESIDING OFFICER. The Senator from Alabama has requested to bring up an amendment that requires unanimous consent.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama.

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

The PRESIDING OFFICER. The Senator from Alabama has the floor. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 600 TO AMENDMENT NO. 358

Mr. SESSIONS. Mr. President, I ask unanimous consent for a minute and a half to offer my amendment in relation to crisis hotline grants.

Mr. REID. I have no objection to the pending amendment being set aside.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 600 to amendment No. 358.

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

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

The amendment is as follows:

(Purpose: To provide for confidential reporting of individuals suspected of imminent school violence)

On page 577, line 2, strike the end quotation mark and the second period.

On page 577, between lines 2 and 3, insert the following:

**"SEC. 4304. CONFIDENTIAL REPORTING OF INDIVIDUALS SUSPECTED OF IMMINENT SCHOOL VIOLENCE.**

"Subject to the provisions of this title and subpart 4 of part B of title V, funds made available under such titles may be used to—

"(1) support the independent State development and operation of confidential, toll-free telephone hotlines that will operate 7 days per week, 24 hours per day, in order to provide students, school officials, and other individuals with the opportunity to report specific threats of imminent school violence or to report other suspicious or criminal conduct by juveniles to appropriate State and local law enforcement entities for investigation;

"(2) ensure proper State training of personnel to answer and respond to telephone calls to hotlines described in paragraph (1);

"(3) assist in the acquisition of technology necessary to enhance the effectiveness of hotlines described in paragraph (1), including the utilization of Internet web-pages or resources;

"(4) enhance State efforts to offer appropriate counseling services to individuals who call hotlines described in paragraph (1) threatening to do harm to themselves or others; and

"(5) further State effort to publicize services offered by the hotlines described in paragraph (1) and to encourage individuals to utilize those services."

Mr. SESSIONS. Mr. President, I simply ask that this amendment be considered. Its purpose is to deal with the situation that we have seen in recent years in which teenagers at school have caused serious violence or committed criminal acts and in which other people knew about it and did little to respond. I believe we can improve upon that.

In my State of Alabama, a crisis hotline was set up several years ago. In just a few weeks, they had 800 calls. For example, parents were calling in to say they heard that a certain child had a gun or a weapon or that they were threatening the lives of other people. Having such a hotline would allow the police and school administrators to know about those situations and to perhaps intervene and keep this from happening.

I think Senator CLELAND has some similar language in his legislation. Our language goes into more detail and was made part of the juvenile justice bill that we passed in this Senate but which never became law.

I think it is appropriate that this amendment be made a part of this legislation involving education. It does not appropriate money. It provides an authorized use. The moneys can be used for this, but it does not mandate it on the States. I do believe it is a policy that if more States followed, it could save lives by simply providing a 1-800 number that would be readily available to everyone in and about the school, including parents, to have a place to call to express concerns that something serious may be going on.

Maybe they just want to say: Billy has a gun. Maybe the police could stop by and knock on Billy's door and see if he has a gun and perhaps stop a crime.

I thank the Presiding Officer and the Senator from Nevada.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 640 TO AMENDMENT NO. 358

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside so I can call up amendment No. 640.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. REID, proposes an

amendment numbered 640 to amendment No. 358.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

The Senate Finds:

The price of energy has skyrocketed in recent months;

The California consumers have seen a 10-fold increase in electricity prices in less than 2 years;

Natural gas prices have doubled in some areas, as compared with a year ago;

Gasoline prices are close to \$2.00 per gallon now and are expected to increase to as much as \$3.00 per gallon this summer;

Energy companies have seen their profits doubled, tripled, and in some cases even quintupled; and

High energy prices are having a detrimental effect on families across the country and threaten economic growth:

**SEC. . SENSE OF THE SENATE CONCERNING THE NEED TO ESTABLISH A JOINT COMMITTEE OF THE SENATE AND HOUSE OF REPRESENTATIVES TO INVESTIGATE THE RAPIDLY INCREASING ENERGY PRICES ACROSS THE COUNTRY AND TO DETERMINE WHAT IS CAUSING THE INCREASES.**

It is the sense of the Senate that there should be established a joint committee of the Senate and House of Representatives to—

(1) study the dramatic increases in energy prices (including increases in the prices of gasoline, natural gas, electricity, and home heating oil);

(2) investigate the cause of the increases;

(3) make findings of fact; and

(4) make such recommendations, including recommendations for legislation and any administrative or other actions, as the joint committee determines to be appropriate.

Mr. DORGAN. Mr. President, this amendment is a sense-of-the-Senate amendment calling for the creation of the House-Senate select committee to investigate energy prices.

I would like to speak just for a few minutes about the issue. Energy prices, as all Americans understand, have been skyrocketing through price spikes and other devices in recent months. The price of gasoline in many parts of the country is now over \$2 a gallon. Some say it is going to go much higher.

The price of natural gas has doubled in much of the country over what it was a year ago. Those who, in the first 2 months of this past winter, suffered the coldest 2 months on record discovered that the cost of heating with natural gas put quite a hole in their budget because natural gas prices were doubled at a time when we had a very significant cold spell. Natural gas prices are still much higher than they have been previously.

Electricity prices are up. In some parts of the country they are way up.

As all of us know, energy is not some option that people have the ability to decide to take or not take. Every morning virtually ever American has a requirement to use energy. So this is not some optional commodity that people can use or not use as they see fit.

Some say, the reason for these price spikes is because that is just the market system working. It is not the market system working. The fact is, the market system is broken. In many of these areas, we have had merger after merger of big oil companies, with oil companies getting much larger and, therefore, exhibiting much greater control over markets. We see spot markets developing with a new class of energy traders. It is a very large enterprise where they are able to trade back and forth, often at prices that are not disclosed or not transparent.

Let me, for a minute, discuss what is happening on the West Coast as part of this price problem. Two years ago, the cost of power in California was \$7 billion. This year it is estimated it will be \$70 billion—a tenfold increase. How does all that happen? Well, the price of natural gas moving into plants that produce electricity goes from an unregulated market into a regulated market; it goes from one seller to a trader; then traded on the spot market; and an MCF that cost a certain amount in the morning could be double or triple or quadruple that value in the afternoon because it is in someone else's hands, and now it is being traded again for a second time on the spot market.

So those folks in California who are paying dramatically higher prices for electricity are being hurt very badly. Some say that is just the market working. It is not. As I said before, the market is broken. We are supposed to have, in a circumstance where you have markets with great concentration of power, a referee of sorts. In this area of California, power would have been FERC, the Federal Energy Regulatory Commission. But FERC, for 2 or 3 years, has done its best imitation of a potted plant. It essentially has been unwilling to take any action in any set of circumstances.

So we have the opportunity and the possibility—in fact, in my judgment, the very real circumstance—of market manipulation and price manipulation in California and on the West Coast.

Gasoline prices, as I indicated, are up, way up. Contrary to the views of the administration, and some others, these price spikes are not due to environmental regulations for reformulated gasoline and more. In fact, reformulated gasoline contributed only 1 to 3 cents of the cost of making gasoline that we witnessed last summer. Even in California, environmental regulations are contributing about 5 to 8 cents of gasoline production costs.

A March 2001 Federal Trade Commission investigation shows that individual refiners made deliberate decisions not to modify or expand refining capacity so they could tighten market supply and therefore drive up gasoline prices.

For example, the Federal Trade Commission found that three refiners only modified facilities to produce reformulated gasoline for their own branded stations so the independent stations—

the mom-and-pop stations—could not get reformulated gasoline. It created a spot market which drove up prices. One company even admitted to withholding supplies of reformulated gasoline at the most critical time to maximize profits.

All of this is going on, and the American people suffer because of it. I had once followed a car at an intersection in rural North Dakota one time. It was a 20-year-old car with a broken back bumper that had a bumper sticker that said: We fought the gas war, and gas won. That bumper sticker would fit a lot of cars these days.

Senior citizens, with declining income years, have to pay substantially higher energy bills. Farmers, trying to buy anhydrous ammonia these days—80 percent of the cost of which is natural gas—are discovering a horrible price for anhydrous ammonia. In addition to that, the price of the fuel they must put in their tractors in order to do spring's work has been driven up dramatically. Truckers moving across this country back and forth have discovered they hardly make it these days with the price of gasoline and diesel fuel. And manufacturers are struggling with the cost of these increased energy spikes in price.

So if the market isn't working, what should happen? I think we should have a select House-Senate committee to investigate energy prices.

Let me hasten to say quickly that there are some legitimate reasons we have had some price changes. We have had a tightening of supply in a number of areas. I will explain why.

When the price of oil went to \$10 a barrel, people stopped looking for oil and natural gas because it was not very productive or was not very rewarding to do so. The price of oil spiked then to \$35 a barrel—from \$10 a barrel—and more people were looking for it. So there will be more supply coming on line. There is that element of price spikes. And there is that element of supply and prices. And that is very real. I do not discount that.

But you cannot attribute what is happening with energy prices just to that circumstance. We now have larger enterprises. We have bigger economic concentrations in this country that have the ability to control prices and manipulate supply. And this Congress, in my judgment, ought to convene an investigative body to evaluate when and where that is happening.

Congress has been very anxious to investigate almost anything in the last 10 years or so. It seems to me it ought to be anxious to investigate, on behalf of the American consumer, what has happened, and why, with respect to the cost of energy in this country.

A century ago Teddy Roosevelt carried a big stick and said that Mr. Rockefeller could not control the price of gasoline and took effective steps to make that happen. It is time for us to do a thorough investigation with a select House-Senate committee to investigate energy pricing.



I know at 4 o'clock the Presiding Officer is to recognize the Senator from Georgia. Is this an appropriate time to seek the yeas and nays on my amendment?

The PRESIDING OFFICER (Mr. BENNETT). The Senator may do that if he wishes.

Mr. DORGAN. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. DORGAN. I yield the floor.

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

#### AMENDMENT NO. 376, AS MODIFIED

Mr. CLELAND. Mr. President, I call up amendment No. 376 and ask unanimous consent to modify the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 577, between lines 15 and 16, insert the following:

#### SEC. 404. SCHOOL SAFETY ENHANCEMENT.

Title IV (20 U.S.C. 7101 et seq.) is further amended by adding at the end the following:

#### "PART D—SCHOOL SAFETY ENHANCEMENT

##### "SEC. 4351. SHORT TITLE.

"This part may be cited as the 'School Safety Enhancement Act of 2001'.

##### "SEC. 4352. FINDINGS.

"Congress makes the following findings:

"(1) While our Nation's schools are still relatively safe, it is imperative that schools be provided with adequate resources to prevent incidents of violence.

"(2) Approximately 10 percent of all public schools reported at least 1 serious violent crime to a law enforcement agency over the course of the 1996–1997 school year.

"(3) In 1996, approximately 225,000 students between the ages of 12 and 18 were victims of nonfatal violent crime in schools in the United States.

"(4) From 1992 through 1994, 76 students and 29 non-students were victims of murders or suicides that were committed in schools in the United States.

"(5) The school violence incidents in several States across the Nation in 1998 and 1999 caused enormous damage to schools, families, and whole communities.

"(6) Because of escalating school violence, the children of the United States are increasingly afraid that they will be attacked or harmed at school.

"(7) A report issued by the Department of Education in August, 1998, entitled 'Early Warning, Early Response' concluded that the reduction and prevention of school violence is best achieved through safety plans which involve the entire community, policies which emphasize both prevention and intervention, training school personnel, parents, students, and community members to recognize the early warning signs of potential violent behavior and to share their concerns or observations with trained personnel, establishing procedures which allow rapid response and intervention when early warning signs of violent behavior are identified, and providing adequate support and access to services for troubled students.

#### "SEC. 4353. NATIONAL CENTER FOR SCHOOL AND YOUTH SAFETY.

"(a) ESTABLISHMENT.—The Secretary of Education and the Attorney General shall

jointly establish a National Center for School and Youth Safety (in this section referred to as the 'Center'). The Secretary of Education and the Attorney General may establish the Center at an existing facility, if the facility has a history of performing two or more of the duties described in subsection (b). The Secretary of Education and the Attorney General shall jointly appoint a Director of the Center to oversee the operation of the Center.

"(b) DUTIES.—The Center shall carry out emergency response, anonymous student hotline, consultation, and information and outreach activities with respect to elementary and secondary school safety, including the following:

"(1) EMERGENCY RESPONSE.—The staff of the Center, and such temporary contract employees as the Director of the Center shall determine necessary, shall offer emergency assistance to local communities to respond to school safety crises. Such assistance shall include counseling for victims and the community, assistance to law enforcement to address short-term security concerns, and advice on how to enhance school safety, prevent future incidents, and respond to future incidents.

"(2) ANONYMOUS STUDENT HOTLINE.—The Center shall establish a toll-free telephone number for students to report criminal activity, threats of criminal activity, and other high-risk behaviors such as substance abuse, gang or cult affiliation, depression, or other warning signs of potentially violent behavior. The Center shall relay the reports, without attribution, to local law enforcement or appropriate school hotlines. The Director of the Center shall work with the Attorney General to establish guidelines for Center staff to work with law enforcement around the Nation to relay information reported through the hotline.

"(3) CONSULTATION.—The Center shall establish a toll-free number for the public to contact staff of the Center for consultation regarding school safety. The Director of the Center shall hire administrative staff and individuals with expertise in enhancing school safety, including individuals with backgrounds in counseling and psychology, education, law enforcement and criminal justice, and community development to assist in the consultation.

"(4) INFORMATION AND OUTREACH.—The Center shall compile information about the best practices in school violence prevention, intervention, and crisis management, and shall serve as a clearinghouse for model school safety program information. The staff of the Center shall work to ensure local governments, school officials, parents, students, and law enforcement officials and agencies are aware of the resources, grants, and expertise available to enhance school safety and prevent school crime. The staff of the Center shall give special attention to providing outreach to rural and impoverished communities.

"(c) FUNDING.—There is authorized to be appropriated to carry out this section, \$25,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2005."

#### "SEC. 4354. SAFE COMMUNITIES, SAFE SCHOOLS.

"(a) GRANTS AUTHORIZED.—Using funds made available under subsection (c), the Secretary of Education, the Secretary of Health and Human Services, and the Attorney General shall award grants, on a competitive basis, to help communities develop community-wide safety programs involving students, parents, educators, guidance counselors, psychologists, law enforcement officials or agencies, civic leaders, and other organizations serving the community.

"(b) AUTHORIZED ACTIVITIES.—Funds provided under this section may be used for activities that may include efforts to—

"(1) increase early intervention strategies;

"(2) expand parental involvement;

"(3) increase students' awareness of warning signs of violent behavior;

"(4) promote students' responsibility to report the warning signs to appropriate persons;

"(5) promote conflict resolution and peer mediation programs;

"(6) increase the number of after-school programs;

"(7) expand the use of safety-related equipment and technology; and

"(8) expand students' access to mental health services.

"(c) FUNDING.—There is authorized to be appropriated to carry out this section, \$24,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2005."

#### SEC. 405. AMENDMENTS TO THE NATIONAL CHILD PROTECTION ACT OF 1993.

Section 5(10) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(10)) is amended to read as follows:

"(10) the term 'qualified entity' means—

"(A) a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services; or

"(B) an elementary or secondary school."

Mr. CLELAND. Mr. President, I yield myself such time as I may consume.

The modified amendment I offer today reduces funding for the National Center for School and Youth Safety from \$50 million to \$25 million, and it creates separate authorizations for the National Center and the Safe Communities, Safe Schools grant program.

It has been almost 2 years ago to the day that a 16-year-old boy brought a .22-caliber rifle and .375 magnum revolver to Heritage High School in Conyers, GA and opened fire on six students. The shooting occurred in my hometown of Lithonia, GA, where I grew up. The day was May 20, 1999, exactly one month after the deadly Columbine High School massacre, which took the lives of 15 people.

Growing up in my hometown, I was fortunate to have had a great childhood—with two wonderful parents, supportive teachers in school and in church, and a community that cared. When I was in school, the strongest drug around was aspirin, and the most lethal weapon was a slingshot. The shootings at Heritage High, at Columbine, the school shootings in Springfield, OR, in Jonesboro, AR, in West Paducah, KY and other school tragedies around the country underscore in red the crisis of juvenile violence in America. Our schools were once safe havens in this country. Today, according to data from the Department of Education, they are the setting for one-third of the violence involving teenagers in this Nation. In fact, data from the Departments of Justice and Education found that in 1998, "students aged 12 through 18 were victims of more than 2.7 million total crimes at school . . . and they were victims of about 253,000 serious violent crimes. . . ."



These statistics are incredible and they cannot—they must not—be accepted or tolerated.

The amendment I am offering today is based on legislation developed in the last Congress by Senator Robb of Virginia, and it is a response to a seminal 1998 report by the Department of Education, entitled "Early Warning, Timely Response," which concluded that the reduction and prevention of school violence are best achieved through safety plans which involve the entire community. Accordingly to that landmark report, the most effective plans are those which: emphasize both prevention and intervention; train school personnel, parents, students, and community members to recognize the early warning signs of potential violent behavior and to share their concerns or observations with trained personnel; establish procedures which allow rapid response and intervention when such signs are identified; and provide adequate support and access to services for troubled students.

My amendment, The School Safety Enhancement amendment, would establish a National Center for School and Youth Safety tasked with the mission of providing schools with adequate resources to prevent incidents of violence. Under my amendment, the center would offer emergency assistance to local communities to respond to school safety crises, including counseling for victims, assistance to law enforcement to address short-term security concerns, and advice on how to enhance school safety, prevent future incidents, and respond to incidents once they occur. My amendment would also establish—and this is important—a toll-free, nationwide hotline for students to report criminal activity, threats of criminal activity, and other high-risk behaviors such as substance abuse, gang or cult affiliation, depression, or other warning signs of potentially violent behavior. Finally, the National Center for School and Youth Safety would compile information about the best practices in school violence prevention, intervention, and crisis management. Specifically, the center would work to ensure that local governments, school officials, parents, students and law enforcement officials and agencies are aware of the resources, grants, and expertise available to enhance school safety and prevent school crime, giving special attention to providing outreach to rural and impoverished communities.

In addition, my amendment would boost coordination among the three Federal agencies most involved with the crucial issue of school safety by authorizing a total of \$24 million in grants by the secretaries of Education and Health and Human Services and the Attorney General to help communities develop community-wide safety programs involving all its members: students, parents, educators, counselors, psychologists, law enforcement officials and agencies, and civic lead-

ers. Grant funds may be used for activities that may include efforts to increase early intervention strategies; expand parental involvement; increase students' awareness of warning signs of violent behavior; promote conflict resolution; increase the number of after-school programs; and expand the use of safety-related equipment and technology.

The School Safety Enhancement amendment is endorsed by the National Education Association, the Children's Defense Fund, the International Brotherhood of Police Officers and the Georgia Association of Chiefs of Police. On behalf of America's schoolchildren and safety in our schools, I urge my colleagues to vote for this amendment.

Mr. President, I reserve the remainder of my time 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. CLELAND. 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. CLELAND. Mr. President, I ask unanimous consent that time under the quorum call be charged equally to both sides.

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

Mr. CLELAND. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use. Is the time evenly divided?

The PRESIDING OFFICER. The time is equally divided between the Senator from Georgia and an opponent of the amendment.

Mr. KENNEDY. Mr. President, if the Senator from Georgia would be good enough to yield on his time, I don't know of opposition. We haven't been notified of the opposition. I want to take a moment to share with our colleagues a bit of the background on this amendment. This has been something that the Senator from Georgia has been interested in and committed to for some period of time.

During the past weeks and months, he has taken the time to speak to me on a number of different occasions. He has talked to the members of the Education Committee about this issue. I am familiar with the fact, going back over a period of time when the Senate considered the reauthorization of this legislation previously, over a year ago, that the Senator from Georgia was very much involved in the developing of the legislation. He has read closely, obviously, the Department of Justice and Education study, which came out in 1998. In that study, this was one of the very important recommendations that they had. But he has taken a broad recommendation and sharpened it a good deal.

I know he has spent a good deal of time talking to those who had initially been involved in recommending the study and has prepared this in a way which I think is enormously important and can be incredibly helpful. As I was listening to the good Senator and thinking about the times he has talked to me about it, I hope we are going to have the sufficient resources to be able to deal with this issue. I am convinced that if we can get this started and get to do even part of the things that the good Senator from Georgia has hoped that it would achieve and accomplish, we can develop the kind of enhanced support for this program that is necessary.

What the Senator is basically pointing out is the great challenges of so many of the young people who are in school, going to school, after school, in a school community, and the kind of violence that is affecting these young people. It is a form of intimidation, a form of bullying, and it obviously has very important adverse impact on the willingness of children to either go to school or their attitude toward school when violence takes place in the time period after school but in the proximity of the school. He has framed it in a broad way to challenge the center itself to draw on all of the community and community resources, which I think is obviously enormously useful. He is talking about the entire community, and he is talking about steps that can be taken in terms of prevention and intervention. He is talking to the various school personnel so they will have the training which too many of them don't have now to be able to anticipate these problems. He is talking about involvement of the students themselves and community members in these activities.

I can think of a number of different schools in my own city of Boston where the students themselves have become very much involved in assuring safe passage, so to speak, for children to be able to go to the school, while they are at school, and after school. It is a very important success. This is one of those situations where some guidance, some training, some information in the community can have an enormous payoff. I think the result will be a safer climate and an atmosphere in which the children can learn.

I think this is a very well thought through program. He has done a great deal of work in the fashioning and shaping of it. The security of the children in school we try to address to some extent in the safe and drug-free schools. I can see this as a complement to those efforts as well. I think as a result of this amendment the children in that community, as well as teachers and parents, and the whole climate and atmosphere around schools, which in too many instances, tragically, are threatened, would be made safer and more secure.

I commend the Senator for his initiative and thank him for his work in this

area, and I indicate that I hope, when the Senate does address this issue, we have very strong and overwhelming support.

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. JEFFORDS. 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. JEFFORDS. Mr. President, I want to give people notice that there will be a change in the time of the vote this evening. I ask unanimous consent that the previously scheduled vote begin at 5:45 today.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed without the time being charged to either side.

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

#### AMENDMENT NO. 460

Mr. KENNEDY. Mr. President, I was not here at the time my good friend, the Senator from Nevada, Mr. REID, offered his amendment about afterschool literacy programs. This would expand the 21st Century Community Learning Centers' eligibility to certain organizations to include projects with an emphasis on language and life skill programs for limited-English-proficient students.

I wish to add my support for that program. We had an excellent debate last week when the Senate addressed the issue about increasing support for the limited-English-speaking programs. We pointed out at the start of the debate that, under the existing legislation, we were only reaching about 25 percent of the children who would need these programs.

Then time was taken by the good Senator from Arkansas, myself, and others to point out what has been happening in our school systems with limited-English-speaking students. The number of children has doubled in the last 10 years.

If one looks at what happened over the next several years, the numbers went up dramatically. This is true with regard to Hispanics, but it is also applicable to other children.

I mentioned earlier in the debate my not so recent, several months ago, visit to Revere High School in Revere, MA, where they have children speaking 43 languages. The school is involved in 12 to 14 language classes and expects to expand in the next few years. It is an enormous challenge to schools, but schools are attempting to respond in an extraordinary way.

Encouraging afterschool programs, encouraging programs in these afterschool settings makes a good deal of sense to me. There are a variety of activities in the afterschool programs. In

many instances, there are excellent tutorial services, excellent supplementary services. In some areas, there are just athletic programs.

There are different programs in each afterschool program. For example, in one I visited recently, they have an excellent program in photography and also a second program in graphic arts. A number of the children were coming to this afterschool program.

The fascination of the children in graphic arts and also in photography was overwhelming. Because children were interested in those activities, they were becoming more interested in their school work as well. It has a symbiotic effect.

Senator REID's amendment makes sure children will also have an opportunity for continued training in language in the afterschool programs. If the local jurisdiction chooses to do so, it can utilize the assets they have for that type of activity. It makes a great deal of sense to me. The Senator is to be commended for it.

We have found that where we have these effective programs, the favorable impact in student achievement has been extraordinary, and where we do not have these programs, the children have difficulties.

This is a continuum of opportunity for children with limited English capability, and it is a wise policy decision. I congratulate the Senator for his initiative and hope the Senate will support the amendment when we have the opportunity to do so.

I suggest the absence of a quorum, with the time to be charged to the opposition to the amendment of the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative 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.

Mr. KENNEDY. Mr. President, how much time is in opposition?

The PRESIDING OFFICER. There are 5 minutes 8 seconds left in opposition.

Mr. KENNEDY. I yield myself that time.

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

Mr. KENNEDY. Mr. President, I see my friend on the floor, the Senator from Georgia, who is the primary sponsor of this amendment. I now have the excellent study which was the basis of his amendment, "Early Warning, Time-ly Response: A Guide to Safe Schools." I know he is familiar with this study. One of the conclusions in this excellent study is that there is valuable information available on recognizing the warning signs of violent behavior; that in dealing effectively with a school crisis, one of the tragedies is schools have become the experts after they face vio-

lence that is destructive and harmful to the children themselves who are attending these schools.

As I understand, one of the principal reasons the Senator is offering the amendment is so that we will have a central clearinghouse available to public schools all across the country where the school administrators, teachers, and others with responsibility for security within the schools can tap into and draw from the experience of other schools that have had successful programs.

Is this one of the purposes for the amendment?

Mr. CLELAND. The Senator is absolutely correct.

I thank the Senator from Massachusetts for his leadership role not only in the area of education and in working with this piece of legislation, but in the area of school safety.

The Senator is correct; this report from 1998 that the Senator refers to is, quite frankly, shocking to me in the sense that it has indicated how broad based the real question of violence in our schools really is. It indicates to me that we need a broad-based approach.

The facts from this report indicate that a third of the violence involving teenagers in this Nation occurs in our schools. That is shocking. It seems to me, then, that the distinguished Senator from Massachusetts is correct that we need this broad-based approach and a national center, a national clearinghouse to make sure that communities are in touch with one another.

I can testify that the little community of Conyers, GA, not far from my hometown of Lithonia, GA, has within it Heritage High School. That community was in shock, in trauma really, for months after the school shootings there. The community was wondering what in the world to do, whether to enhance counseling, whether to improve police protection, whether to enforce tighter laws or what.

With this center that we are setting up, the National Center for School and Youth Safety, one can inform any community that goes through such a tragedy and such trauma what other communities have done and what resources are available to assist them. These are not resources just available to schools; these are resources available to counselors and law enforcement agencies.

I note that not only are the teachers of America—the National Education Association—behind this legislation, and those who defend our children in America—the Children's Defense Fund—but also law enforcement is behind this piece of legislation—the International Brotherhood of Police Officers and the Chiefs of Police in my own home State.

I am thrilled with this kind of support, but, again, the Senator is correct. It was not my idea. This amendment was really the outgrowth of a report in 1998, issued by the Department of Education, that found, in coordination

with the Department of Justice, this incredibly high number of incidents of violence. I thought it was incredible that students from age 12 to 18 were victims of more than 2.7 million crimes at school and the victims of 253,000 serious violent crimes.

When I was growing up in my home community, this level of violence, this level of crime, was unheard of, unthinkable. I can remember our high school principal articulated a principle that is embodied actually in this legislation, that a school cannot live apart from the community. So our schools are not just separate oases out there, monasteries that are separate from the community; they reflect what is going on in the community. That is why our approach isn't just some assistance to schools or teachers and counselors; it is assistance to law enforcement, to community leaders, nonprofit organizations, because violence is that broad bound, and it is not just located in one particular place.

The distinguished Senator from Massachusetts is correct. It is one reason why we have incorporated immediate access to this center in the form of a toll free, nationwide hotline for students to report criminal activity, threats of criminal activity, high-risk behavior such as substance abuse, gang or cult affiliation, or other warning signs of potentially violent behavior.

There is a special emphasis, too, on rural and impoverished communities. Violence knows no boundaries. Our rural and impoverished communities are just as susceptible to violence as any others.

I thank the Senator for his willingness to assist me in this amendment. I thank him and his staff for the courtesies they have exhibited toward us.

Mr. KENNEDY. Mr. President, I remind the Senate that the study, which is the basis for this amendment, is entitled "Early Warning, Timely Response: A Guide To Safe Schools." The study itself was sent out to principals of schools across the country, but if teachers or parents are interested, they can write the Department of Justice or the Department of Education and get this study. It is also available on line as well.

I want to mention one quote from Wilmer Cody, Kentucky Commissioner of Education:

Coordinated school efforts can help. But the solution does not just rest in the schools. Together we must develop solutions that are community-wide and coordinated, that include schools, families, courts, law enforcement, community agencies, representatives of the faith community, business, and the broader community.

I think that is what is unique in the Cleland proposal. It isn't just relying on one aspect of the community; it includes all of those elements. It is described in this report. I think it will be a center which will have information of essential importance to every school in this country. I think every school in the country would be wise to continue

to upgrade their own information because it will be a resource that will explain what is working, what has been effective, what has been successful.

Finally, we have to start by recognizing that schools are safe places. They are safe places for children. We are all mindful of the tragedies, the tragic killings that have taken place, the shootings that have brought such enormous tragedy to the families of people who have been affected by acts of violence.

Parents are constantly concerned about how safe their children are when they go to school every day. But the essential fact is, children are safe in their schools. I think people understand that. We understand that. But we want to make sure they are going to continue to be safe. There are too many instances of violence. The instances that have occurred are a real concern to us. We want to reduce them and make the schools even safer.

That is what the amendment of the Senator from Georgia is all about. As I mentioned, I hope those who follow this debate—and it is a difficult debate to follow since we are on this legislation for a few days and then have intervening matters, but nonetheless, I hope they will have the chance to review that study and this amendment. We think this amendment will be an important addition to the bill.

I thank the Senator again.

Mr. CLELAND. Will the Senator yield?

Mr. KENNEDY. Yes, I am glad to yield.

Mr. CLELAND. Mr. President, I ask unanimous consent that Senator LEVIN be added as a cosponsor to this amendment.

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

Mr. CLELAND. I thank the Senator from Massachusetts for his leadership. I urge the Senate to adopt the amendment.

Mr. KENNEDY. We will have that chance.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

AMENDMENT NO. 465 TO AMENDMENT NO. 358

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the two pending amendments be temporarily laid aside and I call up amendment No. 465.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. FEINGOLD, proposes an amendment numbered 465 to Amendment No. 358.

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

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

The amendment reads as follows:

(Purpose: To improve the provisions relating to assessment completion bonuses)

On page 776, strike lines 1 through 5, and insert the following:

“(b) ASSESSMENT COMPLETION BONUSES.—

“(1) IN GENERAL.—At the end of school year 2006-2007, the Secretary shall make 1-time bonus payments to States that develop State assessments as required under section 1111(b)(3)(F) that are of particularly high quality in terms of assessing the performance of students in grades 3 through 8. The Secretary shall make the awards to States that develop assessments that involve up-to-date measures of student performance from multiple sources that assess the range and depth of student knowledge and proficiency in meeting State performance standards, in each academic subject in which the State is required to conduct the assessments.

“(2) PEER REVIEW.—In making awards under paragraph (1), the Secretary shall use a peer review process.

Mr. WELLSTONE. Mr. President, this amendment that I have called up—I do it now because I am hoping—and I certainly thank the Senator from Vermont for his focus on policy last week and his support of an amendment I had on testing. But this amendment is really simple and straightforward. I thought tonight would be a good time to introduce it.

Right now, in S. 1, the Secretary can give bonuses to States if they complete their assessments ahead of the deadline outlined in the law, which is the 2005-2006 school year.

What we are saying in the amendment is that actually what we ought to do is to, instead, give bonuses to States for developing and using high-quality assessments. That is really where any bonus ought to go.

So what this amendment would do is change the bonus grant so the rewards would go to States if they develop high-quality assessments as determined by a peer review process that would be set up by the Secretary—that is done all the time—instead of awarding grants to States just because their assessments get done quickly.

The point is not whether they are done quickly, the point is to make sure this is high-quality assessment. To emphasize the thoughtful development of high-quality assessments, these bonuses would not be rewarded until the date at which the new annual testing goes into effect.

So I want to start out by saying to colleagues that this is very consistent, interestingly enough, with the piece that Secretary Paige wrote in the Washington Post this weekend. He writes:

A good test, the kind the President and I support, is aligned with the curriculum so the schools know whether children are actually learning the material that their States have decided the child should know.

So I am saying now and what I was saying last week—that I absolutely agree and, of course, the majority of my colleagues agreed—is let's make sure we meet the basic criteria that the tests are comprehensive—you don't just have to take off-the-shelf, single standardized test—and that the tests

are coherent, that they are measuring the curriculum being taught, and they are continuous so we can measure the progress of a child over time.

Well, I think what Secretary Paige said in his op-ed piece in the Washington Post is, yes; we want to make sure that this is high-quality testing. So I was looking at the language in the bill, I say to my colleagues, and I thought, wait a minute, we don't want to have an incentive saying that the sooner you do the assessment, the more likely you are to get a bonus because then the incentive is all in the wrong direction.

What we really want to say is we do not want people rushing and we do not want people as a result of that rush—and I have heard Senator KENNEDY talk about this more than once—to use off-the-shelf, relatively low level tests. We want to reward States and provide bonuses for doing high-quality testing. That is what this amendment is about.

I was not here earlier, but I thank my colleague and friend from Wisconsin, Senator FEINGOLD, who is a cosponsor of this amendment. He came to the Chamber earlier, and I understand he made some very thoughtful comments on the general issue of high quality and fair assessments, and he also raised some very legitimate questions and concerns about the direction in which we are moving.

I could spend a lot of time on this. I do not think I need to draw from the different reports and studies that have taken place about the importance of getting it right and making sure this is high-quality testing.

If we want to get the tests right, then we ought to provide bonuses for States that do the best job. That is really where the bonuses should go.

My point is, let us enhance the accountability systems by enhancing the quality of assessments so that we do not make a mistake, and the way to do that is to provide incentives for States, bonuses for States that do a high-quality job with high-quality tests.

That is what I tried to do last week and this week—and I so appreciate the support of the Senators from Massachusetts and Vermont. There will come a point in the debate where I am going to raise the philosophical question—which I do not know I have answered in my own mind—as to whether the Federal Government ought to be dictating this to States and local school districts. That is the question. We have done it before with title I, but this goes way beyond what we have done.

The part of the op-ed piece Secretary Paige wrote with which I do not agree is the opening sentence:

Anyone who opposes annual testing of children is an apologist for a broken system of education that dismisses certain children and classes of children as unteachable.

My fear is, I say to Senator JEFFORDS, I thought when we were marking up this bill we were saying two things. We were saying yes to accountability and we want to do it the right

way, and we were also saying yes to making sure there were resources for the tools, for the students and for the teachers to do well.

My concern is, given where we are heading with the budget resolution and where we are heading with this tax cut, as a matter of fact, we are not going to have the resources to help students do better. In which case it seems to me a little disingenuous at best and, I frankly argue, cruel at worst, to take a fourth grader or a third grader, since we start at age 8, who has been in a school where there have been two or three teachers during the school year—that is not uncommon in some of the inner-city schools, and expect those children to do as well as students who have had the best teachers and the best opportunities.

Low income children do not have the support necessary to do well, most particularly in the area of early childhood education. A child who comes to kindergarten and is way behind other children who had good nurturing, stimulation, had the best of early childhood development either from their own family or in a really good childcare center the parents could afford, has an immeasurable disadvantage. Yet, we will basically say, without any additional help, that we are going to fail her.

We already know these children are not going to do well. The thing Secretary Paige is missing in his piece today is what he testified to before our committee. He said, yes, we need the resources. I do not see those resources, and I think this will end up not being a good piece of legislation if we do not have both.

The two colleagues who are in the Chamber, the Senator from Massachusetts and the Senator from Vermont, have made the same point: We need the resources to go with accountability.

I have an amendment—I am ready to do it at a good time—that is a trigger amendment—linking the new testing to the funding 79 of us voted for in the Dodd-Collins amendment on fully authorizing title I. My amendment would ensure that there is additional money for reading help, quality teachers, preschool and afterschool care.

All that is going to be a key debate. Right now I am in a pragmatic mood, and I am just trying to make sure the testing is done the best possible way. Even if I do not end up voting for the bill, I still want it to be the best possible bill.

I think we ought to provide the bonuses for the high-quality testing. It seems to me a mistake that the bonuses go only to the States that develop their assessments as quickly as possible. I hope I get support from my colleagues.

The PRESIDING OFFICER. The Senator from Massachusetts.

MR. KENNEDY. Mr. President, I thank the Senator for what I hope will be an accepted amendment. The administration is offering the bonuses to en-

courage States to move ahead. The Senator has rightfully put his finger on the fact that we want to make sure the tests are not going to be off-the-shelf tests and responding to rote information but are a reflection of what the children actually learned and how they think.

That is done in a number of States at the present time. The administration wanted to provide encouragement to States to do it. We had, the Senator may remember, in the previous elementary and secondary education title I program, put in a provision encouraging States to do it, and only 10 or 12 States actually did it. We provided flexibility for them to do it in the elementary, middle, and then the senior year. A number of the States did but most did not.

The administration was trying to encourage States to move ahead. I support that concept, but I absolutely agree with the Senator from Minnesota: First, we want to have good tests. We had that debate last week.

The bill is strengthened with the amendment of the Senator from Minnesota. This is a follow-on that says we want to encourage good tests and we want to get it done as early as possible.

As I understand, there are 15 States now which have tests between the third and the eighth grade. The basic reviews, the studies that have been done on those tests, say of the 15, 7 States have very well designed tests that are generally recognized to meet this criterion to test the children's ability to think and comprehend the information and then be able to respond to challenges using that information in an effective way in response to questions. We want to encourage that.

It takes time to do tests well. There are a number of steps. We want good tests. We want a good curriculum. We want well-trained teachers. That is what we are trying to do, get well-trained teachers, and we have the provisions in the legislation to do that. We want to get the curriculum formed, and we have provisions in the legislation to do that.

We want accountability with tests which we are encouraging, and with the Wellstone amendment we can do that. With the Wellstone amendment and the bonuses, this is a very useful and helpful amendment. I am very hopeful at the appropriate time we will be able to successfully urge Senators to accept this amendment.

Senator WELLSTONE has targeted one area of concern to me and I think to many here, and that is to make sure we are going to get good tests and not just the off-the-shelf tests which are taught to and really do not reflect the progress all of us want to see in terms of children learning.

I thank him very much. We had talked about this concept before, and he has taken the concept and put it into legislative form. I had not seen it before. There may be some parts to it—but I cannot spot them—that may be

of trouble to some of our colleagues, but I hope at the appropriate time we can move ahead and accept the amendment.

I thank the Senator for the development of this amendment. This amendment and the other amendment he had immeasurably strengthen the legislation.

I don't want to end this part of the discussion without saying I agree with him about the importance of the resources. I am somewhat more hopeful than he is that by the end of the day we are going to be able to get them. Maybe it is a false hope. I do not believe it is. But I know he will be helping us and doing everything he can to help us get them whenever we can.

I know the depth of his own feeling. I respect it, although I might have some difference in the final conclusions he comes to with regard to the overall legislation.

This is an important amendment. I am hopeful it will be accepted at an appropriate time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator for his gracious remarks and thank him for his support of this amendment.

#### AMENDMENT NO. 600

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, earlier today I had a followup amendment 600 that I offered to create a crisis hotline so parents and schoolchildren who see a child carrying a weapon or making a serious threat can call on that hotline and something would be done about it because in the most serious high school violent cases we have had in America those children were sending signals in advance and perhaps lives have been saved in that regard.

I offered the amendment earlier, and I ask unanimous consent to ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 389

Mr. JEFFORDS. Mr. President, I call up Senator VOINOVICH's amendment No. 389.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is now pending.

Mr. JEFFORDS. 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.

Mr. JEFFORDS. I ask unanimous consent that the amendment be set aside and the regular order be resumed.

#### VOTE ON AMENDMENT NO. 460

The PRESIDING OFFICER. The amendment is set aside.

The pending amendment by previous order is now the Reid amendment No.

460. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

#### [Rollcall Vote No. 101 Leg.]

##### YEAS—96

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

##### NOT VOTING—4

Akaka	Lieberman
Harkin	Mikulski

The amendment (No. 460) was agreed to.

#### AMENDMENT NO. 376

The PRESIDING OFFICER. There is 2 minutes equally divided on the Cleland amendment No. 376. Who yields time?

Mr. JEFFORDS. Mr. President, I yield back my time.

Mr. CLELAND. Mr. President, I yield my time back.

The PRESIDING OFFICER. All time is yielded back.

Mr. CLELAND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment of the Senator from Georgia. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 74, nays 23, as follows:

#### [Rollcall Vote No. 102 Leg.]

##### YEAS—74

Allen	Domenici	McConnell
Baucus	Dorgan	Miller
Bayh	Durbin	Murkowski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Fitzgerald	Reed
Burns	Graham	Reid
Byrd	Gramm	Roberts
Campbell	Grassley	Rockefeller
Cantwell	Harkin	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchison	Sessions
Cleland	Inouye	Shelby
Clinton	Jeffords	Smith (OR)
Cochran	Johnson	Snowe
Collins	Kennedy	Specter
Conrad	Kerry	Stabenow
Corzine	Kohl	Stevens
Craig	Landrieu	Torricelli
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lincoln	Wellstone
DeWine	Lugar	Wyden
Dodd	McCain	

##### NAYS—23

Allard	Frist	Lott
Bennett	Gregg	Nickles
Bond	Hagel	Santorum
Brownback	Hatch	Smith (NH)
Bunning	Helms	Thomas
Chafee	Hutchinson	Thompson
Ensign	Inhofe	Thurmond
Enzi	Kyl	

##### NOT VOTING—3

Akaka	Lieberman	Mikulski
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The amendment (No. 376) was agreed to.

#### AMENDMENT NO. 600

Mr. JEFFORDS. Mr. President, I ask unanimous consent to call up amendment No. 600 of Senator SESSIONS.

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

Mr. JEFFORDS. I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JEFFORDS. I believe this amendment is acceptable to both sides. I ask the Senator from Massachusetts.

Mr. KENNEDY. Yes. Mr. President, I hope the Senate will accept this amendment. The Senator explained it earlier, and I think it is a useful addition to the legislation. I hope it will be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 600) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. 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 Pennsylvania.

#### AMENDMENT NO. 388, WITHDRAWN

Mr. SPECTER. Mr. President, I sought recognition to withdraw amendment No. 388, which is a second-degree amendment to the amendment offered by the Senator from Washington, Mrs. MURRAY. I have done so because pursuant to some substantial complications

of the bill and a number of corrections, I believe the underlying bill accomplishes what I have sought, and that is to allow the States to have discretion to use funds under this bill for classroom size or additional teachers if they choose to do so.

There is a long and involved history to this issue which came up on the appropriations bill which I managed last year in my capacity as chairman of the Appropriations Committee, Subcommittee on Labor, Health and Human Services, and Education. But in any event, the objective which I have sought will be accomplished by the underlying bill, and it would simplify the process if I withdraw the amendment, which I hereby do.

I thank the Chair.

Mr. JEFFORDS. I thank the Senator from Pennsylvania.

The PRESIDING OFFICER. The amendment is withdrawn.

#### AMENDMENT NO. 600

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to make a few remarks on amendment No. 600, as agreed to.

Mr. JEFFORDS. Go ahead.

Mr. KENNEDY. We appreciate the courtesy of the Senator from Alabama. But I think we are not quite prepared to offer a consent agreement on the procedures for tomorrow. We are awaiting that agreement. We welcome the Senator's comments on that legislation.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, one of the things we have learned from the shootings in a number of the schools that have traumatized all of America is that quite often certain individuals, family, schoolmates, or others had reasonable cause to believe that a child might be about to commit some serious act of violence. But in each of those cases, no real intervention occurred, and the act of violence was carried out.

Back in my hometown of Mobile, AL, we had a problem of children using guns and bringing them to school. I was a U.S. Attorney, and we had a big meeting with the district attorney and the sheriff, the juvenile judge, the juvenile referee, the Colleagues for Drug Free Mobile, and the Drug Council. We talked about how to deal with it, and we came up with the idea of a bumper sticker that we called "Kid With A Gun Call 911."

The police chief said if they received a call from a parent or a child who made a serious allegation that another child was carrying a weapon or maybe about to plan something dangerous, the police would followup on that call. Bumper stickers were put on the police cars, and the message got about town.

Later, the State of Alabama adopted a hotline in which they set up the same kind of thing with a centralized 24-hour-a-day center to receive those calls from all over the State. Within 2 weeks of the setting up of that hotline, quite

a number of calls were received. I think there were about 400 calls in that short period of time. Many of those came from 5 to 9 o'clock at night and came from parents or grandparents of children who had seen or heard things that troubled them where the kids went to school.

I believe a hotline of this kind should be given serious consideration by other States.

This legislation will make clear that the funds already appropriated can be used for safe schools and violence prevention, and that creating a hotline of this type would be a permissible use of that money.

A mechanism needs to be set up so that anyone who has a serious cause for concern would know precisely where they could call. They would not have to give their name under most circumstances. Then perhaps something could be done to intervene in the situation.

If, for example, a child comes home and says that down the street in the vacant lot Billy is playing with a gun, and he says he is going to shoot somebody, the mother, the grandmother, or somebody at home could make that call. Somebody would come out and check it out. They are not going to arrest the person if he doesn't have a gun. They are just going to ask questions about it.

Perhaps those kinds of immediate responses and immediate interventions would be effective in reducing the likelihood that a child would actually go and shoot someone. In fact, we could get a lot of illegal weapons off the street.

I think this is a good approach. It is legislation that we discussed in depth when the juvenile justice bill was moving through this Senate and passed this Senate, but it never became law. I think that this provision is appropriate for schools. I believe it would be a good preventive tool for violence.

I thank the Senate and the leaders on both sides for agreeing to allow this amendment to be approved and made a part of this bill. I hope and pray that this type of intervention may prevent violence and possibly save lives.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### AMENDMENT NO. 443

Mr. VOINOVICH. Mr. President, I call up amendment No. 443.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH], for himself, Mrs. FEINSTEIN, Mr. COCHRAN, Mr. BAUCUS, Ms. LANDRIEU, and Mrs. MURRAY, proposes an amendment numbered 443.

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

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

The amendment is as follows:

(Purpose: To amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers)

On page 893, after line 14, add the following:

#### SEC. \_\_\_\_ . LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the "Loan Forgiveness for Head Start Teachers Act of 2001".

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078-10) is amended—

(1) in subsection (b), by amending paragraph (1) to read as follows:

"(1)(A) has been employed—

"(i) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

"(ii) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

"(B)(i) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

"(ii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

"(iii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and";

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

"(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (ii) of subsection (b)(1)(A) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001."; and

(3) by adding at the end the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (ii) of subsection (b)(1)(A)."

(c) CONFORMING AMENDMENTS.—Section 428J of such Act (20 U.S.C. 1078-10) is amended—

(1) in subsection (c)(1), by inserting "or fifth complete program year" after "fifth complete school year of teaching";

(2) in subsection (f), by striking "subsection (b)" and inserting "subsection (b)(1)(A)(i)";

(3) in subsection (g)(1)(A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(A)(i)"; and

(4) in subsection (h), by inserting "except as part of the term 'program year,'" before "where".

(d) DIRECT STUDENT LOAN FORGIVENESS.—

(1) IN GENERAL.—Section 460 of the Higher Education Act of 1965 (20 U.S.C. 1087j) is amended—

(A) in subsection (b)(1), by amending subparagraph (A) to read as follows:

"(A)(i) has been employed—



“(I) as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

“(II) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

“(ii)(I) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower’s academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed;

“(II) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

“(III) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and”;

(B) in subsection (g), by adding at the end the following:

“(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in subclause (II) of subsection (b)(1)(A)(i) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2001.”; and

(C) by adding at the end the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 2007 and succeeding fiscal years to carry out loan repayment under this section for service described in subclause (II) of subsection (b)(1)(A)(i).”.

(2) CONFORMING AMENDMENTS.—Section 460 of such Act (20 U.S.C. 1087j) is amended—

(A) in subsection (c)(1), by inserting “or fifth complete program year” after “fifth complete school year of teaching”;

(B) in subsection (f), by striking “subsection (b)” and inserting “subsection (b)(1)(A)(i)(I)”;

(C) in subsection (g)(1)(A), by striking “subsection (b)(1)(A)” and inserting “subsection (b)(1)(A)(i)(I)”;

(D) in subsection (h), by inserting “except as part of the term ‘program year,’” before “where”.

Mr. VOINOVICH. Mr. President, this amendment will encourage young teachers to go into early childhood education, encourage further learning and credentialing of early learning educators, and lead to better education for our nation’s youngest children.

I am pleased to be joined by Senators FEINSTEIN, COCHRAN, BAUCUS, LANDRIEU, MURRAY and CORZINE in offering this amendment.

If one asks virtually any scientific expert in human development or any mother for that matter—and they will tell you that there is no more important time in a child’s life than their earliest years.

In terms of priorities, the experiences and learning that fill a child’s first years have a critical and decisive impact on the development of the brain and on the nature and extent of their adult capacities—in other words, who they will become as they grow older.

That window of opportunity can be impacted by things that are within our control.

To maximize their potential, we must begin to teach our children the necessary learning skills as early as possible; well before they reach kindergarten.

There is countless amounts of research and data that shows that by focusing on these earliest years, we can make the greatest difference in a child’s development and capacity to learn, and I know of few other programs that provide that kind of focus as does Head Start.

The amendment that I am offering is designed to encourage currently enrolled and incoming college students working on a bachelor’s or a master’s degree to pursue a career as a Head Start teacher.

In exchange for a 5-year teaching commitment in a qualified Head Start program, a college graduate with a minimum of a bachelor’s degree could receive up to \$5,000 in forgiveness for their federal Stafford student loan.

When I was Governor of Ohio, we invested heavily in Head Start, increasing funding from \$18 million in 1990, to \$180 million in 1998.

By the time I left office, there was a space available for every eligible child in Ohio whose parents wanted them in a Head Start or preschool program, and because of our efforts, Ohio led the Nation in terms of children served by Head Start. Today, there are 60,000 children in our Head Start programs.

Now that I am in the Senate, I continue to believe that it is absolutely critical that we do more to help our young people prepare to begin school ready to learn.

In this regard, I was pleased to work with Senators JEFFORDS and STEVENS last year to help pass the Early Learning Opportunities Act. Still, we must now do more to help those teachers who educate our youngest children.

The results of a survey undertaken by the U.S. Department of Health and Human Services in 1999 and 2000 has shown a significant correlation between the quality of education a child receives and the amount of education that child’s teacher possesses; that is, the more education a teacher has, the more effectively they teach their students cognitive skills, the more likely the students are to act upon those skills.

Current Federal law requires that 50 percent of all Head Start teachers must have an associate, bachelor’s, or advanced degree in early childhood education or a related field with teaching experience by 2003.

Under Ohio law, by 2007, all Head Start teachers must have at least an associate’s degree. It is hoped that this requirement will encourage Head Start educators to pursue a bachelor’s or even an advanced degree. After all, the more education our teachers have, the better off our children will be. Unfortunately, as we all know, education can be expensive.

In Ohio today, only 11.3 percent—242—of the 2,126 Head Start teachers employed in the State have a bachelor’s degree. Additionally, less than 1 percent—20—of Ohio’s Head Start teachers have a graduate degree. We must do more to help our teachers afford the education that will be used to help educate our children.

If we do not intervene at this critical time in a child’s life with programs such as Head Start and the Early Learning Opportunity Act, we will not likely reach our goal of “no child left behind.” One of the best uses of our Federal education resources is to target them toward our youngest citizens where they can have the most impact.

Recruiting and retaining Head Start and early childhood teachers continues to be a challenge for Ohio and other States.

This amendment—which is based on the bill that Senator FEINSTEIN and I introduced, the Loan Forgiveness for Head Start Teachers Act, S. 123 will help communities, schools and other Head Start providers to meet the challenge of recruiting and retaining high-quality teachers.

It is one of the best ways that I know of where we can make a real difference in the lives of our most precious resource—our children.

I am pleased to have been able to work with the National Head Start Association, the Ohio Head Start Association, and my Senate colleagues on this legislation. I urge the Members of this Chamber to support this amendment.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. VOINOVICH. Mr. President, I yield the floor to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise in support of Senate passage of the James Guelff and Chris McCurley Body Armor Act. This bill is named after two police officers who were killed in the line of duty by criminal assailants wearing body armor.

I thank Senator SESSIONS, Senator HATCH, and Senator LEAHY, among others, for working so diligently with me to craft and pass this bipartisan legislation.

I would also like to recognize Lee Guelff, brother of James Guelff, as well as the many other individuals who worked tirelessly on behalf of this legislation.

I introduced this legislation almost six years ago in response to the death of San Francisco police officer James Guelff. On November 13, 1994, Officer Guelff responded to a distress call. Upon reaching the crime scene, he was fired upon by a heavily armed suspect who was shielded by a kevlar vest and bulletproof helmet. Officer Guelff died in the ensuing gunfight.



The James Guelff and Chris McCurley Body Armor Act is designed to deter criminals from wearing body armor, and to distribute excess Federal body armor to local police.

Lee Guelff, brother of Officer James Guelff, wrote to me about the need to revise the laws relating to body armor. He wrote:

It's bad enough when officers have to face gunmen in possession of superior firepower . . . But to have to confront suspects shielded by equal or better defensive protection as well goes beyond the bounds of acceptable risk for officers and citizens alike. No officer should have to face the same set of deadly circumstances again.

I strongly agree with Lee.

The legislation has three key provisions. First, it directs the U.S. Sentencing Commission to provide an appropriate sentencing enhancement for any crime of violence or drug trafficking crime in which the defendant used body armor.

Second, it makes it unlawful for a person who has been convicted of a violent felony to purchase, own, or possess body armor.

It is unconscionable that current laws permit felons to obtain and wear body armor without restriction when so many of our police lack comparable protection.

Finally, the bill enables Federal law enforcement agencies to donate surplus body armor (approximately 10,000 vests) directly to local and state police departments;

Far too many of our local police officers do not have access to body armor. The United States Department of Justice estimates that 25% of State, local, and tribal law enforcement officers, approximately 150,000 officers, are not issued body armor.

Getting our police officers more body armor will save lives.

According to the Federal Bureau of Investigation, more than 30% of the 1,200 officers killed by guns in the line of duty since 1980 could have survived if they wore body armor.

This bill has the support of organizations representing 500,000 law enforcement personnel nationwide including: Fraternal Order of Police; National Association of Police Organizations; National Sheriff's Association; National Troopers Coalition; International Association of Police Chiefs; Federal Law Enforcement Officers Assn; Police Executive Research Forum; International Brotherhood of Police Officers; Major city Chiefs; and National Assn. Black Law Enforcement Executives.

Once again, I commend the Senate for passing this important and long overdue legislation.

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. JEFFORDS. 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. JEFFORDS. Mr. President, I ask unanimous consent that at 10:30 a.m. on Tuesday the Senate resume consideration of the Murray amendment No. 378 and there be 120 minutes equally divided in the usual form.

I further ask unanimous consent that at 2:20 on Tuesday the Senate proceed to a vote in relation to the amendment and no amendments be in order to the amendment and there be 5 minutes equally divided for closing remarks prior to the vote.

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

Mr. JEFFORDS. Mr. President, with regard to the Sessions amendment, I ask unanimous consent that the previously agreed to Sessions amendment No. 600 be modified to be drafted to the pending substitute. This is a technical change. It does not change any of the amendment's legislative language.

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

#### MORNING BUSINESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

#### THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, I saw in the newspaper this morning the headline in the Washington Post "Business Seeks Tax Breaks in Wage Bill." This is a reference to the inevitability that I and others are going to offer an increase in the minimum wage. This story is a reference to what the business lobbying groups are doing in preparation for that particular legislation and how they intend to add additional kinds of tax reductions for companies and corporations on that piece of legislation.

We have just seen in the Senate last week a tax reduction of \$1.35 that is excessive and unfair in terms of its allocation among Americans. A number of us voted in opposition to it. We recognized that even in that proposal there wasn't a nickel—not 5 cents—increase for education over the next 10 years—not even a 5-cent increase.

We found \$1,350,000,000,000 in tax reductions, but we couldn't divert any of those resources to education, particularly educating the needy children on whom this legislation is focused, recognizing that these children are our future, recognizing that what we are trying to do is to give greater support to the children and to get greater accountability for the children, the schools, parents, and communities, as well, in this legislation.

It is good legislation, I support it, but it does need to have the resources to be able to have life to it. We didn't get any increase on that.

We are going to have a chance to revisit that issue when the Finance Committee reports back in the next few days with their product on the allocation of taxes, on who is going to get the tax reductions. Many of us will have the opportunity again to present to the Senate: Do we want to see the reduction in the highest rates for the wealthiest individuals, or do we want to use that money, which otherwise would go back in terms of reduced taxes—do we want to use that money to fund education for children in this country?

We will have an opportunity to vote on that several times when the bill comes back. The idea that the ink isn't even dry on that legislation and already our Republican friends on the other side are licking their lips, waiting for an increase in the minimum wage, which is a target to try to help working families working 40 hours a week, 52 weeks of the year, to help them out of poverty.

We have the Republican leader ARMEY saying:

There is a general resolve, especially among Republicans, that you can't put this kind of disincentive in the employment of people on the lowest rungs into play without trying to compensate for its adverse employment effects.

In other words, schools are out, and we are going to have a lot more besides the \$1.35 trillion in tax reduction, that evidently the Republican leadership is waiting for the Senate and the House to take action to increase the minimum wage, hopefully \$1.50 over 3 years, with a 60-, 50-, 40-cent increase in 3 steps, in order to help some of the hardest working Americans.

This is a question about human dignity. It is a question of whether we are going to say to Americans working at the lowest end of the economic ladder that the work they do is important. What is the work they do? Many of them are teachers' aides. Many of them work in childcare centers. Many of them work as nursing aides. Many of them work in the buildings across this country, cleaning them late at night, away from their families. That is what many of these low-income jobs are all about. People work hard at them. They sacrifice in order to get them in many instances. We want to say to those workers that when we have had the strongest economy in the history of the Nation, people who work hard should not have to live in poverty.

It is interesting to note that over the history of the minimum wage we have increased the minimum wage 17 times. It was only the last time, when we increased it, which was 4 years ago, and evidently this time, that we have seen the minimum wage loaded up with tax goodies, tax benefits. We didn't do it the previous 17 times. We didn't do that. But now our Republican friends are looking for a vehicle to carry this load about further tax reductions for the wealthy corporations.

We have had consideration of the tax reduction bill. We have all seen that.

We have heard it. We have debated it. That has been done. Hopefully, that will be it. Hopefully, we are not going to have another backdoor tax reduction here and effectively do it on the backs of our needy workers. I certainly hope not. I understand we might have to make some adjustments on this.

The last time we had an increase, it was in the \$18 to \$20 billion range. I found that offensive but nonetheless supportable. But last year our Republican leadership was talking about over \$100 billion. I would certainly do everything I could to resist that kind of action here.

Let me review briefly what is happening with the minimum wage at the present time. This says: Working hard but losing ground, the declining real value of the minimum wage. If we look at what has happened, in 1992, we have an increase in the minimum wage. Again, we voted it in 1996; it went into effect in 1997. What we have seen since that time is, now at the year 2000, 2001, we have effectively wiped out the increase, the purchasing value of the increase we had in 1996.

What we are talking about is what the red line shows, which would be an increase of \$1.50, which would bring it up to a purchasing power of \$6.14, and we are still not even close to what it was from 1968, 1978, up to, really, 1980. We are not even close to that.

We are talking about the neediest of the needy. Look at this. If we look at what has happened to the minimum wage, we have historically tried to have a minimum wage which is going to be half the average hourly earnings. That has been the basic kind of reference point. Look at what has happened in recent years, how the average hourly earnings have been going up but the purchasing power, the real minimum wage for workers, is falling further and further behind.

This is another chart. This reflects: The minimum wage no longer supports a family above the poverty line. This is the real value of poverty guidelines and the minimum wage. If you look at what the poverty line is, for a family of three at \$15,000, if you look at where the minimum wage is, you will see that it is falling further and further behind the poverty line. The fact is, the poor today continue to be poor and are poorer than at any time in the last 40 years.

This is our proposal we will be looking at, a minimum wage increase. We will be asking for the 60 cents in 2001, 50 cents in 2002, and 40 cents in 2003. This represents the percent of our proposed increase in the minimum wage in relationship to past increases. This is relatively small. We are talking about a 12-percent increase. We increased it about 12 percent in 1996, in 1991. In 1990, we were higher than in 1978. We were just about there in 1976, a great deal higher in 1969, higher in 1968. So this is right in the mainstream of increases. A 60-cent increase is right in the mainstream; 50 cents is a little below the mainstream, and the final 40 cent increase is down even further.

This is what we are going to have before us. I reiterate: This is basically an issue that affects women because the great majority of minimum-wage workers are women—the great majority of workers are women. This is a children's issue because a majority of the women have children.

And so it is their relationship, how the minimum wage worker is going to be able to provide for the children in that home. What happens, of course, is that by and large the mothers have more than one minimum wage job; they have two, or even three jobs, in order to provide for their families. I read with interest the report last week about how parents are spending more time with their parents. While that may be true, I don't know where they find the time and can only imagine at what price. Low-wage workers are working 416 more hours a year than they did twenty years ago. And studies have shown that in 1996, families, on average, had 22 hours a week less to spend with their children than they did in 1969, because their parents are working longer hours and, in some cases, working two, sometimes even three jobs.

So it is a women's issue, a children's issue. It is a civil rights issue because many of the men and women who earn the minimum wage are men and women of color. And, most of all, it is a fairness issue, that here with the strength of our economy, we ought to be able to say that in the United States of America, if you work hard, play by the rules, try to bring up children, you should not have to live in poverty.

Finally, I point out that the Senate of the United States was quite willing to increase its own salary last year by \$3,800. We were glad to do that, but we are unwilling to have an increase in the minimum wage. Now we are told that they are going to hold the minimum wage hostage unless they get billions and billions and billions and billions more in tax breaks for the wealthiest corporations and individuals in America—that is wrong; that is absolutely categorically wrong—and add that on top of the tax breaks they have just had. I mean, how much greed can there be, Mr. President? How much greed can there be, and at the expense of the lowest income working Americans? How much greed can there be?

This idea, well, we have to look and see the pressure that this provides in terms of—that it puts on businesses in terms of employment, and the inflation rate, well, I hope we are not going to hear much about that. You will hear much about it, but it has been so discredited, so discredited. We could go back to the times of the last increase in the most recent times—1992, 1997—and I will show you the expansion in the job rate here in this country among every group, including teenage minorities. We are going to hear a lot that you really don't care about teenage minorities.

It is the same people who say I don't care about teenagers who say you are

not really interested in health insurance; but if you pass a Patients' Bill of Rights, a lot of companies will drop the health insurance and you will get a lot more uninsured, and that is the reason I am not voting for it. That is the first time words ever came out of their mouths about how they are interested in expanding health insurance—when they are opposing the Patients' Bill of Rights.

We are going to hear similar arguments, and those arguments have been dismissed, shattered, and I understand that we are going to have to pay a toll because the Republican leadership is going to insist on it. They insisted last year. The price was going to be \$100 billion last year—\$100 billion. The newspaper report today says it is going to be just about that much this year. That is the toll to get through the gate for an increase in the minimum wage put on there by the Republican leadership.

Make no mistake about it. If the Speaker and the majority leader said no, it would not be there. It is the second time in the history of the minimum wage we are going to have it packaged with tax goodies for the wealthiest individuals. The ink is not even dry on the most dramatic tax reduction that we have had in recent times, Mr. President, at the expense of other vital priorities. It just doesn't work.

Maybe the Republican leadership is able to try to muscle that through, but they are going to take some time on this and they are going to have some votes on it. We are going to find out—the American people are—who is on the side of those working families and who is on the side of trying to make sure that we are not going to have a giveaway in terms of these taxes. That would be absolutely wrong.

Sooner or later, it is going to come down to which party represents you and stands by you. Well, you are going to find out; you can tell where those special interests are going to be. They will know who stands by them. It is going to be the Republican leadership because they are going to try to add \$100 billion more in tax goodies for them. But the workers of America are going to know who stands by them as well by the end of this debate.

I yield the floor.

Mr. WELLSTONE. Mr. President, first of all, let me thank Senator KENNEDY for his very strong words about the minimum wage. I want him to count me in as a very strong supporter as we bring this legislation to the floor of the Senate. I think the Senator from Massachusetts, in his own characteristic strong, proud way, has made it very clear what is at stake with this minimum wage legislation. I thank him for his remarks.

I will use this opportunity to reinforce some of the comments made by my friend, the Senator from Massachusetts.

It is pretty amazing to see a front page story in the Washington Post,

"Business Seeks Tax Breaks in Wage Bill"—I believe I heard the Senator from Massachusetts say perhaps to the tune of \$100 billion or thereabouts.

I want to say to Senators, I think this minimum wage bill goes to the heart and soul of the question of whether we have a heart and soul as a Senate. We are now at \$5.15 an hour, and we are talking about trying to get this up to \$6.15 an hour, then to \$6.65 an hour, in increments.

I am going to make two or three points. The first is personal, but it really is true. If we are going to vote ourselves a raise of over \$4,000 a year—Senators make about \$140,000—some a year—it seems to me we ought to be able to vote for a raise in the wage of the lowest paid workers. We are talking about people who work 40 hours a week, almost 52 weeks a year, and they are still poor.

I think there is no standard of justice here if we are going to vote a hefty increase for ourselves—we are handsomely rewarded for our work—and yet are unable to raise the minimum wage for the lowest paid workers.

Second, in Minnesota there is a stereotype that it is teenagers working part-time who receive the minimum wage. The fact is, many more people are paid the minimum wage. At the moment—and we will see what happens with the economy, some employers are paying higher wages—many people are working minimum wage, a disproportionate number of them women. I think it is a matter of elementary justice for women and other working poor people to raise the minimum wage.

Finally, it takes some real chutzpah on the part of my colleagues, the Republican leadership, to say the only way you are going to get a minimum wage bill through, which speaks to people who are working 52 weeks a year and are still poor in America, is to add in all kinds of corporate welfare and breaks for large businesses.

Democratic Senators, that is the deal you have to accept. We are going to bleed the revenue base with these Robin-Hood-in-reverse tax cuts that the majority party is trying to push through the Senate this week or next week, with over 40 percent of the benefits going to the top 1 percent, and a pittance, if that, for children, for education. Whatever happened to our commitment for affordable prescription drug costs for elderly people? Now, according to this piece, the strategy is to load onto a minimum wage bill more corporate welfare and more breaks for large financial interests and economic interests in the country.

I think it is transparent. I look forward to the debate. Not that long ago—it seems like just yesterday—we had several weeks' worth of debate about campaign finance reform. There were a variety of different arguments made. I suggest that our failure to raise the minimum wage is all about the need for campaign finance reform. These working poor people, men and women

in our States—nobody can say they are not hard working—who cannot support their families, they are the last people in the world to be able to hire the lobbyists. They do not have lobbying coalitions here. They are the last people in the world to give the big contributions. They are the last people in the world to be the investors in either political party.

But you know what? If you believe it is important for people to earn a decent standard of living so they can support their families and give their children the care they know their children need and deserve, then we ought to be willing to support a raise in the minimum wage. It is just unbelievable to see in today's Washington Post this story.

I don't know, maybe I should not be surprised. Frankly, I do not want to be dishonest. You never want to be dishonest. I don't want to feign total shock because I have looked at the greed that is reflected by this tax cut bill that my colleagues want to bring to the floor, and I have looked at who gets the benefits. So I guess I should not be surprised that now what we have is this all-out vigorous opposition to raising the minimum wage from \$5.15 to \$6.15 and to \$6.65 unless there is corporate welfare, unless we do well by all these large economic interests, unless we get yet more tax breaks for them.

It is really pretty simple to figure out. When I was a political science professor, was it Harold Lasswell's definition that politics is all about who gets what, when, why? That is what this question is about: Who gets what, when, and why?

As I would put it as a Senator from Minnesota: Who decides and who benefits and who is asked to sacrifice? Who decides to keep the minimum wage so low that there are so many people who are poor still today in America?

If you are working hard, and, as some of my colleagues have said, playing by the rules of the game, then you shouldn't be poor in America. You should be able to support your family.

Who decides to keep the minimum wage down? Who decides that instead now we have to load on all kinds of corporate welfare and all kinds of additional tax breaks for large economic interests in the country?

I think people in the country are going to focus on this debate. I look forward to joining Senator KENNEDY and other Senators.

I remember a number of years ago when we first started this debate. I am a proud original cosponsor of this legislation. I don't think any of the arguments that have been made about how, if we raise the minimum wage, we would see a decline in jobs that turned out to be true. The last time we had a raise in the minimum wage—it was very modest—we had colleagues in the Chamber talking about how people were going to lose their jobs. It didn't happen. I would be willing to say that if there is a point at which you raise

the minimum wage at too high of a level you could lose jobs, but it is not going from \$5.15 an hour to \$6.65 an hour.

It seems to me Senators are in a fairly awkward situation when we voted ourselves over a \$4,000 increase in our already high salary and we are not willing to vote to raise the minimum wage for working poor women and men in this country from \$5.15 an hour to \$6.65 an hour so people have a better chance of being able to support their children and support their families. This is a perfect example of the song that was written by Florence Reese from Harland County, KY—the song about which side you are on. In this particular case, it is, whose side are you on? Are you on the side of hard-working people? We all say we are for hard-working people. Or are you on the side of large economic interests? Are you on the side of elementary justice to raise the minimum wage for workers and their families? Or are you going to insist on somewhere in the neighborhood of \$100 billion of yet more tax breaks for economic interests so there is even less for children, even less for education, and even less for affordable prescription drug costs?

I am telling you, my colleagues like to say in the Republican majority that some of these comments are class warfare. And I just have to smile because if there ever were an example of "class warfare", if that is what you want to call it, it would be a U.S. Senate that is so generous to itself in giving ourselves big increases in a big salary and are unwilling to raise the minimum wage for poor working people in our States and in our country.

I yield the floor.

#### TRIBUTE TO CRAIG M. SOMERS

Mr. LOTT. Mr. President, I rise today to pay tribute to the outstanding accomplishments of Craig Somers throughout his 32-year career with the U.S. Senate. I, along with my colleagues, congratulate Craig on his retirement from the Sergeant At Arms Office.

His Senate career began in August of 1962, as a part-time employee and Senate page. In 1969, he became employed full-time with the Printing, Graphics & Direct Mail Department, then known as the Service Department, where he acquired many varied skills, including his initial position as an Addressograph Operator. Craig worked his way up to his current position as the Night Supervisor of the Lithographics Department.

All of us in the Senate thank Craig for his tireless efforts with our printing needs and processing of our constituent mail. His work has helped us keep in touch with those we represent.

Craig, we congratulate you and wish you well in your retirement.

## NOMINATION OF OTTO REICH

Mr. KENNEDY. Mr. President, on April 29, the Los Angeles Times printed a thoughtful op-ed article by former Costa Rican President Oscar Arias that raises troubling questions about President Bush's nominee to serve as Assistant Secretary of State for Western Hemisphere Affairs, Otto Reich.

President Arias discusses the important role played by the Assistant Secretary, and questions Otto Reich's suitability for this position, in light of his record as head of the State Department's Office of Public Diplomacy, his support of President Reagan's policies toward Central America, his involvement in lifting the ban on the sale of advanced weapons to Latin America, and his views on U.S. policy toward Cuba.

I urge my colleagues to read the article. The significant concerns raised by this distinguished Nobel Peace Prize recipient must be carefully considered. I ask unanimous consent that the article by President Arias be printed in the RECORD.

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

[FROM THE LOS ANGELES TIMES, APRIL 29, 2001]

A NOMINEE WHO STANDS FOR WAR  
(By Oscar Arias)

Given the importance of the role of the U.S. assistant secretary of State for Western Hemisphere affairs, many of us in Latin America are surprised and disappointed by George W. Bush's nomination of Otto J. Reich for this post. Reich headed the Office of Public Diplomacy, which was closed down by Congress in the wake of the Iran-Contra scandal because it had, to quote official investigations, "engaged in prohibited covert propaganda activities designed to influence the media and the public."

More than almost any other U.S. diplomat, the person in this post will have the power to shape the relationship between the United States and Latin America for better or worse. Virtually everything that the U.S. needs to do with Latin America, from establishing a free-trade area to dealing with drug policy and immigration, will require a bipartisan approach. Appointing someone of Reich's ideological stripe and experience would be a real setback in hemispheric cooperation.

I offer my experience as president of Costa Rica as testament to the importance of compromise on hard-line policies. With my region torn by civil wars in Nicaragua, El Salvador and Guatemala, I proposed a peace plan whose essence was democracy as a precondition for lasting peace. The plan was signed by five Central American presidents in August 1987, but President Ronald Reagan refused to support it. He would settle for nothing less than military victory over the Sandinistas in Nicaragua. It was not until George Bush became president in 1988 that the United States backed off its dogged support for war and let the Central American leaders give diplomacy a chance. It was Bush the elder and his foreign-policy staff, including Secretary of State James A. Baker and Bernie Aronson, then-assistant secretary of State for inter-American affairs, who changed U.S. policy from one of undermining our efforts to strongly supporting them, and thus contributed greatly to a peaceful solution to the Central American conflicts.

I am afraid that Reich will cling more closely to the Reagan model than that of the former Bush administration. There is plenty of evidence to suggest that this will be so. His involvement in the Office of Public Diplomacy until 1986 demonstrated his allegiance to the Reagan administration's hawkish policies toward Central America. The purpose of his office was none other than to get the American people to side with war over peace, using propaganda methods determined to be "improper."

Reich's support of militarism did not end with the wars in Central America. According to news reports, he has made his living in recent years as a lobbyist and consultant representing corporate interests in Washington, among which is the arms manufacturer Lockheed Martin. Reich apparently helped Lockheed overcome the executive ban on the sale of advanced weaponry to Latin America. As a result, the company is poised to sell a dozen of its F-16 fighter jets with advanced missile technology to Chile.

Ever since the ban was lifted in 1997, I have been active, along with former President Jimmy Carter, in trying to convince Latin American leaders to submit to a voluntary moratorium on buying such weapons. If a Latin American country goes shopping for sophisticated weaponry, it will touch off the last thing this hemisphere needs—an arms race. In the face of continued poverty, illiteracy, hunger and disease in so much of our region, investing in unnecessary military technology is an act of grave irresponsibility. That Reich has been an accomplice to this deal makes me feel very uneasy about what ends will be served by his potential leadership in our hemisphere.

One last example will illustrate the poor fit that Reich would be for the interests of hemispheric cooperation: his unwavering support for the long-running and unproductive embargo against Cuba. I believe many American farmers and businessmen are aware that U.S. economic warfare against Cuba harms broader U.S. interests, while at the same time injuring the people, but not the government, of Cuba.

To those who think it unbecoming for a foreigner to comment on the appointment of a U.S. official, I would say that although the assistant secretary of State for Western Hemisphere affairs will make little difference in the lives of ordinary people in the United States, he could have a profound effect on the lives of Latin Americans.

There is so much work to be done in our part of the world over the next four years, and enough inherent problems and strains in the relationship between the United States and Latin America, that we will be assuring ourselves of getting nowhere if we give in to hard-line ideology over flexibility and bipartisanship. On behalf of Latin Americans, I hope that the administration of George W. Bush can find another candidate for this job—one capable of building trust and earning respect from all the leaders of this hemisphere.

(Oscar Arias Was President of Costa Rica From 1986-1990 and Winner of the Nobel Peace Prize in 1987.)

## TRANSIT ZONE STRATEGY

Mr. GRASSLEY. Mr. President, as Chairman of the Senate Caucus on International Narcotics Control, I want to draw attention to our interdiction efforts throughout the Caribbean and Eastern Pacific, commonly referred to as the "transit zone."

Although Plan Colombia is our primary counterdrug operation in Colom-

bia and the emphasis in the Andean region, commonly called the "source zone", continued interdiction efforts in the transit zone are an important part of our overall "defense-in-depth" plan. I have noted for some time, however, that our defense in depth seems more like a defense in doubt. I want to be confident that the United States has a well-thought out, overarching national drug control strategy, involving all components of both supply and demand reduction, including eradication and fumigation, alternate development, trade incentives, interdiction, prevention, treatment, and education. I am very pleased the President is ready to appoint the new Director of the Office of National Drug Control Policy, ONDCP, to assist with reviewing our plans, programs, and strategy. But I am concerned that we lack coherent thinking on our interdiction efforts. I am concerned about rumblings from the Department of Defense, DOD, that it is going to duck and weave on supporting such a plan.

I desire our interdiction efforts to be integrated and balanced, both inter-agency and internationally, as well as between the source zone, transit zone, and arrival zones. We need balance, within the transit zone, between the Caribbean and the Eastern Pacific, as well as balance with in the eastern, central, and western portions of the Caribbean itself. We need to have adequate intelligence community and DOD support for both the source zone and the transit zone. We need to be balanced between our air and maritime interdiction efforts. We need to be equally dynamic and risk adverse as the smuggling organizations are, when route and conveyance shifts are detected. Our counterdrug forces on patrol should also be aware of the terrorism threats that are increasing focused against our country. It is not clear to me that we currently have these things I have outlined.

The Senate Drug Caucus is planning an upcoming hearing on the Transit zone on May 15, 2001 to discuss the broader questions of "What is our transit zone strategy?" and "Do we have a balanced approach in the transit zone?" I hope for a discussion on the current threat, agency capabilities, current shortcomings, the relationship with the source zone and Plan Colombia, the projected future threat, any needed improvements, interagency and international relationships, and DOD and intelligence community support to our transit zone operations. I am especially concerned about reports of aging aircraft and vessels in the both the Customs Service and Coast Guard fleet inventories. I am also particular interested in the countries of Haiti, Jamaica, Cuba, Venezuela, Mexico, and the Bahamas, as well as the Commonwealth of Puerto Rico. Success in the transit zone is so critical for both the United States as well as the many countries throughout the Caribbean, who are so dependent on trade and

tourism, and who struggle to avoid the dark influences of the narcotics threat.

I want to be sure we are doing our transit zone missions effectively and competently. I appreciate the difficult task of foreign investigations and interdiction, and appreciate the daily efforts of the Customs Service, Coast Guard, Drug Enforcement Administration, Department of Defense, Department of State, and our international allies. The mission is an important one and deserves our serious attention and sustained effort.

#### WTO APPELLATE BODY DECISION

Mr. BAUCUS. Mr. President, two weeks ago, the World Trade Organization's Appellate Body issued a decision affirming a Dispute Settlement Panel opinion from last December that ruled that the United States' imposition in July 1999 of restrictions on imports of lamb meat under Section 201 of the Trade Act of 1974 was inconsistent with our obligations under the WTO's Agreement on Safeguards. The December Panel decision was so obviously wrong in virtually every respect that one would have expected the Appellate Body to reverse the panel and recognize the U.S. International Trade Commission's decision for the well-reasoned and balanced determination that it was. Instead, the Appellate Body has once again taken it upon itself to substitute its judgment for the ITC's. This is a continuation of a troubling trend, in which WTO dispute settlement panels and the Appellate Body fail to give adequate deference to expert administrative bodies that have carefully reviewed the facts. This kind of decision risks eroding U.S. support for the WTO's dispute settlement procedures.

While there is a lot not to like in the Appellate Body's decision, I am particularly outraged by the Appellate Body's conclusion that the ITC erred in concluding that lamb farmers, ranchers, and commercial feeders are properly part of the domestic industry for purposes of determining injury and threat of injury. The Appellate Body concluded that growers and feeders produce a product—live lambs—that cannot strictly be considered “like” lamb meat within the meaning of the WTO Safeguards Agreement, and by implication, under Section 201 of the Trade Act of 1974; according to the Appellate Body, only packers and processors produce a “like” product. Had this been an antidumping or countervailing duty decision, such a conclusion would have precluded lamb growers and feeders from petitioning for relief along with packers and processors—a notion that I find intolerable. Fortunately, Section 201 and the Safeguards Agreement give standing to producers of both “like” and “directly competitive” products, and the Appellate Body's opinion appears to leave open the possibility that lamb growers and feeders could properly be counted as part of the domestic industry on the

grounds that live lambs are “directly competitive with,” as opposed to “like,” lamb meat.

The WTO will lose all credibility if growers of agricultural products are disqualified from petitioning for relief when massive imports of food products create oversupplies and cause domestic price levels to plummet. Thousands of families in my home state have a long history of sheep ranching. Sheep ranchers and farmers are the very heart of the U.S. industry producing lamb meat, and the WTO needs to recognize such basic economic realities.

Predictably, the government of Australia and New Zealand, which brought the WTO appeal, have already called for the United States to immediately terminate the U.S. import relief program in response to the Appellate Body's decision. As bad as the Appellate Body's decision is, I believe that it is clear that it does not require termination of the United States' import relief program for the lamb industry. I am today calling on U.S. Trade Representative Robert Zoellick to reject Australia and New Zealand's demands and instead invoke the procedure prescribed by Section 129 of the Uruguay Round Agreements Act. Ambassador Zoellick should promptly request the ITC to provide him with an advisory report on whether it believes that its original decision can be brought into compliance with the Appellate Body's decision. If that advice is affirmative, I hope and expect that Ambassador Zoellick will take the further prescribed step of asking the ITC to issue a revised determination in conformity with the Appellate Body's decision.

The period of relief originally proclaimed by President Clinton is scheduled to run through July of next year, and I am confident that the ITC will be able to revise its original determination so that this badly needed relief can run its course. In the meantime, I call upon President Bush—whose own home state is the United States' largest producer of lamb—to direct USDA and other agencies to redouble their efforts to see that the industry gets the full measure of assistance that it was promised as part of the import relief package.

#### THE SMALL BUSINESS LIABILITY REFORM ACT

Mr. MCCONNELL. Mr. President, last Thursday, Senator LIEBERMAN and I introduced S. 865, the “Small Business Liability Reform Act,” which aims to restore common sense to the way our civil litigation system treats small businesses. In our legal system, small businesses, which form the backbone of America's economy, are often forced to defend themselves in court for actions that they did not commit and to pay damages to remedy harms they did not cause. These businesses also frequently find themselves faced with extraordinarily high punitive damages awards. These unfortunate realities threaten

the very existence of many small businesses, and when American small businesses go under, our economy is harmed as new products are not developed, produced, or sold, and employers cannot retain employees or hire new ones.

Small businesses, those with 25 or fewer full-time employees, employ almost 60 percent of the American workforce. Because the majority of small business owners earn less than \$50,000 a year, they often lack the resources to fight unfair lawsuits which could put them out of business. When faced with such a lawsuit, many of these entrepreneurs must either risk a lengthy battle in court, in which they may be subjected to large damage awards, or settle the dispute out of court for a significant amount even though they did not cause the harm in the first place. Either way, our current system jeopardizes the livelihood and futures of small business owners and their employees.

The Small Business Liability Reform Act remedies these ills with three common-sense solutions, all of which protect our nation's entrepreneurs from unfair lawsuits and excessive damage awards. First, it would award punitive damages against small business only upon clear and convincing evidence, rather than upon a simple preponderance of evidence, and would set reasonable limits, three times the total of all damages or \$250,000, whichever is less, on the amount of punitive damages that can be awarded.

Second, our bill would restore basic fairness to the law by eliminating joint and several liability for small businesses for non-economic damages, such as pain and suffering, so a small defendant is not forced to pay for harm he did not cause. Under the current joint and several liability, small businesses, when found liable with other defendants, may be forced to pay a disproportionate amount of the damages if they are found to have “deep pockets” relative to the other responsible parties. For example, a small business who was found responsible for only 10 percent of the harm may have to pay half, two-thirds, or even all of the damages if his co-defendants cannot pay. Again, without altering a small business's joint and several liability for economic damages, such as medical expenses, the Small Business Liability Reform Act provides that small businesses are responsible for only the portion of the non-economics damages they caused. Thus, the bill partially relieves a situation where a small business is left holding the bag with respect to injuries it did not inflict.

Third and finally, our bill addresses some of the iniquities facing non-manufacturing product sellers. Currently, a person who had nothing to do with a defective and harmful product other than selling it can be sued along with the manufacturer. Under the reforms in the Small Business Liability Reform Act, a product seller can only be held

liable for harms caused by his own negligence, intentional wrongdoing, or breach of his own warranty.

This bill provides much needed protection and relief to both small business owners and consumers. By making our legal system reasonable and fair to small businesses, we will remove one of the greatest barriers to the market, the threat of crippling, excessive lawsuits, that prevent entrepreneurs from starting a small business. That means increased competition, better goods, and more jobs at a time when the health of America's economy and job market appear uncertain. And by injecting common sense into these laws, we will remove the excessive litigation costs that drive up the cost of goods and services for all Americans. The Small Business Liability Reform Act is a win for America's entrepreneurs, consumers, and workers, and it is my hope that the Senate will enact this bipartisan bill. Finally, I would ask unanimous consent that letters in support of this bill from the National Federation of Independent Business and the Small Business Legal Reform Coalition be placed in the RECORD.

SMALL BUSINESS  
LEGAL REFORM COALITION,  
May 10, 2001.

Hon. MITCH MCCONNELL,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the Small Business Legal Reform Coalition, we are writing to applaud your sponsorship of the Small Business Liability Reform Act of 2001 and express our strong support for its passage. We commend you for your efforts to restore common sense to our civil justice system—one that takes a particularly heavy toll on the smallest of America's businesses.

The frequency and high cost of litigation is a matter of growing concern to small businesses across the country. Today's civil justice system presents a significant disincentive to business start-ups and continued operations. If sued, business owners know they have to choose between a long and costly trial or an expensive settlement. Business owners across the nation risk losing their livelihood, their employees and their future every time they are confronted with an unnecessary lawsuit.

This legislation would make two reforms that have topped the small business community's agenda for years: cap punitive damages and abolish joint liability for non-economic damages for those with fewer than 25 employees. These reforms have been among the recommendations of the White House Conference on Small Business since the early 1980s—and the time has come to protect the smallest of small businesses from excessive damage awards and frivolous suits.

This bill would also hold non-manufacturing product sellers liable in product liability cases when their own wrongful conduct is responsible for the harm and thus reduce the exposure of innocent product sellers, lessors and renters to lawsuits when they are simply present in a product's chain of distribution or solely due to product ownership. Should the manufacturer be judgment-proof, the product seller would be responsible for any damage award, ensuring that deserving claimants recover fully for their injuries.

In the end, we believe that enactment of the Small Business Liability Reform Act will inject more fairness into the legal sys-

tem and reduce unnecessary litigation and legal costs. We also believe that it protects the rights of those with legitimate claims. We thank you again for your support of these common sense reforms and look forward to working with you to ensure the success of this important legislation.

American Automotive Leasing Association, American Care Rental Association, American Consulting Engineers, Council, American Insurance Association, American Machine Tool Distributors Association, Associated Builders and Contractors, Associated Equipment Distributors, Automotive Parts and Service Alliance, American Rental Association, Coalition for Uniform Product Liability Law, Citizens for Civil Justice Reform, Equipment Leasing Association, Independent Insurance Agents of America, International Mass Retail Association, International Housewares Association, Motorcycle Industry Council, National Association of Convenience Stores, National Association of Manufacturers, National Association of Plumbing-Heating-Cooling Contractors, National Association of Wholesaler-Distributors, National Federation of Independent Business, National Grocers Association, National Restaurant Association, National Retail Federation, National Small Business United, NPES—Association for Suppliers of Printing, Publishing & Converting Technologies, Painting and Decorating Contractors of America, Plumbing-heating-Cooling Contractors—National Association, Small Business Legislative Council, Society of Independent Gasoline Marketers of America, Specialty Equipment Market Association, Steel Service Center Institute, Trunk Renting and Leasing Association, and U.S. Chamber of Commerce.

NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS,  
Washington DC, May 11, 2001.

Hon. MITCH MCCONNELL,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I would like to thank you for your sponsorship of the Small Business Liability Reform Act of 2001 and express our strong support for its passage. I commend you for your efforts to restore common sense to our civil justice system—one that takes a particularly heavy toll on the smallest of America's businesses.

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In the end, we believe that enactment of the Small Business Liability Reform Act will inject more fairness into the legal system and reduce unnecessary litigation and legal costs. We also believe that it protects the rights of those with legitimate claims. We thank you again for your support of these common sense reforms and look forward to working with you to ensure the success of this important legislation.

Sincerely,

DAN DANNER,  
Senior Vice President,  
Federal Public Policy.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

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

I would like to detail a heinous crime that occurred November 6, 1998 in Seattle, Washington. A gay man was severely beaten with rocks and broken bottles in his neighborhood by a gang of youths shouting "faggot." The victim sustained a broken nose and swollen jaw. When he reported the incident to police two days later, the officer refused to take the report.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

#### CONFIRMATION OF LARRY D. THOMPSON

Mr. MILLER. Mr. President, I am so pleased that the Senate Judiciary Committee has voted unanimously to confirm Larry D. Thompson as Deputy Attorney General and that the full Senate also has given its unanimous approval to this excellent nominee.

I was honored to be able to present Mr. Thompson to the Senate Judiciary Committee, and I congratulate my longtime friend and fellow Georgian on his confirmation.

I cannot say it more clearly than this: President Bush could not have made a better choice in nominating Larry Thompson as Deputy Attorney General of the United States.

I have had the pleasure to know Larry Thompson for several years. He is the consummate professional: quiet



yet strong, a legal scholar who exercises enormous common sense, a man who will put principle ahead of politics every time. He is a man of great substance and little ego. He is not one to grandstand or grab headlines.

Mr. Thompson brings to the Department of Justice a solid record of experience. He has built a reputation as a tough prosecutor, an adept litigator, a respected scholar and a skilled manager.

More importantly than that, Mr. Thompson comes with no agenda. He will base every decision on what is right, not what is popular or politically expedient. He will bring to the Justice Department the same wisdom, the same thoughtfulness, and the same steady demeanor upon which he has built his stellar career.

In short, Larry Thompson is a man of impeccable credentials who will serve the Department of Justice and this nation very well.

#### NATIONAL POLICE WEEK

Mrs. CARNAHAN. Mr. President, I am proud to take this opportunity to recognize National Police Week 2001 and the immeasurable contributions of our nation's law enforcement officers. In both urban and rural communities, these men and women touch the lives of all those around them. Today, I urge all Americans to join together in commemorating the tremendous service and sacrifice of our nation's law enforcement officers.

We have made great strides since the 1970s, when we lost approximately 220 officers every year through the decade. That figure decreased dramatically in the 1990s to 155 fallen officers each year. Yet, each one of these lives is one too many. And it is with great sorrow that I note that Missouri leads the nation in losing nine law enforcement officers in the past eleven months. We may take comfort only in recognizing and honoring the ultimate sacrifice that each of these individuals has made to their community, to their State, and to their Nation. We owe these officers and their family an unending debt of gratitude. They will always be remembered.

The efforts of police officers and chiefs, sheriffs, and highway patrol are largely responsible for the seven percent decrease in crime rates over most of the last decade. In return for their valiant courage in protecting our streets, our homes, and our families, we must strive to find measures that will better protect our law enforcement officers. I will join my fellow Senators in looking for ways to ensure that sufficient safeguards are in place. In the meantime, I take this opportunity to express my gratitude to these men and women and their families. God bless these heroes among us.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 11, 2001,

the Federal debt stood at \$5,637,839,303,470.87. Five trillion, six hundred thirty-seven billion, eight hundred thirty-nine million, three hundred three thousand, four hundred seventy dollars and eighty-seven cents.

One year ago, May 11, 2000, the Federal debt stood at \$5,666,075,000,000. Five trillion, six hundred sixty-six billion, seventy-five million.

Twenty-five years ago, May 11, 1976, the Federal debt stood at \$599,704,000,000. Five hundred ninety-nine billion, seven hundred four million, which reflects a debt increase of more than \$5 trillion, \$5,038,135,303,470.87. Five trillion, thirty-eight billion, one hundred thirty-five million, three hundred three thousand, four hundred seventy dollars and eighty-seven cents during the past 25 years.

#### TRIBUTE TO JOHN WINTERHOLLER

• Mr. BURNS. Mr. President, although little noticed, a native son of Montana passed away at his home in Lafayette, CA.

John Winterholler, a three-sport Hall of Famer at the University of Wyoming was a survivor of the Bataan death march.

Winterholler was among the inaugural class inducted into the University of Wyoming Athletics Hall of Fame in 1993. He lettered in baseball, basketball, and football from 1936-1939.

Upon graduation in 1940, he accepted a commission as a lieutenant in the United States Marine Corps rather than play professional baseball.

Winterholler served with the 4th Marine Regiment on Bataan and Corregidor in the Philippines and suffered brutal treatment as a Japanese prisoner during World War II.

During captivity, he experienced severe weight loss and was paralyzed from the waist down and near death from malnutrition. He was confined to a wheelchair the rest of his life.

He earned two battlefield decorations, the Silver Star and the Bronze Star with "V" for valor before Corregidor fell, and he subsequently received the Purple Heart and 26 other medals and awards for his service in the United States Marine Corps. He retired with the rank of colonel.

Although he was born in Billings, MT, he grew up just over the 45th parallel which is known as the Montana/Wyoming State line. It was there in Lovell, WY, where he met his future wife, Dessa. They both attended the University of Wyoming and were married in 1945 in his hospital room at Mare Island Naval Base in Vallejo, CA, shortly after his release from the Japanese prison camp.

He is just another American who has given so much for this country and all it stands for. An American that believed in the future of this country so deeply that he gave all that was asked in her defense. I, like many, give thanks every day for what they sacrificed and their dedication.

He is survived by a daughter, Deborah Harms; a son, David; a sister, Lydia Showalter; and three brothers, Henry, Phillip, and Alfred.●

#### IN MEMORY OF EDMUND DELANEY

• Mr. DODD. Mr. President, I rise today to pay tribute to the late Edmund T. Delaney, an accomplished lawyer, lecturer, historian and author, and a man that I felt privileged to consider a friend.

Ed Delaney graduated from Princeton University in 1933 and Harvard Law School in 1936. He was a gifted attorney who practiced law for over 40 years in New York and Connecticut. He was a partner in the New London and Essex firm of Copp, Koletsky and Berall. Ed was a member of the Association of the Bar of the City of New York where he served as Chairman of the Committees on Corporate Law, Law and Medicine, and Art. During his career, he specialized in investment company law, serving for 39 years as a director of the Oppenheimer Funds.

Ed Delaney was also extremely active in civic and community affairs throughout his professional life, making numerous contributions to his community and to the State of Connecticut. He dedicated himself to protecting the region's rich cultural history and natural beauty. The preservation of the Connecticut River and the Connecticut River Valley was just one of the causes that he championed through his extensive writings. Ed was a former president of both the Chester Historical Society and the Chester Rotary Club, a trustee of the Connecticut Watershed Council, and a member of the Connecticut Historical Commission in Hartford. He was also a trustee of the Connecticut River Museum in Essex and he was active in the Rockfall Foundation in Middletown.

Long interested in historic preservation and conservation, he was a member of the historical societies of Deep River, Essex, and Lyme, of the Antiques and Landmarks Society, and of the National and Connecticut Preservation Trusts and Nature Conservancies. He was also involved in Chester town affairs as a chairman of the Conservation Commission as a member of the town retirement board, and as a Justice of the Peace. In addition, he also served on the Middlesex County Revitalization Commission. His contributions to future generations and to the state of Connecticut were truly remarkable.

Long before he demonstrated his prodigious appetite for community and civic engagement, Ed Delaney amassed a distinguished record of military service. After serving in the Squadron A Cavalry of the New York National Guard, he went on active duty in the field artillery in 1940, graduating from the Field Artillery School at Fort Sill, OK, and serving as battery commander in the 105th Field Artillery. In 1941, he was transferred to the Military Intelligence Service as part of the general



staff in Washington, where he became a lieutenant colonel and chief on the Western European Branch and French Specialist in the War Department. He accompanied the Assistant Secretary of War, John J. MacEloy, on a special mission to North Africa in 1943. In 1945, he became Acting Counsel to the Army-Navy Liquidation Commission in Paris. He received three War department citations, the Army Commendation Ribbon, and the French Medaille de la Reconnaissance Francaise.

Edmund Delaney was a remarkable man in a great many respects. He was a distinguished member of the armed services, a successful attorney, and an energetic leader in a variety of organizations devoted to advancing the public good. He brought to all of his endeavors an unusual depth of insight, compassion and understanding. He was dedicated to his family, his friends, his community, and not least, his country. He was a fine and patriotic man. And he was someone whom I respected and whose ideas I admired.

My heartfelt sympathies go out to his wife Barbara, to his children and grandchildren, and to his other surviving family members. He will be missed greatly by them, and many others. But there is some comfort in knowing that his good deeds have made a lasting impact on the lives of those he left behind.●

#### TRIBUTE TO CRAIG BENSON

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Craig Benson of Rye, NH, for being honored as a significant contributor to New Hampshire's growth and development.

Craig co-founded Cabletron Systems, Inc. in 1983, expanding the computer networking company into a \$1.5 billion corporation employing more than 6,000 people in 110 offices throughout the world. He was the recipient of the "National Entrepreneur of the Year" award by Inc. Magazine in 1991, and was included among the 10 most powerful people in New Hampshire in the 1990's by Business NH Magazine.

Craig Benson has been a good neighbor to the citizens of New Hampshire, gifting a \$100 million grant of networking equipment to inner city and disadvantaged colleges and universities. He also serves on numerous boards of directors and on the Board of Trustees at Babson College.

Craig Benson has served the people of the Granite State with dedication and generosity. His contributions to the economic and charitable communities of our state have been exemplary and I commend him for his efforts. It is an honor and a privilege to serve him in the U.S. Senate.●

#### 100TH ANNIVERSARY OF ALLENHURST FIRE DEPARTMENT

● Mr. CORZINE. Mr. President, the ninth of June marks an historic and

important occasion for the Allenhurst Fire Department, its 100th anniversary. For the past century, a commendable number of dedicated volunteer firefighters have risked their lives and sacrificed their spare time to protect the lives and property of the people of Allenhurst. Therefore, it is with great pleasure that I bring these individuals from the great State of New Jersey to your attention.

Volunteer firefighters are the great unsung heroes of everyday life and we often take their diligent efforts for granted. When the fire alarm sounds, these devoted individuals put their lives on hold and respond, whether it be a call for assistance or a full-fledged fire, they are on the scene and prepared. Let us not forget that firefighters routinely put themselves in harm's way to protect us. This dedication to their community is worthy of only the highest praise.

At a time in our Nation when things are in a constant state of change, it is truly refreshing to honor a selfless and noble enterprise that has endured for an entire century. It is appropriate to applaud both the longevity of the Allenhurst Fire Department and the charitable acts of courage that have fueled it. I am proud to wish them a very happy 100th anniversary and continued success for many more years to come.●

#### LIEUTENANT GENERAL DANIEL WILLIAM CHRISTMAN

● Mr. SANTORUM. Mr. President, I rise today to recognize the outstanding national service of Lieutenant General Daniel William Christman. On June 30, 2001, General Christman will retire upon completion of a highly successful five-year assignment as the 55th Superintendent of the United States Military Academy in West Point, New York. The Military Academy that General Christman leaves this June is noticeably improved due to his commitment to high standards in military, academic, physical and morale development for the cadets.

It is only fitting that his final post would be at West Point as, in 1965, Daniel Christman graduated first in his class thereby beginning 36 years of illustrious service both in peace and in war to the United States. Over the course of his career, General Christman has served as the nineteenth U.S. Representative to the NATO Military Committee in Brussels, Belgium, 1993-94; Commanding General, U.S. Army Engineer Center and Fort Leonard Wood and Commandant, U.S. Army Engineer School, Fort Leonard Wood, Mo., 1991-93; Commander of the Savannah District, U.S. Army Corps of Engineers in Savannah, Ga., 1984-86; Commander of the 54th Engineer Battalion in Wildflecken, Germany 1980-82; Company Commander in the 326th Engineer Battalion, Hue, Vietnam, 1969-70; and Company Commander, 2nd engineer Battalion, Changpo-Ri, Korea, 1966.

Prior to becoming the Commanding General and the Superintendent of the United States Military Academy, General Christman served as Assistant to the Chairman of the Joint Chiefs of Staff (JCS) where he supported Secretary of State Warren Christopher as a member of the Middle East Peace Negotiating Team and in arms control negotiations with the Russian Federation. In addition, he has served as Director of Strategy, Plans and Policy in Department of Army Headquarters, Washington, D.C. His duties in this assignment focused on negotiations relating to the Conventional Forces in Europe, CFE, arms control talks between NATO and the Warsaw Pact. In the course of supporting these negotiations on behalf of the Chief of Staff of the Army and the Chairman, JCS, General Christman briefed President George H.W. Bush and traveled to Europe to brief allied heads of state and the NATO Secretary General.

During the course of his career, General Christman's illustrious service to this country can be exemplified by the honor and decorations he has received, from the Defense Distinguished Service Medal (two awards), Distinguished Service Medal, two awards, Defense Superior Service Medal, Legion of Merit, two awards, Bronze Star Medal, two awards, Meritorious Service Medal, two awards and the Air Medal, three awards.

General Daniel William Christman has exemplified the impeccable integrity, honor, and character that the American people have come to expect from the professional Army. As a member of the U.S. Military Academy Board of Visitors, I have valued and appreciated General Christman's insight, leadership and commitment to our United States Army. General Christman's service to this nation demonstrates the highest standards and proud traditions of the United States military. As he moves forward in his life, I wish General Christman and his family continued success and happiness in all his future endeavors.●

#### IN MEMORY OF ANTOINETTE F. DOWNING

● Mr. REED. Mr. President, I rise today to pay tribute to Mrs. Antoinette F. Downing.

Mrs. Downing, acclaimed architectural historian and founding member of the Providence Preservation Society, passed away on Wednesday morning, May 9, 2001 at the age of 96.

During her extraordinary lifetime, Antoinette believed in the intrinsic value of historic buildings, a revolutionary idea that changed Providence and Rhode Island. Mrs. Downing began her distinguished career as a scholar, researching and recording the State's historic structures. In 1937, her book *Early Homes of Rhode Island* was published, and remains the standard reference on 17th, 18th, and early 19th century building in the State. During the

1930s and 1940s, Mrs. Downing raised a family and taught school. In the late 1940s, she returned to the study of architecture by assisting the newly founded Preservation Society of Newport County with a program to document and bring attention to the magnificent historic buildings in Newport. The effort produced the publication of *The Architectural Heritage of Newport, Rhode Island*, co-authored by Vincent J. Scully, Jr., in 1952.

In the 1950s, Mrs. Downing's scholarship turned into activism in the College Hill neighborhood of her adopted hometown of Providence, an area with many dilapidated and unappreciated historic buildings threatened by plans for demolition. Mrs. Downing and other residents, determined to maintain the character of this neighborhood, organized the Providence Preservation Society. A report, which she helped to research and write, *College Hill, A Demonstration Study of Historic Area Renewal* (1959), became the blueprint for the neighborhood's restoration and a national model for using historic preservation as a means of community renewal.

Through her hard work and conviction, Mrs. Downing made historic preservation part of every life in Rhode Island. Under her leadership, the Historical Preservation and Heritage Commission's statewide survey has identified about 50,000 historic buildings and sites in Rhode Island's 39 cities and towns. In all, more than 15,000 Rhode Island properties have been listed on the National Register of Historic Places. Furthermore, the reuse and rehabilitation of historic buildings has become an important part of the state's economy in the last decade.

Throughout Antoinette Downing's lifelong work has run the belief that our historic districts, structures, and sites are resources worth keeping. Her work has created for our time and coming generations a way of connecting to history while building links to the future. We remember and thank Antoinette for her tireless efforts to save our heritage. We are all the beneficiaries of her visionary leadership. ●

#### MESSAGES FROM THE PRESIDENT

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

#### EXECUTIVE MESSAGES REFERRED

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

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

#### 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-1787. A communication from the Acting Deputy General Counsel for the Investment Division of the Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "New Markets Venture Capital Program" (RIN3245-AE40) received on May 9, 2001; to the Committee on Small Business.

EC-1788. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Disease Associated With Exposure to Certain Herbicide Agents: Type 2 Diabetes" (RIN2900-AK63) received on May 9, 2001; to the Committee on Veterans' Affairs.

EC-1789. A communication from the Acting Executive Secretary, Agency for International Development, transmitting, pursuant to law, the report of a nomination confirmed for the position of Administrator, Agency for International Development; to the Committee on Foreign Relations.

EC-1790. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning Cuba; to the Committee on Foreign Relations.

EC-1791. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bacillus Thuringiensis Cry3Bb1 and Cry2Ab2 Protein and the Genetic Material Necessary for its Production in Corn and Cotton; Exemption from the Requirement of a Tolerance" (FRL6781-6) received on May 9, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1792. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Proc. 2001-30" (Rev. Proc. 2001-34) received on May 9, 2001; to the Committee on Finance.

EC-1793. A communication from the Secretary of Health and Human Services, transmitting, pursuant to Section 1886(e)(3) of the Social Security Act, a report of the initial estimate of the applicable percentage increase in hospital inpatient payment rates for Fiscal Year 2002; to the Committee on Finance.

EC-1794. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the evaluation of Medicare's competitive bidding demonstration for durable medical equipment, prosthetics, orthotics, and supplies; to the Committee on Finance.

EC-1795. A communication from the Executive Director of the Interstate Commission on the Potomac River Basin, transmitting the report of the Office of Inspector General for the period October 1, 1999 to September 30, 2000; to the Committee on Governmental Affairs.

EC-1796. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report entitled "Health Care Privatization Emergency Amendment Act of 2001" (on an emergency basis); to the Committee on Governmental Affairs.

EC-1797. A communication from the Chairman of the District of Columbia Financial

Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report entitled "Health Care Privatization Emergency Amendment Act of 2001" (on a temporary basis); to the Committee on Governmental Affairs.

EC-1798. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report entitled "Health Care Privatization Emergency Amendment Act of 2001" (on a permanent basis); to the Committee on Governmental Affairs.

EC-1799. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report relative to Fiscal Impact Statement: "Health Care Privatization Emergency Act of 2001" (Revised); to the Committee on Governmental Affairs.

EC-1800. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, the report of a resolution and order concerning the Public Benefit Corporation; to the Committee on Governmental Affairs.

EC-1801. A communication from the Committee on the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report relative to a resolution and order concerning the transition to a new health care system; to the Committee on Governmental Affairs.

EC-1802. A communication from the Acting Assistant General Counsel of Regulations, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulations—Teacher Quality Enhancement Grants Program" (RIN 1840-AC65) received on May 9, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-1803. A communication from the Acting Assistant General Counsel for Regulations, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulations—Minority Science and Engineering Improvement Program" received on May 9, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-1804. A communication from the Acting Assistant General Counsel for Regulations, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulations; Interpretation—Gaining Early Awareness for Undergraduate Programs" received on May 9, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC-1805. A communication from the White House Liaison for the Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Director of the Office for Victims of Crime, Department of Justice; to the Committee on the Judiciary.

EC-1806. A communication from the White House Liaison for the Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Assistant Attorney General, Civil Division, Department of Justice; to the Committee on the Judiciary.

EC-1807. A communication from the White House Liaison for the Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Assistant Attorney General, Criminal Division, Department of Justice; to the Committee on the Judiciary.

EC-1808. A communication from the White House Liaison for the Department of Justice, transmitting, pursuant to law, the report of

a nomination for the position of Assistant Attorney General, Civil Rights Division, Department of Justice; to the Committee on the Judiciary.

EC-1809. A communication from the White House Liaison for the Department of Justice, transmitting, pursuant to law, the report of a nomination for the position of Assistant Attorney General, Office of Policy Development, Department of Justice; to the Committee on the Judiciary.

EC-1810. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled "Assessment of Fees" received on May 8, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-1811. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Change in Flood Elevation Determinations" (Doc. No. FEMA-B-7412) received on May 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-1812. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Doc. No. FEMA-7759) received on May 9, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC-1813. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Change in Flood Elevation Determinations" received on May 9, 2001; to the committee on Banking, Housing, and Urban Affairs.

EC-1814. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-1815. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report to the backlog of maintenance and repair needs of the Departments facilities and installations; to the Committee on Armed Services.

EC-1816. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report relative to Elmendorf Air Force Base in Alaska; to the Committee on Armed Services.

EC-1817. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Under Secretary of Defense (Comptroller); to the Committee on Armed Services.

EC-1818. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary of Defense (Legislative Affairs); to the Committee on Armed Services.

EC-1819. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Secretary of the Army; to the Committee on Armed Services.

EC-1820. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary of Defense (Personnel and Readiness); to the Committee on Armed Services.

EC-1821. A communication from the Assistant Director for Executive and Political Per-

sonnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Secretary of the Navy; to the Committee on Armed Services.

EC-1822. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary of Defense (Policy); to the Committee on Armed Services.

EC-1823. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report regarding the Incidental Capture of Sea Turtles in Commercial Shrimping Operations; to the Committee on Commerce, Science, and Transportation.

EC-1824. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Staff Office for Intergovernmental and Recreational Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "American Lobster; Interstate Fishery Management Plans; Cancellation of Moratorium" (RIN0648-A088) received on May 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC-1825. A communication from the Acting Director of the 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 Shallow Water Species Fishing Using Trawl Gear, Gulf of Alaska" received on May 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC-1826. A communication from the Acting Director of the 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; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Island Management Area" received on May 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC-1827. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Observer Program" (RIN0648-A030) received on May 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC-1828. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Spiny Dogfish Fishery; 2001 Specifications" (RIN0648-AN71) received on May 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC-1829. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; New York" (FRL6977-2) received on May 9, 2001; to the Committee on Environment and Public Works.

EC-1830. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission

Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of New Hampshire" (FRL6978-8) received on May 9, 2001; to the Committee on Environment and Public Works.

EC-1831. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion" (FRL6950-2) received on May 9, 2001; to the Committee on Environment and Public Works.

EC-1832. A communication from the Principal Deputy Association Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast" (FRL6978-5) received on May 9, 2001; to the Committee on Environment and Public Works.

EC-1833. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors" (FRL6978-6) received on May 9, 2001; to the Committee on Environment and Public Works.

EC-1834. A communication from the Deputy Assistant Secretary of the Army, Management and Budget, Civil Works, Department of the Army, transmitting, pursuant to law, the report of a rule entitled "United States Marine Corps Restricted Area, New River, North Carolina, and Vicinity" (33 CFR Part 334) received on May 9, 2001; to the Committee on Environment and Public Works.

EC-1835. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a report relative to funds exceeding \$5 million for the response to the emergency declared in the State of New York; to the Committee on Environment and Public Works.

EC-1836. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period October 1, 2000 through March 31, 2001; ordered to lie on the table.

## PETITIONS AND MEMORIALS

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

POM-50. A joint memorial adopted by the Senate of the Legislature of the State of Washington relative to the conservation reserve enhancement program; to the Committee on Agriculture, Nutrition, and Forestry.

### SENATE JOINT MEMORIAL 8019

Whereas, The National Marine Fisheries Service and the United States Department of Fish and Wildlife have listed several species of salmonids as either threatened or endangered under the federal Endangered Species Act; and

Whereas, A number of water bodies throughout the state do not currently comply with federally approved water quality standards including temperature, turbidity, and other parameters; and

Whereas, The State of Washington and the United States Department of Agriculture have entered into a memorandum of agreement that establishes the conservation reserve enhancement program to provide incentives to owners of agricultural land in

Washington State to restore and enhance conditions in riparian areas by planting trees and shrubs for the benefit of fishery habitat and water quality; and

Whereas, The conservation reserve enhancement program is available for a number of categories of agricultural lands but is not available to lands that produce perennial horticultural crops;

Now, therefore, Your Memorialists respectfully pray that the Secretary of the Department of Agriculture review the department's policies regarding the conservation reserves enhancement program and alter those policies to allow the inclusion in the program of lands that are currently used to produce perennial horticultural crops. Be it

*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, Ann Veneman, the Secretary of the United States Department of Agriculture, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-51. A resolution adopted by the House of the Legislature of the State of Missouri relative to the Individuals with Disabilities Act; to the Committee on Appropriations.

#### RESOLUTION

Whereas, the original passage of the federal Individuals with Disabilities Education Act (IDEA) in 1975 established a program of free appropriate public education to better enable students with disabilities to achieve their greatest potential; and

Whereas, IDEA also represented an advance in civil rights for disabled children through equal protection; and

Whereas, Missouri has demonstrated a strong commitment to serving our children with disabilities through provision of special education and related services to over 127,000 students (14.18 percent of public school enrollment); and

Whereas, the original intent of the 94th Congress was to fund IDEA at 40% of the average per pupil expenditures for Part B of IDEA, but funding has never exceeded 13%; and

Whereas, federal law requires school districts to meet federal standards, but Congress has not provided the promised funding necessary to achieve those standards; and

Whereas, Missouri and several other states have legal prohibitions on passing unfunded mandates to the local level and therefore must either make up the shortfall or ask local districts to do so and thereby risk litigation; and

Whereas, local districts must then cover the mandated expenses of special education and reduce funding for teachers, textbooks and supplies, building maintenance and repair, as well as meet the counterproductive reporting burden which severely reduces teacher availability; Now therefore, be it

*Resolved*, That the members of the House of Representatives of the Ninety-first General Assembly, First Regular Session, the Senate concurring therein, hereby urge that before the 107th Congress considers any other education initiatives, that IDEA receive prompt and full funding, and the reporting requirements of IDEA be significantly reduced; and be it further

*Resolved*, That the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution for the President of the United States Senate, the Speaker of the United States House of Representatives and every member of the Missouri Congressional delegation.

POM-52. A joint resolution adopted by the House of the Legislature of the State of

Maine relative to National Parks in Maine's North Woods; to the Committee on Energy and Natural Resources.

#### JOINT RESOLUTION

Whereas, Maine residents and visitors enjoy the privilege of using large tracts of private land in the north woods for recreational uses such as snowmobiling, hunting, hiking, fishing, white water rafting and other related functions; and

Whereas, the future of that private land is of great importance to the people of Maine and their outdoor heritage; and

Whereas, the Maine Department of Inland Fisheries and Wildlife and many of the large landowners have or are entering into cooperative wildlife management agreements that ensure the future of critical wildlife population in the north woods; and

Whereas, state agencies and nonprofit organizations are cooperating in an unprecedented effort to secure permanent rights of access to the north woods and keep valuable recreational property and natural habitat undeveloped through conservation easements; and

Whereas, federal ownership or control of the north woods would create many problems including limitations on access and use and loss of local and state control of these areas; now, therefore, be it

*Resolved*, That We, your Memorialists, oppose the creation of a national park in Maine's north woods and request that the President of the United States and Secretary of the Interior Gale A. Norton abandon plans to conduct a feasibility study concerning establishing a national park in Maine's north woods; and be it further

*Resolved*, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the Secretary of the Interior Gale A. Norton and to each member of the Maine Congressional Delegation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with amendments.

S. 718: A bill to direct the National Institute of Standards and Technology to establish a program to support research and training in methods of detecting the use of performance-enhancing drugs by athletes, and for other purposes (Rept. No. 107-16).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MCCAIN (for himself, Mr. EDWARDS, and Mr. KENNEDY):

S. 872. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; read the first time.

By Mr. HELMS (for himself, Mr. THURMOND, Mr. HUTCHINSON, and Mr. SMITH of New Hampshire):

S. 873. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TORRICELLI:

S. 874. A bill to require health plans to include infertility benefits, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BREAU (for himself and Mr. ENSIGN):

S. 875. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles; to the Committee on Finance.

By Mr. INHOFE (for himself, Mrs. CLINTON, Mr. SMITH of New Hampshire, Mr. REID, Mr. WARNER, Mr. LIEBERMAN, and Mr. CHAFEE):

S. 876. A bill to amend the National Environmental Education Act to redesignate that Act as the "John H. Chafee Environmental Education Act," to establish the John H. Chafee Memorial Fellowship Program and the Theodore Roosevelt Environmental Stewardship Grant Program, to extend the programs under that Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NELSON of Florida (for himself, Mr. DODD, and Mr. KENNEDY):

S. 877. A bill to amend the Agricultural Marketing Act of 1946 to require that a warning label be affixed to arsenic-treated wood sold in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KENNEDY (for himself, Mr. LUGAR, Mr. LEAHY, Mr. BROWNBACK, Mr. BIDEN, Ms. SNOWE, Mr. KERRY, Mr. SMITH of Oregon, Mr. TORRICELLI, Mr. CHAFEE, Mr. CORZINE, Mr. ALLEN, Mr. AKAKA, Mr. LIEBERMAN, Mr. BAYH, Mr. BINGAMAN, Mr. FEINGOLD, Mr. LEVIN, Mr. REED, Mr. KOHL, Mr. DURBIN, Mr. JOHNSON, Mr. SARBANES, Mr. WELLSTONE, Mrs. BOXER, Mr. MCCAIN, and Mrs. CLINTON):

S. Res. 88. A resolution expressing the sense of the Senate on the importance of membership of the United States on the United Nations Human Rights Commission; to the Committee on Foreign Relations.

#### ADDITIONAL COSPONSORS

S. 41

At the request of Mr. HATCH, the name of the Senator from Oregon (Mr. SMITH, of Oregon) was added as a cosponsor of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 88

At the request of Mr. ROCKEFELLER, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 104

At the request of Ms. SNOWE, the names of the Senator from Montana

(Mr. BAUCUS), the Senator from Delaware (Mr. CARPER), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 145

At the request of Mr. THURMOND, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 145, a bill to amend title 10, United States Code, to increase to parity with other surviving spouses the basic annuity that is provided under the uniformed services Survivor Benefit Plan for surviving spouses who are at least 62 years of age, and for other purposes.

S. 155

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 166

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 166, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 258

At the request of Ms. SNOWE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

S. 263

At the request of Ms. SNOWE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 263, a bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees.

S. 318

At the request of Mr. DASCHLE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 318, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance.

S. 321

At the request of Mr. GRASSLEY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 327

At the request of Mr. REED, the name of the Senator from New York (Mr.

SCHUMER) was added as a cosponsor of S. 327, a bill to amend the Elementary and Secondary Education Act of 1965 to provide up-to-date school library media resources and well-trained, professionally certified school library media specialists for elementary schools and secondary schools, and for other purposes.

S. 452

At the request of Mr. MURKOWSKI, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Nebraska (Mr. NELSON, of Nebraska) were added as cosponsors of S. 452, a bill to amend title XVIII of the Social Security Act to ensure that the Secretary of Health and Human Services provides appropriate guidance to physicians, providers of services, and ambulance providers that are attempting to properly submit claims under the medicare program to ensure that the Secretary does not target inadvertent billing errors.

S. 484

At the request of Ms. SNOWE, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 484, a bill to amend part B of title IV of the Social Security Act to create a grant program to promote joint activities among Federal, State, and local public child welfare and alcohol and drug abuse prevention and treatment agencies.

S. 497

At the request of Mr. LEAHY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 497, a bill to express the sense of Congress that the Department of Defense should field currently available weapons, other technologies, tactics and operational concepts that provide suitable alternatives to anti-personnel mines and mixed anti-tank mine systems and that the United States should end its use of such mines and join the Convention on the Prohibition of Anti-Personnel Mines as soon as possible, to expand support for mine action programs including mine victim assistance, and for other purposes.

S. 548

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 548, a bill to amend title XVIII of the Social Security Act to provide enhanced reimbursement for, and expanded capacity to, mammography services under the medicare program, and for other purposes.

S. 606

At the request of Mr. CRAPO, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 606, a bill to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency.

S. 656

At the request of Mr. REED, the name of the Senator from Massachusetts

(Mr. KENNEDY) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 677

At the request of Mr. HATCH, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Rhode Island (Mr. CHAFFEE) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 681

At the request of Mr. CRAPO, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 681, a bill to help ensure general aviation aircraft access to Federal land and to the airspace over that land.

S. 694

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 694, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 697

At the request of Mr. GRASSLEY, the names of the Senator from Washington (Mr. CANTWELL) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 697, a bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.

S. 721

At the request of Mr. HUTCHINSON, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 721, a bill to amend the Public Health Service Act to establish a Nurse Corps and recruitment and retention strategies to address the nursing shortage, and for other purposes.

S. 749

At the request of Mr. FITZGERALD, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 749, a bill to provide that no Federal income tax shall be imposed on amounts received by victims of the Nazi regime or their heirs or estates, and for other purposes.

S. 758

At the request of Mr. HUTCHINSON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 758, a bill to amend the Food Security Act of 1985 to authorize the annual enrollment of land in the wetlands reserve program, to extend the wetlands reserve program through 2005, and for other purposes.

S. 804

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 804, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight; to raise the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 828

At the request of Mr. LIEBERMAN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 828, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy-efficient property.

S. 833

At the request of Ms. SNOWE, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 833, a bill to amend the Internal Revenue Code of 1986 to expand the child tax credit.

S. 839

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S.J. RES. 7

At the request of Mr. HATCH, the name of the Senator from Louisiana (Mr. BREAU) was added as a cosponsor of S.J. Res. 7, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 16

At the request of Mr. THURMOND, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Texas (Mr. GRAMM), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 16, a resolution designating August 16, 2001, as "National Airborne Day."

S. RES. 63

At the request of Mr. CAMPBELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 63, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

AMENDMENT NO. 376

At the request of Mr. DEWINE, his name was added as a cosponsor of amendment No. 376.

At the request of Mr. CLELAND, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 376, *supra*.

AMENDMENT NO. 600

At the request of Mr. SESSIONS, the name of the Senator from Nebraska

(Mr. HAGEL) was added as a cosponsor of amendment No. 600.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS (for himself, Mr. THURMOND, Mr. HUTCHINSON, and Mr. SMITH of New Hampshire):

S. 873. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Health, Education, Labor, and Pensions.

Mr. HELMS. Mr. President, I am honored to join my distinguished colleagues, the Senator from South Carolina, Mr. THURMOND, the Senator from New Hampshire, Mr. SMITH, and the Senator from Arkansas, Mr. HUTCHINSON, in introducing legislation to protect workers from having to pay dues to a labor union simply to keep their jobs. This bill, briefly titled the National Right to Work Act, repeals Federal labor laws allowing union bosses to coerce dues from workers who want to go to work, earn honest paychecks and support their families without being forced to support a labor organization.

The legislation we are introducing today proposes to put an end to more than half a century of Federal labor policy that directly contradicts Thomas Jefferson's famous statement that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

Specifically, the National Right to Work Act proposes the repeal of those sections of the National Labor Relations Act, NLRA, and the Railway Labor Act, RLA, that allow unions to enter into collective bargaining agreements forcing workers to pay dues as a condition of employment.

These so-called "union security" clauses have been a central tenet of Federal labor law despite interfering with the rights of freedom of speech and association that most Americans take for granted. Under this unfair Federal scheme, labor organizations succeeded in creating workplaces where individual workers have two choices: 1. they either must march in lockstep with local union bosses; or 2. they must forfeit their job.

That's clearly not fair, and in response to the excesses of this abuse of the free association rights of employees, Congress enacted the Taft-Hartley Act in 1947. While this reform bill did not fully right the wrongs of earlier labor legislation, it did grant States the ability to pass legislation overriding the NLRA regarding union security clauses.

Since Taft-Hartley freed State legislature to protect workers, 21 States have passed Right to Work laws, and, not surprisingly, these States have reaped the economic benefits associated with a fair and free labor market.

In fact, the 21 States that have passed Right to Work laws have outperformed non-Right to Work States in job creation, real income, and entrepreneurial growth.

But much work remains unfinished. More than 8 million workers in 29 non-Right to Work States must pay dues to a union as a condition of employment, and another 1 million workers in Right to Work States are forced to pay dues under the Federal Railway Labor Act, which cannot be preempted by State Right to Work laws.

Make no mistake, that warms the hearts of union bosses who take advantage of union security clauses to use workers as cash machines. This gives them an endless source of funding for union activities, including activities not related to collective bargaining activity. The growing influence unions have on the political process—financed by coerced worker dues—is openly acknowledged. During the past election cycle, the AFL-CIO bragged of its plans to spend more than \$40 million on worker-subsidized political activity, nearly all on behalf of liberal candidates.

These politicians who continue to benefit from the Big Labor cash cow have been successful in protecting the union's ability to coerce money from their membership. But the American people aren't fooled. For more than 20 years, Americans have consistently told pollsters that they believe that a requirement to pay union dues as a condition of employment is unfair. In 1997, a Mason-Dixon poll found that 77 percent of Americans agreed with the statement that workers should be able to keep their job regardless of whether they belong to unions.

They're right, and I hope that this legislation will soon put an end to congressional tolerance of forced worker dues. I'm proud to stand with my distinguished colleagues in supporting the National Right to Work Act.

By Mr. TORRICELLI:

S. 874. A bill to require health plans to include infertility benefits, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. TORRICELLI. Mr. President, I rise today to reintroduce legislation that would greatly improve the lives of millions of Americans, thousands of whom live in my State of New Jersey, who are infertile. The Fair Access to Infertility Treatment and Hope, FAITH, Act first introduced during the 106th Congress, will again give hope to those families who have struggled silently for years with the knowledge that they cannot have children.

For many American families, the blessing of raising a family is one of the most basic human desires. Unfortunately almost fifteen percent of all married couples, over six million American families, are unable to have children due to infertility.

The physical and emotional toll that infertility has on families is impossible



to ignore. I have heard from a number of men and women from New Jersey who have experienced the pain and trauma of discovering that their bodies, which appear normal and function perfectly, are somehow deficient in the one area that matters most to them. This is only compounded when patients discover that their insurer, which they rely on for all of their critical health needs, refuse to cover treatment for this disease. The deep sense of loss expressed by those who desire a family as a result of this gap in coverage is real and significant. Their pain should no longer be ignored.

Infertility is a treatable disease. New technologies and procedures that have been developed in the past two decades make starting a family a real possibility for many couples previously unable to conceive. In fact, up to two thirds of all married couples who seek infertility treatment are subsequently able to have children.

Unfortunately, due to the high cost of treating this illness, only 20 percent of infertile couples seek medical treatment each year. Even worse, only four out of every ten couples that seek infertility treatment receive coverage from health insurers, and only one quarter of all health plans provide coverage for infertility services.

My bill will end this inequity by requiring all health insurance plans to ensure testing and coverage of infertility treatment. Specifically, FAITH requires health plans to cover all infertility procedures considered non-experimental that are deemed appropriate by patient and physician, up to four attempts, with two additional attempts provided for those successful couples that desire a second child.

One reason often cited by health insurers for their continued refusal to provide infertility treatment is the negative impact that this coverage would have on monthly premiums. However, recent studies demonstrate that FAITH would raise the costs of health coverage by as little as \$.21 cents per month per person, an insignificant amount compared to the enormous premium increases we have recently seen from HMOs.

Similar legislation that recognizes the vital right of families to infertility treatments has already been passed in thirteen states, including Texas, California, New York, Illinois, Ohio, Massachusetts, Maryland, Connecticut, Rhode Island, Arkansas, Hawaii, Montana, and West Virginia. In my home state, both branches of the New Jersey Legislature recently passed legislation that mandates this coverage.

Reproduction is one of the most important values for both men and women, and those individuals who desire the gift of family should have access to the necessary treatments that make life possible.

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. 874

*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 "Fair Access to Infertility Treatment and Hope Act of 2001".

#### SEC. 2. FINDINGS.

Congress finds that—

- (1) infertility affects 6,100,000 men and women;
- (2) infertility is a disease which affects men and women with equal frequency;
- (3) approximately 1 in 10 couples cannot conceive without medical assistance;
- (4) recent medical breakthroughs make infertility a treatable disease; and
- (5) only 25 percent of all health plan sponsors provide coverage for infertility services.

#### SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

##### "SEC. 714. REQUIRED COVERAGE FOR INFERTILITY BENEFITS.

"(a) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall ensure that coverage is provided for infertility benefits.

"(b) INFERTILITY BENEFITS.—In subsection (a), the term 'infertility benefits' at a minimum includes—

- "(1) diagnostic testing and treatment of infertility;
- "(2) drug therapy, artificial insemination, and low tubal ovum transfers;
- "(3) in vitro fertilization, intracytoplasmic sperm injection, gamete donation, embryo donation, assisted hatching, embryo transfer, gamete intra-fallopian tube transfer, zygote intra-fallopian tube transfer; and
- "(4) any other medically indicated non-experimental services or procedures that are used to treat infertility or induce pregnancy.

"(c) IN VITRO FERTILIZATION.—

"(1) LIMITATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), coverage of procedures under subsection (b)(3) may be limited to 4 completed embryo transfers.

"(B) ADDITIONAL TRANSFERS.—If a live birth follows a completed embryo transfer under a procedure described in subparagraph (A), not less than 2 additional completed embryo transfers shall be provided.

"(2) REQUIREMENT.—Coverage of procedures under subsection (b)(3) shall be provided if—

- "(A) the individual has been unable to attain or sustain a successful pregnancy through reasonable, less costly medically appropriate covered infertility treatments; and
- "(B) the procedures are performed at medical facilities that conform with the minimal guidelines and standards for assisted reproductive technology of the American College of Obstetric and Gynecology or the American Society for Reproductive Medicine.

"(d) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

- "(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered

in accordance with the requirements of this section;

"(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section; or

"(3) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual services described in subsection (a).

"(e) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed—

"(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to benefits for services described in this section under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any similar service otherwise covered under the plan;

"(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational treatments of services described in this section, except to the extent that the plan or issuer provides coverage for other experimental or investigational treatments or services.

"(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes restricting the type of health care professionals that may provide such treatments or services.

"(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply."

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Required coverage for infertility benefits for federal employees health benefits plans."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2002.

#### SEC. 4. PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

##### "SEC. 2707. REQUIRED COVERAGE FOR INFERTILITY BENEFITS.

"(a) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall ensure that coverage is provided for infertility benefits.

"(b) INFERTILITY BENEFITS.—In subsection (a), the term 'infertility benefits' at a minimum includes—

- "(1) diagnostic testing and treatment of infertility;
- "(2) drug therapy, artificial insemination, and low tubal ovum transfers;
- "(3) in vitro fertilization, intracytoplasmic sperm injection, gamete donation, embryo donation, assisted hatching,

embryo transfer, gamete intra-fallopian tube transfer, zygote intra-fallopian tube transfer; and

“(4) any other medically indicated non-experimental services or procedures that are used to treat infertility or induce pregnancy.

“(c) IN VITRO FERTILIZATION.—

“(1) LIMITATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), coverage of procedures under subsection (b)(3) may be limited to 4 completed embryo transfers.

“(B) ADDITIONAL TRANSFERS.—If a live birth follows a completed embryo transfer under a procedure described in subparagraph (A), not less than 2 additional completed embryo transfers shall be provided.

“(2) REQUIREMENT.—Coverage of procedures under subsection (b)(3) shall be provided if—

“(A) the individual has been unable to attain or sustain a successful pregnancy through reasonable, less costly medically appropriate covered infertility treatments; and

“(B) the procedures are performed at medical facilities that conform with the minimal guidelines and standards for assisted reproductive technology of the American College of Obstetric and Gynecology or the American Society for Reproductive Medicine.

“(d) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

“(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

“(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section; or

“(3) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual services described in subsection (a).

“(e) RULES OF CONSTRUCTION.—

“(1) IN GENERAL.—Nothing in this section shall be construed—

“(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to benefits for services described in this section under the plan, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service may not be greater than such a deductible, coinsurance, or cost-sharing or limitation for any similar service otherwise covered under the plan;

“(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational treatments of services described in this section, except to the extent that the plan or issuer provides coverage for other experimental or investigational treatments or services.

“(2) LIMITATIONS.—As used in paragraph (1), the term ‘limitation’ includes restricting the type of health care professionals that may provide such treatments or services.

“(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60

days after the first day of the first plan year in which such requirements apply.”.

(b) INDIVIDUAL MARKET.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following new section:

**“SEC. 2753. REQUIRED COVERAGE FOR INFERTILITY BENEFITS.**

“The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated on or after January 1, 2002.

**SEC. 5. REQUIRED COVERAGE FOR INFERTILITY BENEFITS FOR FEDERAL EMPLOYEES HEALTH BENEFITS PLANS.**

(a) TYPES OF BENEFITS.—Section 8904(a)(1) of title 5, United States Code, is amended by adding at the end the following:

“(G) Infertility benefits.”.

(b) HEALTH BENEFITS PLAN CONTRACT REQUIREMENT.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

“(p)(1) Each contract under this chapter shall include a provision that ensures infertility benefits as provided under this subsection.

“(2) Infertility benefits under this subsection shall include—

“(A) diagnostic testing and treatment of infertility;

“(B) drug therapy, artificial insemination, and low tubal ovum transfers;

“(C) in vitro fertilization, intracytoplasmic sperm injection, gamete donation, embryo donation, assisted hatching, embryo transfer, gamete intra-fallopian tube transfer, zygote intra-fallopian tube transfer; and

“(D) any other medically indicated non-experimental services or procedures that are used to treat infertility or induce pregnancy.

“(3)(A)(i) Subject to clause (ii), procedures under paragraph (2)(C) shall be limited to 4 completed embryo transfers.

“(ii) If a live birth follows a completed embryo transfer, 2 additional completed embryo transfers shall be provided.

“(B) Procedures under paragraph (2)(C) shall be provided if—

“(i) the individual has been unable to attain or sustain a successful pregnancy through reasonable, less costly medically appropriate covered infertility treatments; and

“(ii) the procedures are performed at medical facilities that conform with the minimal guidelines and standards for assisted reproductive technology of the American College of Obstetric and Gynecology or the American Society for Reproductive Medicine.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 2002.

By Mr. BREAU (for himself and Mr. ENSIGN):

S. 875. A bill to amend the internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles; to the Committee on Finance.

Mr. BREAU. Mr. President, today I rise with my colleague Senator ENSIGN to introduce the Fuel Tax Equalization

Credit for Substantial Power Takeoff Vehicles Act. This bill upholds a long-held principle in the application of the Federal fuels excise tax, and restores this principle for certain single engine “dual-use” vehicles.

This long-held principle is simple: fuel consumed for the purpose of moving vehicles over the road is taxed, while fuel consumed for “off-road” purposes is not taxed. The tax is designed to compensate for the wear and tear impacts on roads. Fuel used for a non-propulsion “off-road” purpose has no impact on the roads. It should not be taxed as if it does. This bill is based on this principle, and it remedies a problem created by IRS regulations that control the application of the federal fuels excise tax to “dual-use” vehicles.

Dual-use vehicles are vehicles that use fuel both to propel the vehicle on the road, and also to operate separate, on-board equipment. The two prominent examples of dual-use vehicles are concrete mixers, which use fuel to rotate the mixing drum, and sanitation trucks, which use fuel to operate the compactor. Both of these trucks move over the road, but at the same time, a substantial portion of their fuel use is attributable to the non-propulsion function.

The current problem developed because progress in technology has outstripped the regulatory process. In the past, dual-use vehicles commonly had two engines. IRS regulations, written in the 1950s, specifically exempt the portion of fuel used by the separate engine that operates special equipment such as a mixing drum or a trash compactor. These IRS regulations reflect the principle that fuel consumed for non-propulsion purposes is not taxed.

Today, however, typical dual-use vehicles use only one engine. The single engine both propels the vehicle over the road and powers the non-propulsion function through “power takeoff.” A major reason for the growth of these single-engine, power takeoff vehicles is that they use less fuel. And a major benefit for everyone is that they are better for the environment.

Power takeoff was not in widespread use when the IRS regulations were drafted, and the regulations deny an exemption for fuel used in single-engine, dual-use vehicles. The IRS defends its distinction between one-engine and two-engine vehicles based on possible administrative problems if vehicle owners were permitted to allocate fuel between the propulsion and non-propulsion functions.

Our bill is designed to address the administrative concerns expressed by the IRS, but at the same time, restore tax fairness for dual-use vehicles with one engine. The bill does this by establishing an annual tax credit available for taxpayers that own a licensed and insured concrete mixer or sanitation truck with a compactor. The amount of the credit is \$250 and is a conservative estimate of the excise taxes actually paid, based on information compiled on

typical sanitation trucks and concrete mixers.

In sum, as a fixed income tax credit, no audit or administrative issue will arise about the amount of fuel used for the off-road purpose. At the same time, the credit provides a rough justice method to make sure these taxpayers are not required to pay tax on fuels that they shouldn't be paying. Also, as an income tax credit, the proposal would have no effect on the highway trust fund.

I would like to stress that I believe the IRS' interpretation of the law is not consistent with long-held principles under the tax law, despite their administrative concerns. Quite simply, the law should not condone a situation where taxpayers are required to pay the excise tax on fuel attributable to non-propulsion functions. This bill corrects an unfair tax that should have never been imposed in the first place. I urge my colleagues to cosponsor this important piece of legislation.

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

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

S. 875

*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 "Fuel Tax Equalization Credit for Substantial Power Takeoff Vehicles Act".

#### SEC. 2. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

##### "SEC. 45E. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is \$250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

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

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking "plus" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting "plus", and by adding at the end the following new paragraph:

"(14) the commercial power takeoff vehicles credit under section 45E(a)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45E. Commercial power takeoff vehicles credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

#### STATEMENTS ON SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 88—EXPRESSING THE SENSE OF THE SENATE ON THE IMPORTANCE OF MEMBERSHIP OF THE UNITED STATES ON THE UNITED NATIONS HUMAN RIGHTS COMMISSION

Mr. KENNEDY (for himself, Mr. LUGAR, Mr. LEAHY, Mr. BROWNBACK, Mr. BIDEN, Ms. SNOWE, Mr. KERRY, Mr. SMITH of Oregon, Mr. TORRICELLI, Mr. CHAFEE, Mr. CORZINE, Mr. ALLEN, Mr. AKAKA, Mr. LIEBERMAN, Mr. BAYH, Mr. BINGAMAN, Mr. FEINGOLD, Mr. LEVIN, Mr. REED, Mr. KOHL, Mr. DURBIN, Mr. JOHNSON, Mr. SARBANES, Mr. WELLSTONE, Mrs. BOXER, Mr. MCCAIN, and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 88

Whereas the United States played a critical role in drafting the Universal Declaration of Human Rights, which outlines the universal rights promoted and protected by the United Nations Human Rights Commission;

Whereas the United Nations Human Rights Commission is the most important and visible international entity dealing with the promotion and protection of universal human rights and is the main policy-making entity dealing with human rights issues within the United Nations;

Whereas the 53 member governments of the United Nations Human Rights Commission

prepare studies, make recommendations, draft international human rights conventions and declarations, investigate allegations of human rights violations, and handle communications relating to human rights;

Whereas the United States has held a seat on the United Nations Human Rights Commission since its creation in 1947;

Whereas the United States has worked in the United Nations Human Rights Commission for 54 years to improve respect for human rights throughout the world;

Whereas the United Nations Human Rights Commission adopted significant resolutions condemning ongoing human rights abuses in Cuba, Iran, Iraq, Chechnya, Congo, Afghanistan, Equatorial Guinea, Burundi, Rwanda, Burma, and Sierra Leone in April, 2001 with the support of the United States;

Whereas, on May 3, 2001, the United States was not re-elected to membership in the United Nations Human Rights Commission;

Whereas some of the countries elected to the United Nations Human Rights Commission have been the subject of resolutions by the Commission citing them for human rights abuses; and

Whereas it is important for the United States to be a member of the United Nations Human Rights Commission in order to promote human rights worldwide most effectively: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the United States has made important contributions to the United Nations Human Rights Commission for the past 54 years;

(2) the recent loss of membership of the United States on the United Nations Human Rights Commission is a setback for human rights throughout the world; and

(3) the Administration should work with the European allies of the United States and other nations to restore the membership of the United States on the United Nations Human Rights Commission.

S. RES. 88

Mr. KENNEDY. Mr. President, today, Senator LUGAR and I are introducing a resolution expressing our concern over the recent loss of the U.S. seat on the United Nations Human Rights Commission. We are pleased that Senators LEAHY, BROWNBACK, BIDEN, SNOWE, KERRY, GORDON SMITH, TORRICELLI, CHAFEE, CORZINE, ALLEN, AKAKA, LIEBERMAN, BAYH, BINGAMAN, FEINGOLD, LEVIN, REED, KOHL, DURBIN, JOHNSON, SARBANES, WELLSTONE, and BOXER are cosponsors of this resolution.

We are deeply concerned that in the vote on May 3, the United States was not re-elected to membership on the Commission. The Commission is the most important and visible international body dealing with the promotion and protection of human rights and is the main policy-making organization dealing with human rights issues in the United Nations. The 53 member governments of the Human Rights Commission prepare studies, make recommendations, draft international human rights conventions and declarations, investigate allegations of human rights violations, and handle communications relating to human rights.

The United States has held a seat on the Commission since its creation in 1947 and has worked effectively through the Commission for the past

fifty-four years to improve respect for human rights throughout the world. It is essential for the United States to regain its position on the Commission and to continue to promote human rights worldwide.

The loss of membership on the Commission is a diplomatic setback for the United States and for human rights worldwide. Our resolution emphasizes the important contributions of the U.S. to the Commission, and it urges the Administration to work with our European allies and other nations to restore the membership of the United States on the United Nations Human Rights Commission as soon as possible.

I urge my colleagues to support this resolution.

#### AMENDMENT PREVIOUSLY SUBMITTED ON MAY 9, 2001

SA 430. Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table.

#### TEXT OF AMENDMENT PRE- VIOUSLY SUBMITTED ON MAY 9, 2001

**SA 430.** Mr. CLELAND submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

On page 480, line 12, strike the period at the end and insert a semicolon and the following:

“(6) other instructional services that are designed to assist immigrant students to achieve in elementary and secondary schools in the United States, such as literacy programs, programs of introduction to the educational system, and civics education; and

“(7) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant students by offering comprehensive community social services, such as English as a second language courses, health care, job training, child care, and transportation services.”.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 648. Mr. HELMS proposed an amendment to amendment SA 574 proposed by Mr. HELMS to the amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

#### TEXT OF AMENDMENTS

**SA 648.** Mr. HELMS proposed an amendment to amendment SA 574 proposed by Mr. HELMS to the amendment SA 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

In lieu of the matter proposed to be inserted, insert the following:

#### **TITLE** —EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

##### **SEC. 1. SHORT TITLE.**

This title may be cited as the “Boy Scouts of America Equal Access Act”.

##### **SEC. 2. EQUAL ACCESS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any public elementary school, public secondary school, local educational agency, or State educational agency, if the school or a school served by the agency—

(1) has a designated open forum; and

(2) denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts’ or the youth group’s oath of allegiance to God and country, as members or leaders.

(b) **TERMINATION OF ASSISTANCE AND OTHER ACTION.**—

(1) **DEPARTMENTAL ACTION.**—The Secretary is authorized and directed to effectuate subsection (a) by issuing, and securing compliance with, rules or orders with respect to a public school or agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (a).

(2) **PROCEDURE.**—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

(3) **JUDICIAL REVIEW.**—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d-2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

(c) **DEFINITIONS AND RULE.**—

(1) **DEFINITIONS.**—In this section:

(A) **ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.**—The terms “elementary school”, “local educational agency”, “secondary school”, and “State educational agency” have the meanings given the terms in section 3 of the Elementary and Secondary Education Act of 1965.

(B) **SECRETARY.**—The term “Secretary” means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) **YOUTH GROUP.**—The term “youth group” means any group or organization intended to serve young people under the age of 21.

(2) **RULE.**—For purposes of this section, an elementary school or secondary school has a designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

##### **SEC. 3. EFFECTIVE DATE.**

This title takes effect 1 day after the date of enactment of this Act.

#### MEASURE READ THE FIRST TIME—S. 872

Mr. JEFFORDS. Mr. President, I understand that S. 872, introduced earlier today by Senators MCCAIN, EDWARDS, and KENNEDY, 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. 872) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

Mr. JEFFORDS. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

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

#### PUBLIC SAFETY OFFICER MEDAL OF VALOR ACT OF 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 37, S. 39.

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

The assistant legislative clerk read as follows:

A bill (S. 39) to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

##### **SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Public Safety Officer Medal of Valor Act of 2001”.*

##### **SEC. 2. AUTHORIZATION OF MEDAL.**

*After September 1, 2001, the President may award, and present in the name of Congress, a Medal of Valor of appropriate design, with ribbons and appurtenances, to a public safety officer who is cited by the Attorney General, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty. The Public Safety Medal of Valor shall be the highest national award for valor by a public safety officer.*

##### **SEC. 3. MEDAL OF VALOR BOARD.**

(a) **ESTABLISHMENT OF BOARD.**—*There is established a Medal of Valor Review Board (hereinafter in this Act referred to as the “Board”), which shall be composed of 11 members appointed in accordance with subsection (b) and shall conduct its business in accordance with this Act.*

(b) **MEMBERSHIP.**—

(1) **MEMBERS.**—*The members of the Board shall be individuals with knowledge or expertise, whether by experience or training, in the field of public safety, of which—*

(A) *two shall be appointed by the majority leader of the Senate;*

(B) *two shall be appointed by the minority leader of the Senate;*

(C) *two shall be appointed by the Speaker of the House of Representatives;*

(D) *two shall be appointed by the minority leader of the House of Representatives; and*

(E) three shall be appointed by the President, including one with experience in firefighting, one with experience in law enforcement, and one with experience in emergency services.

(2) **TERM.**—The term of a Board member shall be 4 years.

(3) **VACANCIES.**—Any vacancy in the membership of the Board shall not affect the powers of the Board and shall be filled in the same manner as the original appointment.

(4) **OPERATION OF THE BOARD.**—

(A) **CHAIRMAN.**—The Chairman of the Board shall be elected by the members of the Board from among the members of the Board.

(B) **MEETINGS.**—The Board shall conduct its first meeting not later than 90 days after the appointment of the last member appointed of the initial group of members appointed to the Board. Thereafter, the Board shall meet at the call of the Chairman of the Board. The Board shall meet not less often than twice each year.

(C) **VOTING AND RULES.**—A majority of the members shall constitute a quorum to conduct business, but the Board may establish a lesser quorum for conducting hearings scheduled by the Board. The Board may establish by majority vote any other rules for the conduct of the Board's business, if such rules are not inconsistent with this Act or other applicable law.

(c) **DUTIES.**—The Board shall select candidates as recipients of the Medal of Valor from among those applications received by the National Medal of Valor Office. Not more often than once each year, the Board shall present to the Attorney General the name or names of those it recommends as Medal of Valor recipients. In a given year, the Board shall not be required to select any recipients but may not select more than 5 recipients. The Attorney General may in extraordinary cases increase the number of recipients in a given year. The Board shall set an annual timetable for fulfilling its duties under this Act.

(d) **HEARINGS.**—

(1) **IN GENERAL.**—The Board may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Board considers advisable to carry out its duties.

(2) **WITNESS EXPENSES.**—Witnesses requested to appear before the Board may be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Board.

(e) **INFORMATION FROM FEDERAL AGENCIES.**—The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out its duties. Upon the request of the Board, the head of such department or agency may furnish such information to the Board.

(f) **INFORMATION TO BE KEPT CONFIDENTIAL.**—The Board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

#### SEC. 4. BOARD PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—(1) Except as provided in paragraph (2), each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board.

(2) All members of the Board who serve as officers or employees of the United States, a State, or a local government, shall serve without compensation in addition to that received for those services.

(b) **TRAVEL EXPENSES.**—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sub-

chapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Board.

#### SEC. 5. DEFINITIONS.

In this Act:

(1) **PUBLIC SAFETY OFFICER.**—The term "public safety officer" means a person serving a public agency, with or without compensation, as a firefighter, law enforcement officer, or emergency services officer, as determined by the Attorney General. For the purposes of this paragraph, the term "law enforcement officer" includes a person who is a corrections or court officer or a civil defense officer.

(2) **STATE.**—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out this Act.

#### SEC. 7. NATIONAL MEDAL OF VALOR OFFICE.

There is established within the Department of Justice a National Medal of Valor Office. The Office shall provide staff support to the Board to establish criteria and procedures for the submission of recommendations of nominees for the Medal of Valor and for the final design of the Medal of Valor.

#### SEC. 8. CONFORMING REPEAL.

Section 15 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2214) is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

"(a) **ESTABLISHMENT.**—There is hereby established an honorary award for the recognition of outstanding and distinguished service by public safety officers to be known as the Director's Award For Distinguished Public Safety Service ('Director's Award').";

(2) in subsection (b)—

(A) by striking paragraph (1); and

(B) by striking "(2)";

(3) by striking subsections (c) and (d) and redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively; and

(4) in subsection (c), as so redesignated—

(A) by striking paragraph (1); and

(B) by striking "(2)".

#### SEC. 9. CONSULTATION REQUIREMENT.

The Board shall consult with the Institute of Heraldry within the Department of Defense regarding the design and artistry of the Medal of Valor. The Board may also consider suggestions received by the Department of Justice regarding the design of the medal, including those made by persons not employed by the Department.

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up the Public Safety Officer Medal of Valor Act, S. 39, which was introduced by Senator STEVENS, and its House counterpart, H.R. 802, which already passed the House of Representatives in March. I am proud to be a cosponsor of this important piece of legislation.

I congratulate Senator STEVENS for introducing the measure and thank him for his leadership. We had worked together on a number of law enforcement matters and the senior Senator from Alaska is a stalwart supporter of the men and women who put themselves at risk to protect us all. I looked forward to enactment of this measure and to seeing the extraordinary heroism of our police, firefighters and correctional officers recognized with the Medal of Valor.

On May 18, 1999, I was privileged to be on the floor of the Senate when we proceeded to consider S. 39 and passed it unanimously. I took that occasion to commend Senator STEVENS and all who had worked so hard to move this measure in a timely way. That was almost two years ago, during National Police Week of 1999. The measure was sent to the House where it lay dormant for the rest of the last Congress. That delay was most unfortunate.

Again, in this Congress, I have worked with Senator STEVENS, Senator HATCH, and others to prefect the final version of this bill and finally get it enacted into law. We have crafted bipartisan improvements to ensure that the Medal of Valor Board will work effectively and efficiently with the National Medal of Valor Office within the Department of Justice. Our legislation should establish both of these entities and it is essential that they work well together to design the Medal of Valor and to create the criteria and procedures for recommendations of nominees for the award. The men and women who will be honored by the Medal of Valor for their brave deeds deserve nothing less.

I look forward to the President signing the Public Safety Officer Medal of Valor Act into law.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 39), as amended, was read the third time and passed.

#### JAMES GUELFF AND CHRIS MCCURLEY BODY ARMOR ACT OF 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 38, S. 166.

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

The legislative clerk read as follows:

A bill (S. 166) to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "James Guelff and Chris McCurley Body Armor Act of 2001".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,200 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **BODY ARMOR.**—The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) **LAW ENFORCEMENT AGENCY.**—The term “law enforcement agency” means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) **LAW ENFORCEMENT OFFICER.**—The term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

### SEC. 4. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) **IN GENERAL.**—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that any sentencing enhancement under this section should be at least 2 levels.

### SEC. 5. PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.

(a) **DEFINITION OF BODY ARMOR.**—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) The term ‘body armor’ means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.”.

(b) **PROHIBITION.**—

(1) **IN GENERAL.**—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

#### “§931. Prohibition on purchase, ownership, or possession of body armor by violent felons

“(a) **IN GENERAL.**—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

“(1) a crime of violence (as defined in section 16); or

“(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

“(b) **AFFIRMATIVE DEFENSE.**—

“(1) **IN GENERAL.**—It shall be an affirmative defense under this section that—

“(A) the defendant obtained prior written certification from his or her employer that the defendant’s purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

“(B) the use and possession by the defendant were limited to the course of such performance.

“(2) **EMPLOYER.**—In this subsection, the term ‘employer’ means any other individual employed by the defendant’s business that supervises defendant’s activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.”.

(2) **CLERICAL AMENDMENT.**—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

“931. Prohibition on purchase, ownership, or possession of body armor by violent felons.”.

(c) **PENALTIES.**—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.”.

### SEC. 6. DONATION OF FEDERAL SURPLUS BODY ARMOR TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) **DEFINITIONS.**—In this section, the terms “Federal agency” and “surplus property” have the meanings given such terms under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(b) **DONATION OF BODY ARMOR.**—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor—

(1) is in serviceable condition;

(2) is surplus property; and

(3) meets or exceeds the requirements of National Institute of Justice Standard 0101.03 (as in effect on the date of enactment of this Act).

(c) **NOTICE TO ADMINISTRATOR.**—The head of a Federal agency who donates body armor under this section shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

(d) **DONATION BY CERTAIN OFFICERS.**—

(1) **DEPARTMENT OF JUSTICE.**—In the administration of this section with respect to the Department of Justice, in addition to any other of-

ficer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

(A) The Administrator of the Drug Enforcement Administration.

(B) The Director of the Federal Bureau of Investigation.

(C) The Commissioner of the Immigration and Naturalization Service.

(D) The Director of the United States Marshals Service.

(2) **DEPARTMENT OF THE TREASURY.**—In the administration of this section with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

(A) The Director of the Bureau of Alcohol, Tobacco, and Firearms.

(B) The Commissioner of Customs.

(C) The Director of the United States Secret Service.

(e) **NO LIABILITY.**—Notwithstanding any other provision of law, the United States shall not be liable for any harm occurring in connection with the use or misuse of any body armor donated under this section.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 166), as amended, was read the third time and passed.

### COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY LAW ENFORCEMENT OFFICERS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 39, S. Res. 63.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 63) commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. LEAHY. Mr. President, I am proud to be an original cosponsor of this resolution to honor our Federal, State and local law enforcement officers who gave the ultimate sacrifice for our public safety. I commend Senator CAMPBELL for his leadership in submitting Senate Resolution 63.

I want to recognize the other cosponsors of the resolution on the Senate Judiciary Committee: Senators HATCH, KENNEDY, THURMOND, BIDEN, GRASSLEY, KOHL, DEWINE, FEINSTEIN, SESSIONS, FEINGOLD, BROWNBACK, SCHUMER, MCCONNELL, and DURBIN.

Since my time as a State prosecutor, I have always taken a keen interest in



law enforcement in Vermont and around the country. Vermont has the reputation of being one of the safest States in which to live, work and visit, and rightly so. In no small part, this is due to the hard work of those who have sworn to serve and protect us, and we should do what we can to honor them and their families.

Our Nation's law enforcement officers put their lives at risk in the line of duty everyday. No one knows when danger will appear. Unfortunately, in today's violent world, even a traffic stop may not necessarily be "routine."

Each and every law enforcement officer across the Nation deserves our heartfelt respect and appreciation on Peace Officers Memorial Day.

Mr. KOHL. Mr. President, I rise today in support of S. Res. 63, recognizing the dedication and sacrifice of the men and women who have lost their lives while serving as public safety officers.

On Sunday, May 13, 2001, in a candlelight vigil, the names of 313 officers, many of whom were lost during the past year, were added to the National Law Enforcement Officers Memorial. Sadly, every year we add hundreds of names to this Memorial in a fitting honor, but also a terribly painful commendation to the people who risk their lives every day to protect our communities.

Wisconsin owes five officers a special tribute today for their service. I would like to honor them again by placing their names in the RECORD along with the date of their untimely passing.

Sung Hui Bang of Milwaukee County—8/17/2000; Edward R. Hoffman of Marinette County—5/26/2000; Frank Moran of Darlington—5/8/1927; Todd Jeffrey Stamper of Crandon—7/15/2000; Ralph Edward Zylka of Milwaukee County—8/17/2000.

I only hope that these moments of recognition bring some solace to the officers' families and express our appreciation for their service. We are forever in their debt.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 63) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 63

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 150 peace officers lost their lives in the line of duty in 2000, and a total of nearly 15,000 men and women serving as peace officers have now made that supreme sacrifice;

Whereas every year, 1 in 9 peace officers is assaulted, 1 in 25 peace officers is injured, and 1 in 4,400 peace officers is killed in the line of duty; and

Whereas, on May 15, 2001, more than 15,000 peace officers are expected to gather in the Nation's Capital to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2001, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

#### PUBLIC SAFETY OFFICER MEDAL OF VALOR ACT OF 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 40, H.R. 802.

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

The assistant legislative clerk read as follows:

A bill (H.R. 802) to authorize the Public Safety Officer Medal of Valor, and for other purposes.

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

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 802) was read the third time and passed.

#### ORDERS FOR TUESDAY, MAY 15, 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10:30 a.m. on Tuesday, May 15. I further ask unanimous consent that on Tuesday, 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 resume consideration of the Murray amendment as under the previous order.

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

Mr. JEFFORDS. Mr. President, further, I ask unanimous consent that the

Senate stand in recess from the hours of 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet.

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

#### PROGRAM

Mr. JEFFORDS. Mr. President, for the information of all Senators, the Senate will resume consideration of the Murray amendment regarding class size at 10:30 tomorrow morning. Under the previous order, there will be up to 2 hours for debate on the amendment with a vote scheduled to occur at 2:20 p.m. following the policy luncheons. There are numerous amendments currently pending, and further amendments will be offered during tomorrow's session. Therefore, votes are expected throughout the afternoon and into the evening.

#### ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. JEFFORDS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:14 p.m., adjourned until Tuesday, May 15, 2001, at 10:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate May 14, 2001:

##### DEPARTMENT OF DEFENSE

PETER W. RODMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE EDWARD L. WARNER, III.

##### DEPARTMENT OF TRANSPORTATION

ALLAN RUTTER, OF TEXAS, TO BE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION, VICE JOLENE MORTIZ MOLITORIS, RESIGNED.

##### DEPARTMENT OF THE INTERIOR

PATRICIA LYNN SCARLETT, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE M. JOHN BERRY.

##### ENVIRONMENTAL PROTECTION AGENCY

GEORGE TRACY MEHAN, III, OF MICHIGAN, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE J. CHARLES FOX, RESIGNED.

##### DEPARTMENT OF THE TREASURY

BRIAN CARLTON ROSEBORO, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE LEWIS ANDREW SACHS, RESIGNED.

##### DEPARTMENT OF STATE

PAUL VINCENT KELLY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (LEGISLATIVE AFFAIRS), VICE BARBARA MILLS LARKIN.

JOHN D. NEGROPONTE, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

JOHN D. NEGROPONTE, OF THE DISTRICT OF COLUMBIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

##### THE JUDICIARY

LYNN LEIBOVITZ, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE STEPHEN G. MILLIKEN, RETIRED.