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# Senate

The Senate met at 10:00 a.m. and was called to order by the Honorable LINCOLN CHAFEE, a Senator from the State of Rhode Island.

PRAYER

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

O God, here we are decked out with red ties, blouses, and dresses, ready to celebrate Valentine's Day. Thank You for those we love—our spouses and families, our friends, and those with whom we work. You are the artesian well of true love. Good thing, Father, for we also need love for those we find it hard to like!

May this be a day in which Your love is expressed in our words, attitudes, and actions. Particularly, we need Your help to express affirmation to those who need assurance, encouragement to those who have heavy personal burdens to carry, and hope to those with physical pain. Our prayer for each of these is not to remind You of what You already know, but to place ourselves at Your disposal to be messengers of Your love in practical ways and in heartfelt words. May this be a ''say it'' and ''do it now'' kind of day. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable LINCOLN CHAFEE 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, February 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 LINCOLN CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

STROM THURMOND,
*President pro tempore.*

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

## RESERVATION OF LEADER TIME

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

## 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 exceed 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 10:40 a.m. shall be under the control of the Senator from Wyoming or his designee.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Wyoming, the acting majority leader, is recognized.

## SCHEDULE

Mr. THOMAS. Today, the Senate will be in a period of morning business throughout the morning until 2 o'clock. Following morning business, the Senate will begin consideration of S. 320 regarding copyright and patent laws. By previous consent, there will be up to 1 hour of debate on the bill, with the vote on passage expected to occur at approximately 3 p.m. There may be some slippage of time there. Some Members may be returning, I believe, from West Virginia. It could be 3:15.

The Senate could also consider the Paul Coverdell Peace Corps bill and the small business advocacy bill during this week's session, as well as any executive nominations that are available.

I yield the floor.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 322 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. THOMAS. 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. SANTORUM. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

## TAX RELIEF

Mr. SANTORUM. Mr. President, I understand my colleague from Wyoming was talking today about the President's proposal on tax relief. I have been watching a little bit of the debate on the floor of the Senate. I have to say, this debate is somewhat disturbing.

We have been discussing taking some of the money people have worked hard to earn and have sent here to Washington—and we have a surplus of money coming here now; we have a tax surplus for which people have worked hard, they have earned it, they have sent it to Washington, and we have enough money to pay for all the bills we have right now—and now we are talking about how can we take some of this money that people worked hard to earn and return it to them.

In the discussion and debate we hear some saying that people who are paying less in taxes are going to get less

money back in real dollars than people who pay a lot more in taxes are going to get back and that somehow is unfair. For example, if somebody who pays $200 in income taxes is going to get tax relief of $200—in other words, many people under the proposal being put forward are going to simply have all of their tax liability eliminated. If they are paying $200 in taxes and they are going to get $200 in tax relief while someone who pays $300,000 in taxes is going to get $30,000 in tax relief, somehow or another that is unfair; it is unfair that this one person who is a hard-working person is only going to get $200 under this proposal and some fat cat is going to get $30,000, and that is unfair.

So we see pictures: Here is what the fat cat is going to get, here is what the poor working person is going to get, and that is not fair. Except for the fact, if you step back and say, wait a minute, how much is this person who is paying a lot of taxes—how much are they paying and what is their relief versus what someone who has a lower income is paying and what is their relief? If we were going to balance this according to fairness as described by some, then there should be equal tax relief, even though there is not equal payment of taxes.

When a surplus is created because people have overpaid taxes and we want to relieve the tax burden on those who have overpaid, then I think fairness dictates we give tax relief to everybody who has contributed to the overpayment somewhat in proportion to what they have overpaid. That, to me, would be fair.

What would be unfair is for someone who pays $200 in taxes to get $20,000 in tax relief as opposed to someone who pays $300,000 in taxes to get $300 in tax relief. Some would suggest that is fair. I suggest that is typical Washington wealth redistribution because we know who the more deserving are here in Washington.

What we are putting forward is as fair as we could possibly do it. In fact, if you look at the numbers, the top income earners and the top taxpayers in this country are going to end up with an increased burden of taxes. If you look at all the people paying taxes and whose share of the tax burden is going to go up after this proposal if it is passed as the President suggested, the tax burden on the higher income people will actually go up relative to everybody else.

Some would argue that is unfair. Some would argue that we are not giving enough tax relief to those who are higher income to keep the distribution of who pays taxes the same. But we are shifting the distribution to higher income.

We are going to hear lots of arguments about fairness. I always use this example—I think it is the best example—between what we are trying to accomplish and what some on the other side would suggest is fair.

I use the example of people who buy tickets to a baseball game. You pay and the game gets rained out. It is the last game of the year, so they have to refund your money. There are people who paid different prices for different seats in the baseball stadium. Some paid for the seats right down in front, maybe $25 a ticket. Then you paid for some up here in the loge boxes, maybe $15 a ticket. And then there are some folks up here in the outfield and they paid $5 a ticket. The game got rained out. So what do the owners of the baseball team have to do? They have to refund your money. You have overpaid. But you didn't get what you were promised. You overpaid. Get your money back.

What I would suggest as fair is, people who pay the $25 get $25 back, people who pay the $15 get $15 back, and people who pay $5 get $5 back. The guy outside who just happened to be driving by and didn't buy a ticket does not get any.

To some on the other side of the aisle, here is what they believe is fair. The guy who paid $25 gets $5; because he obviously can afford $25, he doesn't need all of the money returned. It is the guy up there who paid $5 who probably needs more money, and not only are we going to give him $5 but we are going to give him $15 back. The guy in the middle who paid $15, we will give him $15. We feel so bad about the guy outside who didn't get a chance to pay and come in that we are going to give him some money, too.

Is that fair? No. I do not know of an owner of a baseball team who could get away with something like that. It is patently unfair to do it that way. I think most Americans would agree that is fundamentally unfair. That is what we were talking about. For people who have paid a tremendous amount of money for which they have worked hard, we are suggesting they get back somewhat in proportion to what they paid as well as everybody else.

In fact, we are not suggesting that. We are suggesting they not get back quite as much proportionately, but we do in fact shift it. If you are going to take the example of the baseball stadium, instead of giving $25 back, they get $20 back. The guy paying $15 maybe gets $17 back, and the guy up here, instead of getting $5 back, may get $8 or $10 back.

There are those who would suggest that is unfair. I would suggest that is more than fair. For the folks who are paying the $25 for the ticket, some would suggest it is unfair to them. It is more disturbing if we look at the underlying motive behind this discussion. It really is a discussion that I think is not really worthy of us in Congress; that is, this idea of class warfare; that somehow or another, if you have worked hard and you have been successful starting a business or creating a company, if you have tremendous capital talent as a great singer or a great athlete—whatever the case may be—and you have been successful financially, somehow or another that is bad and you should be punished and should be paying exorbitantly more than people who have not been as successful.

Obviously, there is a small group of people who are very wealthy in this country. It is very small—about 4 percent. It is a lot more popular to go out and argue for the folks who are in the middle class, the large majority of Americans. We say: We are for you, and we are going to give you more money in this tax relief. Under the Bush proposal, they get proportionately more money. But somehow they argue they are undeserving: They pay the vast majority of taxes, but they need to pay more, and they don't deserve relief because they have money. I don't think that is necessarily an enobling argument.

I think the argument President Bush puts forth that no one in America should pay more than one dollar out of every three to the Federal Government in taxes is a statement with which most Americans would agree. Right now, higher income individuals pay about 40 percent of every dollar they earn in Federal taxes, not to mention other taxes they have to pay. When we have a surplus and the surplus has been generated by the fact that a lot of people have overpaid their taxes, my feeling is, what is unfair if you give every taxpayer tax relief?

To the extent we can, yes, we should help others. There are going to be proposals you are going to see considered to give people relief who didn't get in the stadium and pay for the ticket. They will get some relief, if you will. Even though they did not pay, they are going to get some money out of this. Why? Because we want to create more opportunity for people so someday they get inside the stadium.

We would like everybody to pay taxes in the sense that everybody would be economically successful, and enough that they would be in a tax bracket that would require it. We are about providing opportunities. We are also about fairness. I think that dictates that we provide tax relief across the board to those who pay.

The other thing we should think about when we put a tax bill together is: What are we trying to accomplish? What is the goal? Obviously, as I stated before, we have too much money. I would like to get it out of Washington before we spend it.

There are those of us who come to the floor year after year to say if we don't give tax relief, and if we don't get this money out of Washington, rest assuredly it will be spent. Just at the end of last year, we added to the 10-year budget of the United States $600 billion in new spending. I did not hear a word from those who now say we don't need tax relief and who have suggested we were spending the surplus that we didn't have. We hear a lot of people say we can't do tax relief because we don't know that the surplus is going to be

there and therefore we shouldn't commit ourselves to this relief. They did not make that complaint when we were talking about spending the $600 billion surplus that we didn't have last year.

I argue that if the money stays in Washington and we don't provide tax relief, the money will be spent, as sure as anything I can promise. It will be spent if it sits on the table. We just can't help ourselves. I think it is important to get that money back out. Why would we want to do that other than just do it so we don't spend it?

We have heard lots of reports about what the economy looks like now and in the future. We have had an unprecedented string of years of economic growth. But I think it is important, as several other economists said—and Alan Greenspan—that in the future to avoid an economic slowdown we have lower rates of taxation and more money in the economy for investment and job creation.

By the way, who is creating the jobs? We have heard many times some of my colleagues on the other side of the aisle talking about not having to provide tax relief for higher income individuals. But who creates the jobs? The employer. They seem to like employees but hate employers. I do not know of too many employees who find jobs if there are not employers. Providing tax relief to people who will take that income and go out, as some have suggested, and buy a Lexus—if you are earning $2 million or $3 million a year, you already have a Lexus, if you want one. But they will go out and take that money and invest it to create jobs, and create opportunities so we can take some of those people outside the stadium who didn't have the chance to buy the ticket and give them a job so they can become taxpayers.

It is important not just to get the money out of Washington, but it is also vitally important to help our economy and create economic opportunities for people who need economic opportunities down the road.

There are some other things we need to do, again in the name of fairness. There is a lot of discussion about fairness. The President's proposal is that we have marriage penalty relief. It is unconscionable that on Valentine's Day there are people in America who will get married and, by virtue of the fact that they get married, have to pay more in income taxes. At a time when we want to encourage marriage through the Tax Code, we penalize it. That is unconscionable and unfair. Under the President's proposal, we go a long way to eliminating that marriage penalty.

Mr. President, death should not be a taxable event, but it is. What we are suggesting is that over a 10-year period of time we phase out estate taxes on people who die. I think most Americans would agree that if someone has a piece of property and they die and pass it on to the next generation, when that next generation sells the property, they should be taxed on the capital gains. But if in fact the person dies, it should not be a taxable event on the next generation. The greatest impact of that is on the family farm, the small business man or business woman when they want to pass that business on to the next generation after they die. They have to sell the farm or the business so they can pay the taxes that are due.

Whom does that hurt? Obviously, it hurts the businessperson. But how about the people who work for that business, where that business has to go out of business simply to pay taxes or where the business has to be sold simply to pay taxes.

So, again, it is the old story. Most Americans realize this. When you stand up here and say: ''We are going to go after and get the rich, we are going to make sure they pay even more and more and more taxes,'' ultimately who gets hurt is the people at the bottom and the middle because they do not get the quality jobs or they do not get the kind of strong economy that makes for a better quality of life.

So I think what we are talking about here is tax relief for every taxpayer. Some suggest that is not fair. I would suggest that is the only fair way to do it; when you have a tax surplus, you give it back in proportion to how much the people paid. That, to me, would be fair.

If you think your job is to not be fair but to redistribute wealth—that is the object here, to redistribute the wealth based upon who we believe, in Washington, are more deserving. Let's be clear about it; that is what we are doing. We are saying some people are more deserving than others, and we are going to choose to take some people who worked hard, earned this money, sent it to Washington—we are going to take their money and give it to other people because we believe that is fair. We do a lot of that already. But now we are suggesting, because there is an overpayment, here is an opportunity to do more of that.

I argue that is not what we should take advantage of. We should take the opportunity to create an across-the-board, fair tax reduction for every working American, every taxpayer.

So that is what the debate is going to be about. I hope we will look at the underlying policy of why we are trying to do this, not just here is how much X gets and here is how much Y gets but look at the underlying policy: Are we trying to pass tax relief that is going to accomplish economic growth? If so, how do we best do that? Let's have a discussion about that.

Are we trying to eliminate provisions in the Tax Code that are unfair, such as the marriage penalty and the death tax? I argue that the alternative minimum tax has become unfair on a lot of middle class, working Americans who now have to pay that tax.

If we look at it and we take it a step at a time, we will deal with the fairness issue. Let's take care of that issue, and then let's try to do something across the board that does something for economic growth; we must have as part of our agenda not just fairness but growth because the ultimate equalizer, if you will, the ultimate creator of opportunity, is economic growth.

I believe that unless we do something to create a tax system that enables more economic growth in the future, then a lot of folks to whom we are going to shift a little money—as some suggest, that you take from higher income and give it to lower income—they are going to find themselves either in lower paying jobs down the road or with no jobs. That is not a good result for anybody.

So again, let's keep our eye on the ball. Yes, get the money out of Washington; yes, provide some tax fairness; but also, let's make sure we do a tax reduction that is going to result in a growing economy over the long term. That, to me, dictates, as Alan Greenspan said yesterday, a rate reduction. The best way to assure economic growth is an across-the-board rate reduction.

So if what we care about is avoiding a deep recession or a recession altogether in the next 3 or 4 or 5 years, the best way to accomplish that is a rate reduction for all taxpayers.

One other point. Some have mentioned what we are talking about here is Federal income taxes: You have a lot of taxpayers who have to pay FICA taxes and Medicare taxes, and they are not getting any tax relief.

I would make two comments on that. No. 1, FICA taxes or Social Security taxes, when they are paid, obviously, fund a program, the Social Security program, or the Medicare program in the case of Medicare taxes. But they also make you eligible for a benefit. The benefit is so structured today where lower income individuals get a much higher percentage benefit than higher income individuals. So the program is already structured, No. 1, that you pay the tax to assure a benefit down the road.

So it is not like income taxes, where you just sort of pay the tax and it goes to the general welfare. But this actually earns you, if you will, a particular benefit. It is the same with Medicare. So you are getting something directly for you for the dollars you are contributing.

Secondly, we are paying too much in Social Security taxes now. We have a surplus. Some of us have argued—and I will continue to argue—instead of bidding up what I consider to be a phony surplus, with just basically IOUs in the Social Security trust fund, which are future obligations for taxpayers, and nothing more than that, I would suggest we take this surplus and allow younger workers to invest that money, to create real opportunities for them so they can have real money, real assets that can pay real benefits 20, 30, 40

years from now, instead of creating IOUs which are simply a claim on their children's taxes 30 years from now or 40 years from now. And that would not be a real economic asset; it would simply be a real economic obligation of future generations.

I argue that the better way to accomplish that, instead of overtaxing current workers, which we do with Social Security and Medicare—I am going to focus on Social Security right now—instead of overtaxing Social Security payers, people who pay Social Security taxes today, let's give them the opportunity of setting that money aside, investing it over the long term, accumulating assets, and then using that real asset—a real economic asset—to come back 30 years from now to help pay for those benefits. That would be instead of, in a sense, putting that IOU away.

I will use this as an example. I think it is a good example. I went to a group of high school students the other day, and I asked: How many of you out here work? About half the hands went up. I asked: Where do you work? One kid said: Burger King. I said: Right now you work at Burger King, and you have to pay Social Security taxes. And 12.4 percent is what the Social Security tax is. You pay 12.4 percent, but all that money does not go to pay benefits. That is what it traditionally has done. All the money would go right out to pay benefits. But in this case, you are paying more than you need to.

You only need to pay a little over 10 percent to pay for current beneficiaries. Money comes in, goes out to beneficiaries, but we have a surplus, a little over 2 percent. So you pay more than you need to now. So we are taking more money out of your paycheck than we need.

What do we do with that surplus money in Social Security? Social Security has cash. Can Social Security hold cash? It would be a smart thing for them to do. No. They have to invest that money. Where do you think they invest the money? Treasury bonds. What are Treasury bonds? Debt of the Federal Government.

So Social Security gives money to the general fund, and the general fund puts a note back into Social Security. It is an IOU. It is a Treasury bond that pays interest.

Now let's talk about that 18-year-old 30 years from now. Thirty years from now, that 18-year-old is still paying taxes. He is 48 years old. Then, instead of having a surplus in Social Security, we have a deficit. So then what we will have to do is raise Federal taxes because we will have to start repaying those bonds. We have to put the money back into Social Security.

So what are we going to have to do? Thirty years from now, we are going to go to that person who paid too much in taxes in the first place to create the IOU, and now we are going to have to increase their taxes so they can pay back the IOU they created by paying too much taxes in the first place. So they get to pay twice for this benefit. That is not fair.

So I think we do need to create personal retirement accounts. That is one way we can solve the problem of Social Security taxes.

The Senator from Colorado is here, and I am happy to yield the floor to him.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Pennsylvania for yielding and certainly appreciate his hard work and dedication on the issue of taxes. I served with him in the House and now serve with him in the Senate. He is certainly a great American.

I understand that we are moving into time controlled by Senator BOND and Senator COLLINS. I have a number of points I want to make in relation to national defense. I would like to yield to my colleague from Missouri to visit with him a little bit on how he plans to manage the time and what his plans are.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

(The remarks of Mr. BOND and Mr. ALLARD pertaining to the introduction of S. 336 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

## NATIONAL DEFENSE

Mr. ALLARD. Mr. President, I rise today to talk about our national security and defense. This is the week the President has decided to emphasize defense. I will take a moment to review briefly where we are as far as the National Missile Defense Program is concerned. Before I do that, I will lay out a few things for the record.

First, this week the President has decided to talk about quality of life. He has emphasized the fact that soldiers enlist, but families reenlist, trying to address the problems we have with retention in our military services. I wholeheartedly agree with him in his efforts. He has made tremendous strides in that direction, when he says he will go ahead and try to promote the idea that we need to have a military pay raise, renovate standard housing, improve military training, and review overseas deployments to reduce family separations.

The President also has recognized the concept of a citizen soldier. I can relate to that. I like to think of myself as a citizen legislator. These are individuals who have regular jobs but take a spell from those jobs to serve our country. That is our National Guard and Reserve troops, and States play an important role. The National Government plays an important role to make sure these citizen soldiers are readily available in time of national emergency to serve our country and its defense.

The third item he has talked about is the transformation of the military to a stronger, more agile, modern military, which has both stealth and speed.

I think we also need to rethink our vulnerabilities and the time to do it is now. We need to rethink our strength, and the time to do it is now, while we are transitioning from one administration to another. There is no doubt in my mind that for the last 8 years our defense structure in this country suffered intolerably. It is time we made very significant changes. I support the idea that we need to increase spending for defense.

As we look at our vulnerabilities and strengths, we certainly need to base our thinking on the new technology that we have and what the future is for the development of that new technology. We need to think about the future threat from potential adversaries. We need to work toward the idea of more peace and more freedom through renewed strength and renewed security. Based on all of that, we have to control the high ground. I think that is as true today as it was two or three centuries ago. Controlling the high ground is very important in the field of battle.

I am a strong proponent of looking at an enhanced role for space. We must think in terms of a space platform. By controlling that high ground, we would secure all our forces and secure our national defense system. I believe the technology is very close, where we can move forward with some very significant steps in enhancing, in a modern way, our defense systems in America.

I want to take a little time while I have the floor to review the background of our National Missile Defense System—a step in that direction—and review a little bit about where I see we are today.

First of all, on the National Missile Defense System, I think we ought to quit referring to it as the ''national'' missile defense system. I think we need to refer to it as our missile defense system and get away from the vagueness of trying to identify a theater missile defense system and a national missile defense system. I think, from a foreign relations standpoint, when we use the term ''national,'' it implies it is just for America. We are putting together a missile defense system, hopefully, that will secure world peace. I think we need to keep that in mind when we talk about what we are going to do to enhance our missile defense system.

In my discussion this morning on defense and the National Missile Defense System, I am just going to refer to it as the missile defense system.

Starting back in 1995, the Republican Congress consistently pressured the Clinton administration to make a commitment to deploy a national missile defense system. In 1995, then-President Clinton vetoed the Defense Authorization Act over its establishment of a national missile defense deployment policy.

Then, in 1998, the Rumsfeld report, now-Secretary of Defense Rumsfeld, said that a ballistic missile threat to the U.S. was ''broader, more mature and evolving more rapidly'' than the Intelligence Community had been reporting prior to that. The report also stated that:

The warning times the U.S. can expect of new, threatening ballistic missile deployments are being reduced . . . the U.S. might well have little or no warning before operational deployment.

That is what our current Secretary of Defense was saying.

Then, in 1999, the National Intelligence Council warned that:

The probability that a WMD armed missile will be used against the U.S. forces or interests is higher today than during most of the Cold War.

That was made in 1999 by the National Intelligence Council.

In 1999, finally, the President signed the National Missile Defense Act of 1999—referred to around here as the Cochran bill—which requires deployment of a national missile defense system ''as soon as technologically possible.'' That is the key—''as soon as technologically possible.''

Even though the administration funded the National Missile Defense Acquisition Program, President Clinton never committed the United States to actual deployment. So in September of last year, 2000, President Clinton decided to defer a deployment decision to the next administration.

Having laid out that background, I want to talk about where we are today. The current missile defense system is preparing to deploy a single ground-based site in Alaska, with a threshold capacity of 20 interceptor missiles in fiscal years 2005–2006, and 100 interceptors in fiscal years 2007–2008. That is the current plan. This is referred to as the initial stage. This would be upgraded, and a second ground-based site would be deployed to deal with more complex and numerous threats in the fiscal year 2010–2011 timeframe.

This stand-alone, ground-based approach is inadequate really to satisfy U.S. global security requirements. Nonetheless, the most affordable and most effective path to a global ballistic missile defense system is to augment the current missile defense program rather than replace it.

Now, the current ground-based missile defense program has made significant technical progress and offers the earliest deployment options. Once this system is deployed, it will offer an ''open architecture.'' This is very important. It offers an ''open architecture'' that can be augmented with ground-based, sea-based, and/or space-based systems as they mature and are demonstrated. So we leave the door open for technological advances so we can build upon the structure we are initially going to lay out there.

I will reemphasize that this is a defense structure, not offensive; it is a defense system. Frankly, I don't understand the opposition from many of our allies to a system that is defensive in nature. I think they ultimately will share in that technology because it will assure that we have a safer world.

The key to deploying an effective missile defense architecture is a layered system that is deployed in phases. A top priority should be the prompt establishment of programs to develop the sea-based and then the space-based elements that can be added to the initial system when they are ready.

The sea-based missile defense elements should be based on the existing Navy Theater Wide (NTW) Theater Missile Defense Program. The NTW Program will need to be augmented, both in terms of funding and technical capability. The interceptor missiles are not sufficiently capable to perform the missile defense mission. Therefore, the Department of Defense should consider a phased approach to the NTW, which involves initial deployment of a system for long-range TMD and limited missile defense applications, and then upgrade to a more dedicated sea-based missile defense capability in the future.

The development of a strategy for dealing with the ABM Treaty is as important as the technical/architectural issues mentioned above. The United States will need to determine whether it wants to pursue modifications to the treaty or seek a completely new arrangement. Any effort at incrementally amending the treaty will involve many of the same problems the Clinton Administration experienced with Russia and our allies.

The current acquisition cost, including prior years, for the initial ground-based National Missile Defense system (with 100 interceptor missiles) is $20.3 billion. The average annual cost for R&D and Procurement is approximately $2.0–2.5 billion. Ballistic Missile Defense Organization is also recommending a significant increase to enhance its flight test program and its efforts to deal with counter-measures, which could increase the overall Missile Defense cost by several billion dollars. The Navy has estimated that an initial sea-based National Missile Defense capability could be deployed in 5–8 years for $4–6 billion; an intermediate capability could be deployed in 8–10 years for $7–10 billion; and a far-term capability, involving dedicated Missile Defense ships and missiles, could be deployed in 10–15 years for $13–16 billion. Note that the Navy estimates assume that the ground-based National Missile Defense infrastructure is in place. Without this infrastructure, the Navy would have to add radars, space-based sensors, battle management, and command and control to their cost estimates.

There are many issues before Congress and this administration concerning our missile defense system and they are the following:

We need to establish a policy for ballistic missile defense reflecting the current global security environment.

We need to illuminate the path ahead regarding the ABM Treaty.

We need to redefine the relationship between ballistic missile defense and strategic forces.

We need to establish a global missile defense as a new ballistic missile defense paradigm.

We need to deemphasize the distinction between national missile defense and theater missile defense.

We need an integrated missile defense architecture and operational concept.

We need to have a layered approach to ballistic missile defense starting with land, sea, and space in the future.

Our greatest challenge is overcoming 8 years of funding inadequacy. In the fiscal years 1994 through 1999, Secretary Cheney at that time envisioned $7 billion to $8 billion SDI budgets.

We have a great opportunity before us. I think most Americans like most of President Bush's major proposals. A Newsweek poll found 56 percent approved of his plan for a missile defense system.

Former Secretary of State Henry Kissinger said no President could allow a situation in which ''extinction of civilized life is one's only strategy.''

The New York Times reports today that Russian President Putin and Germany's Foreign Minister Fischer discussed the proposed American missile defense at a Kremlin meeting yesterday, ending 2 days of talks that Mr. Fischer said pointed to new Russian flexibility on the notion of a shield against rogue missiles. Mr. Fischer told reporters: ''In the end, I think Russia will accept negotiations.''

The Senate Armed Services Committee has met with the British foreign minister and discussed this. A nuclear missile defense will benefit the world. Only our aggressors, I believe, need fear our missile defense technology.

Robert L. Bartley says in today's Wall Street Journal: ''The deliberate vulnerability of 'mutual assured destruction' carries an appropriate acronym, MAD.''

In the end, with the cold war over, we should look beyond the cold war rules and to the unpredictable future and weapons of mass destruction.

I reemphasize that I believe we need to rethink our vulnerabilities and our strengths based on our new technology and based on the future threat from potential adversaries. Our goal should be more peace and more freedom through renewed strength and a renewed security, and we accomplish that by establishing control of the high-ground.

Technology is the key, and we need to be sure we are willing to put our dollars and our brain power behind the idea that we will move forward with a strong defense system which will, in the long run, assure continued world peace.

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

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## PATIENT PROTECTION LEGISLATION

Mr. EDWARDS. Madam President, for too long the law has been on the side of HMO's and big insurance companies. It is time we give power back to patients and families and doctors. Nearly every one of us has had some sort of bad experience with an HMO or an insurance company, either personally or through a family member or a friend. Sometimes the problems are frustrating, sometimes the problem is just red tape and bureaucracy, sometimes it is simply impersonal treatment.

Sometimes the problems are much more serious than that. Sometimes the problems are dangerous: when an HMO, for example, refuses to authorize a visit to a specialist or the nearest emergency room, or denies treatment that is desperately needed by a patient, or refuses to be held accountable for any of the decisions it makes. Americans have the right to expect that decisions about their health care and their family's health care will only be made by the patient, in consultation with physicians and family members, and that physicians will be able to help them make those decisions on the basis of the patient's best medical interests. Those decisions should not be made by HMOs and insurance companies concerned only about the bottom line.

That is why we need a Patients' Bill of Rights. That is why last week I joined Senator JOHN MCCAIN, along with a bipartisan group of Members of the House and the Senate, to introduce a bill that builds on the progress that has already been made in this Congress to pass a Patients' Bill of Rights.

The Bipartisan Patient Protection Act provides comprehensive patient protection for all Americans. It will, No. 1, guarantee access to specialists for all people who have private insurance, so that women, for example, can go directly to an OB/GYN or a child can go directly to a pediatrician for care. No. 2, it strengthens the right to go to an emergency room, to the ER, immediately after an emergency arises, without first having to be concerned about calling some 1–800 number and asking permission from an insurance company or an HMO.

When a family is involved in a medical emergency, the last thing they need to be worried about is calling the insurance company. They need to be able to do what is best for their family and go immediately to the emergency room that is closest to them. Our bill provides for that.

We also eliminate the gag rule. What we need to do is give doctors the ability to speak freely with their patients about the treatment options that ought to be considered by the patient. What we have done is prohibit clauses between insurance companies and doctors—the so-called ''gag rule''—that restrict doctors from talking to their patients about the various treatment options, and instead only allow doctors to talk about the cheapest treatment options. We prohibit that practice and prohibit gag rules.

Scope. Our bill covers every single American who has private insurance through an HMO or an insurance company. Some of my colleagues have argued, during the course of the debate about a real Patients' Bill of Rights, for a more limited approach. I do not agree. I believe every single American who has health insurance or receives coverage through an HMO deserves, and is entitled to, exactly the same rights. The same basic rights and freedoms that we provide for some people ought to be available for every single American who has HMO or health insurance coverage.

Make no mistake, in States like Texas where strong protections already exist under State law, the State's own efforts in this area should be respected. Under our bill, if the State law is comparable or more protective of patients than those we enact here in the Congress, State law will remain in effect.

In most cases, HMOs and other health care providers respect the decisions that are made by patients and doctors. This is usually not a problem. The people get the treatment they are entitled to, the treatment their doctor recommends, and they get better. But if the patient or the doctor believes that the quality of their health care may be at risk because of what the HMO is doing, because of some bureaucrats sitting behind a desk somewhere who decides that they know better what care or treatment the patient should receive, that they know better than the doctor or specialist who is taking care of the patient, then we need to provide some way for the patient to appeal that decision.

What we have done here is provide an alternative recourse whenever the HMO or insurance company decides that coverage for treatment should be denied. Under existing law, the HMO's decision is final. If the HMO, no matter what its reasoning for the decision is, decides that this care, this treatment—for example, that a sick child should not be able to go directly to a pediatric oncologist—the patient, the family, the child can do nothing. The HMO holds all the power. The law is completely on the side of the HMO and the insurance company, and patients are left totally defenseless.

What we are doing today, through this legislation, is putting accountability back into the system so that, like all other Americans, HMO's are held accountable for what they do.

As a first resort, patients are guaranteed both an internal and an external appeals process. If they go to an HMO and the HMO says that they won't pay for a particular treatment or a particular doctor, patients have a place to go to appeal. All patients will have a right to appeal treatment denials to an external review authority with outside medical experts, which is critical. The independence of the appeals process is crucial. We have provided for extensive protections to ensure that the independence is in fact there. Once the appeal is made and the independent board decides that coverage should have been provided, the decision is final and binding on the HMO or the insurance company.

As a matter of last resort—and I emphasize last resort—if the HMO has denied coverage, and the appeals process fails, the patients should have the ability to go to court.

I want to emphasize that the ability to go to court is a matter of absolute last resort. For example, in States such as Texas that have enacted legislation—about 3 years ago, Texas enacted legislation providing patients the right to go to court—experience has proven that actual litigation virtually never happens. It does not happen for a very practical reason: because, first of all, the HMO has to deny coverage; second, there is an internal review and appeal process; and third, there is an external appeal process to an independent body. So it is a very rare circumstance where anybody feels the need to go to court. In States such as Texas that have enacted patient protection legislation, there have been very few lawsuits filed.

What the Bipartisan Patient Protection Act does is ensure that medical judgment cases go to State court. The basic reasoning here is that if the HMO or the insurance company is making a medical judgment, if they make the decision that they are going to insert their judgment in the place of the physician or the health care provider, then normally those are cases that are decided in State court, under State law, using State standards. Our belief is that the HMO, if they are going to exercise medical judgment, if they are going to substitute their own judgment for the judgment of the doctor involved, ought to be subject to the same standards to which doctors are subject. If a case were brought against a doctor for exercising his or her medical judgment, that case would go to State court.

What we have provided here is simple: when the HMO steps in and inserts itself into the process of exercising medical judgment, their case goes to State court just as a medical negligence case would go to State court. We should not preempt State law. State law has traditionally controlled these kinds of cases. Under our bill, the law that the Governor at the time—now President Bush—enacted in Texas, the HMO protection law would be respected, as would HMO patient protection laws that exist all over the country. So essentially what we are doing

in our legislation is deferring almost entirely to the oversight of medical judgment that has traditionally been regulated by State law.

I point out that the Judicial Conference of the United States has spoken on this issue. The Chief Justice of the United States, Chief Justice Rehnquist, is the presiding officer of the Judicial Conference of the United States.

The Judicial Conference, through its executive committee, adopted the following position on February 10, 2000:

The Judicial Conference urges Congress to provide that in any managed care legislation agreed upon—

This is the legislation we are talking about today—

that State courts be the primary forum for the resolution of personal injury claims arising from the denial of health care benefits.

The Judicial Conference of the United States, a nonpartisan, nonpolitical body headed by the Chief Justice, decided that cases involving medical judgment should go to State court. These types of cases have been traditionally resolved in State court.

Federal courts, of course, are courts of limited jurisdiction. And these are not cases that should go to Federal court. Our bill does exactly what the Judicial Conference, headed by our Chief Justice, has recommended. It sends these cases to the place where they have traditionally been decided.

Contract cases, based solely on what the terms of the contract are—for example, if there were a provision requiring that insurance coverage be in place for 60 days before payment can be made for any particular treatment—if there were a dispute about whether 60 days had actually passed, or whether the coverage or the contract applies, that would be an interpretation of the contract and would go to Federal court. In those limited cases where there is a dispute about the actual language of the contract, those cases go to Federal court.

There are limitations contained in our bill about any recovery in Federal court. The basic structure here is simple: medical judgment cases, where the HMO is inserting its judgment for that of the health care provider, go to State court. Cases that have always traditionally been decided in State court go to State court, just as our Chief Justice in the Judicial Conference is recommending. The only cases that go to Federal court, a court of limited jurisdiction, are cases involving pure interpretation of the contract—cases that have historically been decided in Federal court under ERISA. So they essentially maintain the same bifurcation that the U.S. Supreme Court suggested.

We have included a balanced approach and imposed some limitations. Under our bill, there are no class actions. Appeals have to be exhausted, except for the very rare circumstance where the patient can show an immediate and irreparable harm. In all other cases, internal and external appeals have to be exhausted before a patient can go to court.

Third, the vast majority of cases go to State court and are therefore subject to whatever State court limitations apply. For example, the limitations that exist under State law in Texas would apply to cases that go to State court in Texas.

We are attempting to balance interests and create really meaningful and enforceable rights for the patient, giving the patient the ability to enforce those rights through an appeals process, and then, as a matter of absolute last resort—and as history has proven, it happens very rarely—giving them the right to take the HMO to state court, where these kinds of cases are traditionally decided.

We have debated this issue over and over on the floor of the Senate. Many Members of the Senate have been involved. Congressmen NORWOOD and DINGELL have led the effort on the House side in the debate. It is time for us to get past simply talking about this issue and debating the various parties' positions. Senator MCCAIN and I, along with others in support of this bill, are making an effort to resolve our differences and get this legislation enacted. It is time, finally, that we enact legislation that puts law on the side of the patients, on the side of families, and on the side of doctors, and not on the side of big HMOs and insurance companies.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Madam President, I ask unanimous consent to speak for up to 5 minutes.

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

## FEBRUARY AS AMERICAN HEART MONTH

Mr. VOINOVICH. Madam President, I rise today to highlight February as American Heart Month, a designation that has stood since 1963 when Congress first recognized the need to focus national attention on cardiac health. I think it is particularly appropriate since it is Valentine's Day.

The theme of this year's Heart Month is one that resonates deeply with me: ''Be Prepared for Cardiac Emergencies.'' This theme is especially meaningful because on January 20, the day of the Presidential Inauguration, the Voinovich family almost lost one of its beloved members to sudden cardiac arrest.

Indeed, as the country welcomed the arrival of a new administration, I, like many of my colleagues, was looking forward to sharing this joyous occasion with family and friends. Tragically, our celebration was suddenly upended when Patricia Voinovich, my brother Vic's wife, was struck by sudden cardiac arrest. As she entered the Ohio Inaugural Ball, she crumpled to the ground without a pulse or respiration.

Sudden cardiac arrest—as the name imples—happens abruptly and without warning. It occurs when the heart's pumping chambers suddenly stop contracting effectively and as a result, the heart cannot pump blood.

Although it has received much less attention than heart attacks, sudden cardiac arrest is a major cause of death in the United States.

This usually fatal event causes brain damage or death within minutes if treatment is not received immediately, and is estimated to cause more than 220,000 deaths in the United States annually.

That is more than three lives every 7 minutes—more than 600 deaths a day. These deaths are largely attributed to the lack of preparedness and immediate accessible medical attention in the short window between the heart ceasing to pump and death.

Just as in most sudden cardiac arrests, with Pat there was no warning or indicating that she would be susceptible to such a sudden physical trauma. She was in good health. As a matter of fact, she had just been to the doctor and had a check up.

Even after the incident, doctors commented that her heart was undamaged and healthy. After she became stabilized, my family and I listened to the doctors at the George Washington University Hospital who informed us just how lucky Pat, Vic, and the rest of the family had been. I was told that when individuals are struck with sudden cardiac arrest, only a minuscule number, 5 percent, survive.

Fortunately, Pat had been blessed to be in a place where there was what the American Heart Association calls a strong chain of survival in place.

As a matter of fact, one of the doctors from George Washington University Hospital had been assigned to the convention center for the specific purpose of responding to an incident such as the one that occurred to my sister-in-law.

It was only 2 or 3 months before the inaugural ball that this equipment had been put in place at the convention center in anticipation that something like this could happen. I think all convention centers throughout the United States should have that equipment on board. I think all of us here in the Senate should feel very fortunate that because of Dr. FRIST, that kind of equipment is available to the floor of the Senate and the House and the corridors of the Capitol.

The chain of survival, developed by the American Heart Association, is a four-step process to saves lives from cardiovascular emergencies. The process includes early access to emergency medical services, early CPR, early defibrillation and early access to advanced cardiovascular care. Its goal is to minimize the time from the onset of symptoms to treatment.

Although I did not know it at the time, all of these factors were present that night at the Ohio Inaugural Ball.

Indeed, the American Heart Association estimates that if what they call a strong chain of survival is in place, the survival rate of sudden cardiac arrest would increase to upward of 20 percent, saving as many as 40,000 lives per year. Think of that—40,000 lives per year if that chain of survival exists.

As pat lay there on the floor following her collapse, I can only thank God that this chain of survival was present and went into effect. Secret Service agents and an on-hand emergency physician came to her side almost immediately.

These Good Samaritans began administering CPR, as well as utilizing a lifesaving machine called an automatic external defibrillator, also known as an AED. If it had not been for the grace of the Holy Spirit, the rapid response of Secret Service agents and the on-hand emergency physician and the presence of an AED, pat almost certainly would not have survived.

The American Heart Association has been a longtime leader in educating the country in cardiovascular disease and the need for preparing for cardiac emergencies.

Unfortunately, many Americans do not realize the kind of education and training that the Heart Association can provide until after an emergency situation occurs. I have certainly become even more aware of their services in light of my family's situation.

Quite simply, being prepared for a cardiac emergency can and does save lives. It is my hope, that by focusing on this year's American Heart Month theme—''Be Prepared for Cardiac Emergencies''—we can save many thousands of lives, not only this year, but in years to come.

I encourage all Americans to participate in American Heart Month, and take the time to educate themselves so that they will be prepared and know what do when an emergency strikes.

For those of you who might be interested in how Pat is doing, she was in the hospital for 5 days. They inserted a defibrillator in her chest, so if she has another occurrence that defibrillator will respond to it.

My brother thanked me profusely for inviting him to the inauguration because he said Pat had this preexisting condition they did not know about, and if it had occurred somewhere else instead of the Convention Center, she would no longer be with us.

So we have a happy ending to what could have been a real tragedy for our family which, again, emphasizes that because of some folks out there who became involved in the chain of survival, she is now alive and well and able to take care of her family.

Thank you, Madam President.

Madam President, I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, are we in morning business?

The PRESIDING OFFICER. The time until 12 noon is under the control of the Democratic leader.

## RECOGNIZING AMERICAN HEART MONTH

Mr. DORGAN. Madam President, I want to talk about two items today. The first deals with February being American Heart Month. Let me describe my interest in this issue.

Today, of course, is Valentine's Day. Most of us will receive some kind of valentine from someone that has a red heart on it and describes love and affection. It is a wonderful day for all of us.

The other symbol is the human heart, which is a symbol that relates to the American Heart Association, an organization I have worked with a great deal. And also, as I said, this is American Heart Month.

Robert Benchley once said: ''As for me, except for an occasional heart attack, I feel as young as I ever did,'' describing, of course, the devastation of the cardiac problems that people who suffer from heart disease have.

I want to talk, just for a moment, about that because we need to continue every day in every way to deal with this killer in our country. Heart disease is this country's number 1 killer. It is the leading cause of disability and the leading cause of death in our country.

Forty-one percent of the deaths in our country each year are caused by heart disease and other cardiovascular diseases, more than the next six leading causes of death combined. Cardiovascular disease and heart disease kill more women than the next 14 causes of death combined each year. That is 5.5 times more deaths than are caused by breast cancer.

How can we help fight heart disease? All of us work on a wide range of issues. I am very concerned about a wide range of diseases. I have held hearings on breast cancer in North Dakota. I have worked on diabetes especially with respect to Native Americans. But heart disease is a special passion for me. I lost a beautiful young daughter to heart disease some years ago, and I have another daughter who has a heart defect. I spend some amount of time visiting with cardiologists and visiting Children's Hospital talking about the human heart.

We know there is much more to be learned about heart disease. There is breathtaking and exciting research going on at the National Institutes of Health dealing with heart disease. I have been to the NIH and visited the researchers. What is happening there is remarkable. Congress is dramatically increasing the funding for research dealing with a wide range of diseases and inquiry into diseases at the National Institutes of Health. We have gone from $12 billion now to over $20 billion, and we are on a path to go to $24 billion in research at the National Institutes of Health.

I am pleased to have been one of those who stimulated that increase in the investment and research to uncover the mysteries of disease. To find ways to cure diseases and to prevent diseases—heart disease, cancer, so much more—is a remarkable undertaking, an outstanding and important investment for the country. How can we, however, as a Congress provide some focus to this issue of heart disease?

We have a Congressional Heart and Stroke Coalition that we founded in 1996. I am a co-chairman of that in the Senate and Senator FRIST, who is a former heart transplant surgeon, is the other co-chair. We have two co-chairs in the House of Representatives as well. We are active in a wide range of areas dealing with the issue of heart disease.

More than 600 Americans die every single day from cardiac arrest. That is the equivalent of two large jet airline crashes a day. But it is not headlines every day because it happens all the time, day after day, every day.

There is some good news, and that is that cardiac arrest can be reversed in a number of victims if it is treated within minutes by an electric shock. There is now something called an automatic external defibrillator, AED. The AEDs, which we have all seen on television programs where they are applying a shock to someone to restart their heart, used to be very large machines. Now they are portable, the size of a briefcase, easily usable by almost anyone, even myself. I was in Fargo, North Dakota, one day with the Fargo-Moorhead ambulance crew, and the emergency folks use these defibrillators, the portable briefcase size defibrillator. They showed me how to hook it up and how to use it.

Without having any experience at all, someone off the street can just hook up one of these portable defibrillators and use it without mistake or error to save lives. The question is, how can we now make these portable defibrillators easily accessible in public buildings all around the country, and other areas of public access, so they're available to help save lives when someone has a sudden cardiac arrest? That is what we are working on.

We have passed legislation to try to make these available in airplanes. We have passed legislation to try to move them around to make them available in public buildings. We should do much more than that. They are affordable, easy to use, and can save lives. We ought to have these new portable defibrillators as common pieces of safety equipment in public buildings like fire extinguishers are now. It is achievable, and it is something we should do.

We also need to find ways to do more cholesterol screening. That also relates

very much to cardiovascular disease. We know the identification of one of the major changeable risk factors for cardiovascular disease—that is, high levels of cholesterol—is not covered by Medicare. Clearly, we ought to cover those kinds of screenings under Medicare.

The American Heart Association recommends that all Americans over the age of 20 receive cholesterol screening at least once every five years. But when an American turns 65 and enters the Medicare program, their coverage for cholesterol screenings stops. That makes no sense. We have tried in recent years to improve the Medicare coverage of preventive services. We now cover screenings for breast, cervical, colorectal and prostate cancer, testing for loss of bone mass, diabetes monitoring, vaccinations for the flu, pneumonia, and hepatitis B. Now we must provide Medicare coverage for cholesterol screenings as well.

I intend to introduce legislation that would add this important benefit to the menu of preventive services already covered by Medicare. I have just mentioned also the substantial amount of new research going on at the National Institutes of Health.

I confess that my passion about this issue comes from my family's experience—in the first case, a tragic experience. In the second case, we hope for an experience that will show us the miracles of research that are coming from the National Institutes of Health that provide new treatments and new remedies and new cures for some of these illnesses, including heart disease. We hope this will offer my family good news in the future; not just my family, every family. Every family is touched and is acquainted in some way with this issue of heart disease. As I indicated, it is America's number 1 killer.

I have been pleased to work with the American Heart Association, a wonderful organization of volunteers all across this country that does extraordinary work. I will continue to work with them and work with the heart and stroke coalition in the Congress to see if we can't continue to make progress in battling this dreaded disease that takes so many lives in our country.

## AIRLINE SERVICE

Mr. DORGAN. Madam President, I rise to speak for a moment about the airlines and the airline service in our country. Last weekend, the National Mediation Board released Northwest Airlines and one of its unions, called AMFA, from the mediation service that was going on.

Now we are under a 30-day march to a potential labor strike and therefore shutdown of airline service. It is not just Northwest Airlines. We have a United Airlines dispute in front of the National Mediation Board. We have a Delta Airlines dispute there, and an American Airlines dispute.

What has happened in recent years with the airlines, not just with respect to these labor issues, but with respect to the way the airlines have remade themselves since deregulation, is very troubling to me and should be very troubling to most of the traveling public in this country.

I mentioned earlier, today is Valentine's Day. I suggest for a moment that you might want to take a trip on Valentine's Day. If you want to go to Bismarck, ND—and if you say no because it is February, I would admonish you that Bismarck, ND, is a wonderful place and it is not all that cold in the winter—guess what the walk-up cost for a flight to Bismarck, ND, is—$1,687. But assume your sweetheart is very special and you decide, I am not going to go Bismarck. I am going to Paris, France. Do you know the fare you can find to Paris, France today? It is not $1,687. We have found walk-up fares to Paris, France, for $406; or Los Angeles, $510. So fly to Bismarck for $1,687 or Paris, France, for $406.

Ask yourself, what kind of a nutty scheme is this that these private companies have developed a pricing scheme that says: If you fly twice as far, we will charge you half as much. But if you fly half as far, we will charge you twice as much.

Using Bismarck again, if you have a hankering to see the largest cow on a hill overlooking New Salem, ND—the cow's name is Salem Sue, the world's largest cow—or to go to see Mickey Mouse at Disneyland in Los Angeles, you pay twice as much to go half as far to see the largest cow, or pay half as much to go twice as far to see Mickey Mouse. What kind of a nutty idea is that? Who on earth comes up with these pricing schemes? Deregulation comes up with pricing schemes that say, by the way, we are not going to regulate the airlines. They can compete aggressively between the big cities where a lot of people want to travel. That competition will drive down prices, and you have really nice prices among the large cities where people are traveling. Meanwhile, the rest of the folks get soaked with extraordinarily high prices and less service.

So what happened after deregulation is these major airlines decided they really liked each other a lot and started romancing each other and they merged. What used to be 11 airlines is now 7. They want to merge some more and they want to go from 7 to 3 airlines.

What happened through all these mergers? They retreated into the regional hubs, such as Minneapolis, Denver, Atlanta—you name it; they have retreated to regional hubs where one airline will control 50 percent, 70 percent, 80 percent of the hub traffic. The result is that a dominant airline controlling the hub traffic sets its own prices, and those prices are outrageous.

Now, here is the point: We now have outrageous prices for people in sparsely populated areas in the country. We have a system of deregulation in which the airlines have become unregulated monopolies in regional hubs, and now we have a circumstance where United decided it wants to buy USAir, and American wants to buy TWA because TWA is going to be in bankruptcy, and it has been there twice. Delta is talking about buying Continental, and Northwest will soon be involved in the mix. They want to condense this down to three big airline carriers. Now, that is not competition where I come from. That is kind of an economic cholesterol that clogs the economic veins of the free market system in this country. We need to stop that.

I am considering legislation that would set up a moratorium on airline mergers above a certain size for a couple years so we can take a breath and understand what this means to the American consumers. The answer of what it means to the American consumers is quite clear to me. Some are rewarded with lower fares—if you are in the large markets where there is competition, while others are paying extraordinary prices to fly in small markets where there is less service and higher prices.

United says it wants to buy USAir. That combination means a bigger company with more market control. American says TWA is failing and it wants to buy TWA. More market control. The TWA thing—if I might just describe the circumstance—is, in my judgment, byzantine. It was purchased by Carl Icahn in a hostile takeover in the 1980s. I said this is unhealthy to put an airline company into these hostile takeover wars, with junk bonds and everything. Guess what the problem with TWA is? At the moment, Mr. Icahn, after having been through two bankruptcies with TWA, has an agreement post bankruptcy to sell seats on TWA at a 45-percent discount from the lowest public fare. This Icahn-TWA deal, termed the ''caribou agreement,'' remains in effect through 2003. Mr. Icahn is vigorously contesting the bankruptcy proceeding because if the assets are sold, the company will cease to exist.

What kind of a deal is that when airlines become pawns in hostile takeovers and then you get sweetheart deals coming out of bankruptcy that impose that kind of burden on the back of TWA?

It doesn't look to me as though the public interest has been defined at all in these machinations. The point is, when airlines have become bigger and bigger and have retreated into dominant hubs, if there is a strike or lockout and the airline ceases operating, it is not like it was 30 years ago when, if your airline shut down, you had other airlines. In North Dakota, we had five different companies flying jet airplanes into our State. Now we have one, and we just got a second recently with a regional jet.

The point is, when an airline shuts down now, when you have dominance in a certain hub, entire parts of the country will be left with no airline service at all. Those airlines and their

employees have dramatically changed the circumstances of collective bargaining. There is someone else who must be at their table, and that is the American traveling public because their interests are at stake. A strike or lockout will affect their interests in a very dramatic way.

I wanted to make this point for a couple reasons. One, I think these proposed mergers fly directly in the face of public interest and ought not to be allowed. That is No. 1. We ought to stop this. We don't need to go to three airlines. That is, in my judgment, moving in the wrong direction. That is not in the public interest. We need more competition, not more concentration.

No. 2, and my final point, is when you have the kind of disputes that now exist before the National Mediation Board and the threatened disruptions of airline service, it will be devastating to the public and to this country's economy if you have entire regions with no air service at all. We went through a strike with the dominant carrier in our region about 2 and a half years ago and it was devastating. We can't let that happen again. There are four carriers with cases in front of the mediation board, one of which was just released. I say to those carriers and to the labor unions, because you have remade yourself in a different circumstance, with dominance in hubs all across this country, you have a different responsibility than you used to have in collective bargaining. You have a responsibility to the American public that didn't previously exist. This is not business as usual. There is another interest that must be seated at your table, and that is the public interest.

Understand that those of us in Congress, those who are strong supporters of businesses and strong supporters of unions, understand it is most important that we are supporters of the public interest, the people we represent, and supporters of the larger national interests in this country.

With what happened to the airline industry, the massive concentration and the critical dominance in regional hubs, these labor disputes are very troubling to me and to many others. They must not—I repeat—result in the shutdown of critically needed airline service to parts of this country that can ill afford to have that happen.

I say to the airlines and to the unions: Sit at that table and bargain. I am a big supporter of collective bargaining. Bargain and reach an agreement. Understand that the empty chair next to your discussion is a chair that represents the public interest, and that chair is not filled by someone who is sitting there as part of that discussion, but they are in that room overlooking those negotiations. Resolve these issues and keep that service from the company and its employees provided to the American people.

I hope my colleagues will join me in expressing loudly that having this country go to three major airline carriers is a step backward, not forward. It is a step toward concentration, not competition. It plugs the arteries of the free market system in a very unhealthy way for this country.

I will speak at a future time about concentration, and not just in the airline industry. I am concerned about what is happening in a range of industries in this country where there is concentration and antitrust behavior that ought to be troubling to the American people and this Congress.

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

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

The bill clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed for 12 minutes.

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

The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 326 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Nevada.

## CAPITOL VISITORS CENTER

Mr. REID. Mr. President, I can remember traveling home a day in July two and a half years ago when I learned on the radio that two Capitol policemen, Detective John Gibson and Officer Jacob Chestnut, had been murdered in the Capitol.

When there is a loss of life, it affects us all; but, these men were in the line of fire and prevented other people from being killed.

I also had a particular affinity toward Detective John Gibson because of the assistance he provided at a function when my wife took ill. He, in a very heroic fashion, exercised good judgment in helping with the medical problems my wife was experiencing. A short time after he gallantly helped my wife, he was murdered.

Furthermore, the deaths of Detective Gibson and Officer Chestnut were painful for me because I was a Capitol policeman. I put myself through law school working in the Capitol as a police officer.

The reason I mention these events is that I was stunned Monday to read that the visitors center that we as Members of the Senate and the House rushed forward to do something about following the murders of these two men was now grinding to, if not a halt, a slowdown. I rise today to express my serious concern and extreme disappointment with recent reports that construction of the much needed Capitol visitors center may fall further behind schedule. In fact, the way things have been going, we must ask ourselves if the project will ever be completed.

On the front page of Monday's edition of Roll Call, the Hill newspaper, the headline read: ''Visitors Center Funds 'Lagging,' Officials Say $65 Million Short of Goal With Clock Ticking.''

After all that has transpired, after all the statements we have heard on this floor and the floor of the House, I am ashamed we have found ourselves in this predicament. Any further delay in construction of the much needed Capitol visitors center must be prevented. We must take action as quickly as possible.

Every night I leave my office in the Capitol to go home, I exit through the memorial door. It is called the memorial door because there are two plaques on the wall commemorating Officer Chestnut and Detective Gibson. I see their faces each night as I walk out the door.

In response to these murders, many Members renewed our call for the construction of the visitors center which has been talked about for years. I can remember talking about this project when I was the chairman of the Legislative Branch Appropriations Committee. When I was chairman, we cleared the cars off the east front of the Capitol. There are very few automobiles out there now, but we did it, for security and the fact that it was an eyesore. Unfortunately, it's still an eyesore—that blacktop on the East side of the Capitol of the United States. The only superpower left in the world and we have an ugly blacktop out here. More important than the visual aspect, however, are the safety concerns. The reason Chestnut and Gibson were killed, in my opinion, is that they had no protection. A madman with a gun rushed through the door and shot Chestnut. Gibson valiantly came forward to protect a Member and others from being shot, and he was killed. A visitors center would enhance safety for these fine men and women who guard us. Men and women who guard the the thousands of Americans who come to this building every day.

In addition to that, we always see people lined up out there on the east side of the Capitol waiting to get into the building. We see them during the spring and summer months. We see them during the fall months when school is out. Even during the winter months, they line up for blocks. People from all over America—from Nevada, Montana, Maine—come to Washington to visit the Capitol. They are forced—I say ''forced'' because there is no place else to go—to stand outside in the elements, whether it is raining, snowing, or 100 degrees, without the benefit of restrooms, a place to get something to eat, or a place to get something to drink. The Capitol visitors center would allow the Capitol Police to better protect themselves and all of us

who come to this Capitol complex to work or to visit, and would also provide an indoor facility for visitors to stand in line, as well as a gift shop, a cafeteria, and a place for them to go to the bathroom.

We have authorized $100 million for the construction of this Capitol visitors center. It will cost, however, $265 million. After six different congressional committees exercised their jurisdiction, it was decided that we would sell $65 million worth of commemorative coins from the U.S. Mint, with the additional $100 million raised in the private sector. I have never thought the money should be raised in the private sector. If there were ever something that should be paid for by the government, it should be a visitors center to this Capitol.

I commend all of the donors who gave their time and money to raise the $35 million that has been raised to date. While I commend these people, however, I believe their noble efforts should never have been necessary in raising this money. The U.S. Capitol Building is the people's house. It is the seat of our government and the enduring symbol of this democracy, the greatest country in the history of the world. The Capitol is the seat of government for the greatest country in the history of the world.

As Senators and Representatives, we have been blessed with the incredible fortune of calling the Capitol the place where we work. I am disappointed that we, as caretakers of this people's house, have abrogated our responsibility by begging the private sector for funds to help build what I believe should remain a public institution. We have an obligation to fully fund the construction of the visitors center. We should do it right away—during this Congress.

I have conveyed this message to Senators BENNETT and DURBIN, the chairman and ranking member of the Subcommittee on Legislative Branch Appropriations, as well as to the full committee chairman, Senator STEVENS, and the ranking member, Senator BYRD.

I ask unanimous consent that the letter I have written to these Senators be printed in the RECORD following my remarks. I also ask unanimous consent that the article in Monday's edition of the Roll Call newspaper to which I referred be printed in the RECORD.

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

(See Exhibits 1 and 2.)

Mr. REID. I intend to continue my efforts to ensure that we provide the necessary funds as quickly as possible to prevent construction delays in the Capitol visitors center. It is important that we do this. It is important to this country. It is important to this institution. It is important to the people we serve.

EXHIBIT 1

U.S. SENATE,
*Washington, DC, February 14, 2001.*

Hon. ROBERT BENNETT,
*Chairman, Subcommittee on Legislative Branch Appropriations, U.S. Capitol, Washington, DC.*

Hon. RICHARD DURBIN,
*Ranking Member, Subcommittee on Legislative Branch Appropriations, U.S. Capitol, Washington, DC.*

DEAR MR. CHAIRMAN AND SENATOR DURBIN: I would like to express my serious concern and disappointment with recent reports that construction of the much needed Capitol Visitors Center may fall even further behind schedule. This would be an unfortunate development that we must prevent as quickly as possible.

In July 1998, following the murders of Officer Jacob Chestnut and Detective John Gibson, many Members of the House of Representatives and the Senate, including me, publicly recognized the sacrifices made by these two fine men. Many of us also renewed our call for the construction of a Capitol Visitors Center. The proposed Visitors Center would improve security and provide an indoor facility for visitors to stand in line, and would also include a gift shop, rest rooms and a cafeteria.

To date, Congress has authorized and appropriated $100 million for the construction of the Capitol Visitors Center. At a cost of approximately $265 million, however, that amount fell far short of the funds needed. As you know, following a series of delays caused by six different congressional committees exercising their jurisdiction over the project, it was decided that $65 million would be raised by the U.S. Mint through the sale of commemorative coins, with the additional $100 million raised by the Fund for the Capitol Visitors Center through private donations.

While I commend those donors and all who have generously contributed their time and money to raise private funds for the construction of the Capitol Visitors Center, I believe that their noble efforts should never have been necessary. The United States Capitol Building is the People's House. It is the seat of our government and the enduring symbol of our democracy. As Senators and Representatives, we have been blessed with the incredible fortune of calling the Capitol our place of employment. I am extremely disappointed that we, as caretakers of the People's House, have abrogated our responsibilities by begging the private sector for funds to help build what I believe is, and should remain, a public institution.

We have an obligation to fully fund the construction of the Capitol Visitors Center. As a Member of the Senate Appropriations Committee, I intend to continue my efforts to ensure that we provide the necessary funds, as quickly as possible, to prevent construction from falling even further behind schedule.

My best wishes to you,

Sincerely,

HARRY REID,
*U.S. Senator.*

EXHIBIT 2

[From Roll Call, Feb. 12, 2001]

VISITORS CENTER FUNDS ''LAGGING,'' OFFICIALS SAY

$65 MILLION SHORT OF GOAL WITH CLOCK TICKING

(By Lauren W. Whittington)

Amid concern that private fundraising efforts for the Capitol visitors center are ''lagging,'' some top officials associated with the project have begun looking into other funding options in order to keep it from falling behind schedule.

The Fund for the Capitol Visitors Center, a non-profit organization established by the Pew Charitable Trusts, has raised $35 million in private gifts thus far. That leaves it $65 million short of the $100 million it needs to raise by the end of the year.

''I think we've been aware now for a while that the fundraising [aspect] is lagging, and we have been thinking about different options,'' said an aide to one member of the Capitol Preservation Commission, the entity charged with overseeing the visitors center.

While the aide declined to discuss timeliness and what those specific options might be, the staffer said that using more taxpayers funds—a controversial idea—to supplement the project is ''certainly an option'' that is being discussed.

After two Capitol Police officers were shot and killed in the Capitol in July 1998, Congress appropriated $100 million in taxpayer funds for the visitors center with the idea that the funds would be matched by private donations.

Construction on the visitors center is set to begin in January 2002, and under federal law all funds used for the project must be collected before the first shovel goes into the ground.

Senior Congressional officials involved in the project are privately expressing concern that the money may not come soon enough.

''The Capitol is in desperate need of this visitors center, so we want it to stay on track, and we need to have the money by December 2001 for construction to begin on time,'' one CPC staffer said on the condition of anonymity. ''I think that everybody's dedicated to figuring out a way to keep it moving forward.''

After kicking off its campaign in April 2000 with an initial $35 million in pledged donations, including $10 million from the Bill and Melinda Gates Foundation, the fund has not publicly announced any further donations or fundraising totals.

''I think this really has been a much more difficult task than they thought it would be,'' said the aide to a CPC member. ''I do think they were very optimistic about what they could raise and it wasn't really reality.''

The first major addition to the Capitol since 1859, the visitors center is slated to cost $265 million and be completed by January 2005—just in time for the next presidential inauguration.

The price tag could increase by as much as $10 million if CPC members approve construction of a proposed tunnel that would connect the center with the Library of Congress.

Thus far, fundraising concerns have not affected the project's estimated start date, but that could change if funds are not collected by year's end.

''If we had to wait for the fundraising, potentially, yeah, it would need to be moved back, but I don't think that's in anybody's head right now,'' the CPC member's aide said. ''I think it's too soon to be talking about that.''

Former Rep. Vic Fazio (D–Calif.), who sits on the fund's board of directors, said the organization has donations ''in the pipeline,'' even though they are unable to publicly announce them.

''How much people will decide to give, if they decide to give, is something that's still being discussed,'' said Fazio, who championed the project when he was in the House. ''Nobody could have predicted, and we still couldn't tell you for sure how much money could be raised for such a purpose.''

Maria Titelman, president of the fund, said the organization is raising money, although she too was unable to release any estimates or talk publicly about possible donations.

''I think that we're very excited about where we're going,'' Titelman said. ''We're raising money as quickly as we can on an accelerated schedule. We'll get to our $100 million as soon as possible.''

The bulk of the remaining $65 million will be raised through the sale of commemorative coins. Funds raised from the sale of two bicentennial coins in the late 1980s have now reached $30 million, and the CPC expects to make another $5 million to $10 million from the sale of two coins set to be released by the U.S. Mint this spring.

For their part, Members and key staffers on both sides of the aisle remain committed to the project.

''The entire leadership and CPC remain very committed to this and very enthusiastic about it,'' said Ted Van Der Meid, an aide to Speaker Dennis Hastert (R-Ill.).

Van Der Meid also noted that last week's shooting incident at the White House ''reaffirms one of the main purposes for the visitors center.''

To assist with their efforts, the fund has hired outside fundraising consultants Wyatt Stewart & Associates and The Bonner Group. Also advising the fund is Steven Briganti, president and CEO of the foundation that funded the restoration and preservation of the Statue of Liberty and Ellis Island.

The fund's board of directors will hold its next meeting March 8, at which time it may have a better idea of monetary commitments from corporations.

''It's premature to make any statement about what we will be able to accomplish because there are a number of things being considered right now by a number of foundations,'' Fazio said. ''Whether or not we can get to the original goal, I think, remains to be seen. It's not going to be an easy task to do that.''

If the fund is not able to reach its initial goal, Fazio said, it will rely on more public money.

''I have not objected to the effort to raise private funds, and I've been part of that effort, but I certainly would hope that if we are only so successful at that, that we would then fall back on additional appropriations to make it happen,'' Fazio said. ''The most important thing is it not be something that is delayed or underdone.''

Former Sen. Dale Bumpers (D-Ark.), also a member of the board, said he has always favored Congress appropriating the funds needed to build the center.

''So far as this mixing of private and public money, I never have much liked that,'' Bumpers said in an interview last week. ''I thought if it was a good idea, we ought to fund it with public funds.''

Sen. Strom Thurmond (R-S.C.), co-chairman of the CPC, said in a prepared statement, ''At this time I feel that it would be premature to make any final decisions regarding the appropriation of additional funds for the Capitol visitors center. However, I recognize that because of the importance of this project, it is essential that we keep all of our options open.''

Sen. Bob Bennett (R-Utah), chairman of the Appropriations subcommittee on the legislative branch and a member of the CPC, said he would consider appropriating more money for the project if it was needed.

''I haven't given any thought to what happens if [the current fundraising framework] won't work,'' Bennett said. ''But if it becomes clear that it won't work, then I would take a look at an additional appropriation.''

However, Rep. John Mica (R-Fla.), a CPC member and one of the most vocal supporters of the visitors center to date, said he is against appropriating more taxpayer money.

''I don't think we need any more public money and particularly at this stage,'' Mica said. ''At some point if we have to beef up the private fundraising efforts or help assist them in any way, there's plenty of muscle power that can raise that money, particularly Members who unabashedly raised hundreds of millions for campaign efforts.''

Outside of revisiting the public funding debate, the CPC can also explore other private fundraising options because its agreement with the fund is not exclusive. The CPC could begin to accept private donations directly or it could set up another organization to raise private money for the project.

One thing that has been a roadblock for the fund's efforts thus far is the issue of public recognition.

From the outset, most Members of Congress have been adamantly opposed to the idea of naming portions of the visitors center after corporate sponsors, and the leadership and the fund have differed on the ways in which corporations can receive public recognition for the donations.

''This is too important a part of our history,'' Bumpers said. ''We're not going to name this the MCI visitors center or any of those things.''

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

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

## EXPRESSING SYMPATHY FOR LOST LOVED ONES IN HAWAII

Mr. AKAKA. Mr. President, I express my sincerest sympathies to the families of those who have lost loved ones in two unrelated incidents the U.S. military in Hawaii during the past week.

On Friday afternoon, the U.S.S. *Greeneville* collided with the *Ehime Maru*, a Japanese fishing vessel. I join President Bush in expressing my regret to the people of Japan for this tragedy. My heart goes out to the families of the nine people who are still missing following this incident.

On Monday evening, two UH–60 Blackhawk helicopters crashed during a training exercise at the Kahuku Military Training Area, resulting in six deaths. My thoughts and prayers are with the families and units who are mourning the loss of their loved ones. I also wish a speedy recovery to those soldiers who are recovering from injuries sustained in this accident.

I am certain that the investigations into these incidents will be thorough and comprehensive. But my purpose today is not to question why these incidents occurred, but to express the genuine sadness and concern that I share with the people of Hawaii and the rest of the nation over these two unfortunate episodes.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Hawaii is recognized.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 329 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, the distinguished chairman of the Senate Judiciary Committee, Mr. HATCH, is going to be coming over on a matter of ours. He is not here yet. I ask unanimous consent that I be able to proceed on a different subject as in morning business.

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

## LESSONS TO BE LEARNED FROM THE WRONGFUL CONVICTION OF EARL WASHINGTON

Mr. LEAHY. Mr. President, I want to discuss the case of Earl Washington. Mr. Washington was released from custody Monday after more than 17 years in prison. In fact, of the 17 years in prison, 10 years of that were on death row. Virginia Governor James Gilmore pardoned Earl Washington on October 2, 2000, after some new DNA tests confirmed what earlier DNA tests had already shown—he was the wrong guy. They had the wrong person in prison on death row.

I mention this case as probably the most recent that we have seen in the press, but we have seen a shocking number of cases in the past 2 years in which inmates have been exonerated after long stays in prison, including more than 90 cases involving people who had been sentenced to death. Let me repeat that: more than 90 cases where people had been sentenced to death and they then found they had the wrong person.

Since Earl Washington was pardoned 4 months ago, six more condemned prisoners in four different States have had their convictions vacated through exonerating evidence: William Nieves, sentenced to death in Pennsylvania in 1994; Michael Graham and Albert Burrell, sentenced to death in Louisiana in 1987; Peter Limone and Joseph Salvati, sentenced to death in Massachusetts in 1968; and Frank Lee Smith, sentenced to death in Florida in 1986.

There have also been other recent exonerations of inmates who were not sentenced to death, but were serving long terms of imprisonment. Just last month, the State of Texas released Chris Ochoa from prison at the request of the local prosecutors. The prosecutors themselves asked that he be released. In 1989, Ochoa pled guilty to a rape-murder he did not commit. Somebody may ask: Why would you plead guilty to a rape and murder that you did not commit? Because the authorities said they were going to make sure he got a death sentence if he did not plead guilty to the crime.

DNA tests that were not available when he was arrested cleared Ochoa and his codefendant and implicated another man, who had previously confessed to the crime on several occasions.

Here is how bad this case was. Chris Ochoa was arrested. He knew he did not commit the crime, this rape-murder. But the police basically told him: We are going to have you executed if we go to trial. We are going to prove it. We will have you executed. Of course, you can plead guilty and we will spare you the death penalty. He did. But then, even though they had the man who actually committed this heinous crime, who kept confessing to it, they did not pay any attention to him because it was easier to just keep the wrong guy locked up.

Of course, when the DNA evidence came out—it was there in front of everybody—they said: Look, we have the wrong guy. This other person, the person who had confessed to it, is the right guy after all. Whoops, sorry about that. Well, we have only had you locked up for over a decade for a crime you did not commit.

We must identify the cracks in the system that allowed these injustices to occur. DNA is a central tool in this pursuit. It has already led to the exoneration of more than 80 people in this country, including Earl Washington and others who had been sentenced to death.

DNA testing has opened a window to give us a disturbing view of the defects of our criminal justice system. When DNA evidence exonerates a person such as Earl Washington, there is a unique opportunity to evaluate how the system failed that person, and perhaps even more importantly, to identify broader patterns of error and abuse.

If a plane falls from the sky and crashes, we investigate the causes. We try to learn from the tragedy so we can avoid similar tragedies in the future. We should do no less when a wrongfully convicted person walks off death row.

The justice system did not just fail Earl Washington; it crashed and burned. We have a lot to learn from this case. It highlights many of the problems we see over and over again in cases of wrongful conviction.

These are the basic facts of the Earl Washington case. In June of 1982, a young woman named Rebecca Williams was raped and murdered in Culpeper, VA. Nearly a year later, Earl Washington was arrested on an unrelated charge. Earlier that day, Washington had broken into the home of an elderly woman named Helen Weeks. But she surprised him. He hit her over the head with a chair and fled. At the time he was arrested, he was drunk and running wild through the woods.

Earl Washington suffers from mental retardation. He has an IQ of 69, which puts him in the bottom 2 percent of the population. Like a child, he tends to answer questions in whatever way he thinks will please his questioners. After his arrest, he ''confessed'' to pretty much every unsolved crime the police asked him about.

A police sergeant named Alan Cubbage later described the scene to the Washington Post. He got a call that day from the officers who were interrogating Earl Washington. He told the Post: ''It was almost like a big party. 'Come on down,''' they said, ''This guy is confessing to everything.''

He was confessing to crimes he could not possibly have committed. But whatever it was, when they asked him if he committed the crime, he said: ''Yes, sir.''

First, he confessed to the crime he had actually committed—breaking into Helen Weeks' home and hitting her over the head with a chair. That he did do. Then he confessed to raping her. Without any reason to suspect that Weeks had been raped, the officers interrogating Washington asked if he had raped her, and he gave the standard response, ''Yes, sir.''

On that basis alone, they charged him with rape. Well, then Helen Weeks came forward and said, ''Nobody raped me. I never told the police I had been raped. Nobody tried to rape me.'' And they kind of tiptoed into court and dropped the rape charge.

During that same interrogation session, Earl Washington went on to confess to four other unrelated crimes. Investigators later concluded that he could not have committed three of the crimes in other words, that his confessions were wholly unreliable. Yet with virtually no evidence other than the remaining confession, he was charged and brought to trial for the fourth crime the rape and murder of Rebecca Williams.

Earl Washington almost immediately retracted his confession to the Williams murder, and there were no fingerprints or blood linking him to the crime scene. But he was convicted, and the jury recommended execution. He was sentenced to death, his appeals were rejected, and he came within a few days of being electrocuted. The whole justice system failed him. But science eventually came to his rescue.

Mr. President, everybody who has been in law enforcement knows you get some people like Earl Washington, who are ready to confess to everything. When I was prosecuting cases, we had a man—he is no longer alive—who would read something in the paper, a horrendous crime, and he would immediately confess. Especially if it was cold weather, he would come to a warm police station and he would confess to everything. We could make up cases and he would confess.

Obviously, that is one level. But with Earl Washington it was entirely different. He had committed a crime. He had broken into a woman's house, and he had hit her with a chair. But he did not rape her. Nobody did. She said so herself. He certainly did not murder and rape the woman he was charged with murdering and raping. Somebody else did. But with no evidence at all, except for his confession, he was found guilty.

When Earl Washington was convicted in 1984, DNA testing was not available. By the early 1990s, DNA testing was available, although the technology has since improved, and tests done in 1993 and 1993—seven years ago—showed that Earl Washington did not rape Rebecca Williams.

Despite these test results, the state officials still thought he might be guilty. Maybe there was somebody else involved. Maybe there were two people—notwithstanding the fact that the woman who was murdered, who had lived for a period of time after she was attacked, said very clearly that there was only one person.

So Earl Washington remained in prison. There was so much doubt—at least they did not execute him—they commuted his sentence to life in January of 1994. But he was not pardoned. He was given life in prison, but still for a crime that he did not commit and more and more of the authorities in the State knew he did not commit and DNA tests proved he did not commit.

One would think the courts would be interested in scientific evidence, especially of a prisoner's innocence. Normally you do not have to prove your innocence, but this was a case where he could prove his innocence. One might ask, couldn't he go to court with the new DNA evidence and ask for a new trial? The answer is no; Virginia has the shortest deadline in the country for going back to court with new evidence. It has to be submitted within 21 days of conviction. After that, the defendant is out of luck.

Earl Washington could not submit the evidence within 21 days of conviction for a very simple reason: The technology for DNA testing, at the time of his conviction, was not available. And of course by the time it became available a few years later, he was in a catch-22: I've got DNA evidence that proves I'm innocent. Sorry, 21 days went by a long time ago. But they didn't have DNA evidence within 21 days of my conviction. I know, it is a crying shame. Stay on death row.

Last year, a new and more precise DNA test reconfirmed what the earlier tests had shown: Earl Washington did not commit the crime for which he was sentenced to death. The tests pointed

to another person who was already in prison for rape. So, 7 years after the initial DNA tests and more than 16 years after he was sentenced to be executed, Earl Washington was granted an absolute pardon for the rape and murder of Rebecca Williams, a rape and murder he never committed. After science had twice proven his innocence, the Commonwealth of Virginia finally acknowledged the truth.

That is not the end of the story. He then spent another 4 months in prison for his attack on Hazel Weeks. That is at least a crime he committed. He hit her with a chair in 1983. So now, 17 years later, he is finishing that sentence. People sentenced for similar crimes in Virginia are generally paroled after 7 to 10 years in prison. They made Earl Washington serve twice the time that others would serve the maximum possible time in prison. Having unjustly condemned him, the Commonwealth of Virginia compounded the injustice by keeping him in prison until two days ago, when he became entitled to mandatory parole. It is almost as if they were saying: How dare you be innocent of the other crime we convicted you of? How dare you prove us wrong? We will make you pay for it.

I had hoped to meet with Earl Washington after his release from prison. Congressman BOBBY SCOTT of Virginia wrote to the Virginia correctional authorities 2 weeks ago and sought permission for Earl Washington to travel to Capitol Hill Monday under the care and supervision of his attorneys. We thought it was important for the American people to hear firsthand an account of this injustice. A good justice system learns from its mistakes.

The last 17 years of Earl Washington's life have been one of the system's worst mistakes. We felt we owed it to Earl Washington and future Earl Washingtons to listen. The officials of the Commonwealth did not. They had a different view. They did not want Earl Washington to come here. They did not want him to come here even for a few hours, come that great distance from Virginia, which is 2 miles away. They didn't want him to come those extra 2 miles and tell the story.

This case reveals the dark side of a system that is not known for admitting its mistakes. I am not speaking only of the Commonwealth of Virginia. A whole lot of other States have been just as bad at admitting their mistakes.

In the Earl Washington case, state officials insisted on pursuing a death penalty charge despite having wholly unreliable evidence. They kept him in prison for years despite knowing he was falsely convicted. They kept him locked up, knowing he was falsely convicted. And then they would not even let him come here to Washington to tell the American people what happened.

We need to hear from such people like Earl Washington, not hide them from public view. The American justice system is about the search for the truth: the truth, the whole truth, and nothing but the truth. As a former prosecutor, I understand the importance of finality in criminal cases, but even more important than that is the commitment to the truth; that has to come first.

This case tells us we cannot sit back and assume prosecutors and courts will do the right thing when it comes to DNA evidence. It took Earl Washington years to convince prosecutors to do the very simple tests that would prove his innocence, and more time still to win his freedom.

Some States continue to stonewall on requests for DNA testing. They continue to hide behind time limits and procedural default rules to deny prisoners the opportunity to present DNA test results in court. They continue to destroy DNA evidence that could set innocent people free.

These practices must stop. I have long supported and I continue to support funding to ensure that law enforcement has access to DNA testing and all the other tools it needs to investigate and prosecute crime in our society. But if we as a society are committed to getting it right, and not just to getting a conviction, we need to make sure that DNA testing, and the ability to present DNA evidence to the courts, is also available to the defense. We should not pass up the promise of truth and justice for both sides of our adversarial system, and that promise is there in DNA evidence.

We must also understand this case shows why we should not allow the execution of the mentally retarded. As I noted in a floor statement last December, people with mental retardation are more prone to make false confessions simply to please their interrogators, and they are often unable to assist their lawyers in their own defense. Earl Washington confessed to no less than four serious felonies which he did not commit and could not have committed. We should join the overwhelming number of nations that do not allow the execution of the mentally retarded.

There are good things that may come out of this case. I know the Supreme Court of Virginia has proposed eliminating the 21-day rule, which prevented Earl Washington from getting a new trial based on the initial DNA tests in the early 1990s. That would be a good thing if it happens. But it would be just a start.

I urge us to go forward and pass the Innocence Protection Act, supported by both Republicans and Democrats in this body and in the other body. This legislation addresses several serious problems in the administration of capital punishment. Most urgently, the bill would afford greater access to DNA testing for convicted offenders and help states improve the quality of legal representation in their capital cases. It also proposes that the United States Congress speak as the conscience of the Nation in condemning the execution of the mentally retarded.

People of good conscience can and will disagree on the morality of the death penalty; but people of good conscience all share the same goal of preventing the execution of the innocent. People of good conscience should not disagree that the way the case of Earl Washington was handled over the past 17 years was unjust. It was completely unacceptable. We ought to find ways to make sure these kinds of things do not happen again.

## INTELLECTUAL PROPERTY AND HIGH TECHNOLOGY TECHNICAL AMENDMENTS ACT OF 2001

The PRESIDING OFFICER (Mrs. LINCOLN). Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to the consideration of S. 320, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 320) to make technical corrections in patent, copyright, and trademark laws.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate on the bill equally divided in the usual form.

The Senator from Utah.

Mr. HATCH. Madam President, I rise today to discuss S. 320, the Intellectual Property and High Technology Technical Amendments Act, which I have worked on with my distinguished colleague, the ranking member of the Judiciary Committee, Senator LEAHY. We have had a very productive relationship in the Judiciary Committee in the area of high technology and intellectual property. Our bipartisan cooperation has resulted in much good legislation that has helped American consumers and businesses and which has encouraged American innovation and creativity, including greater deployment of the Internet.

Some recent examples of our work include the following items:

The Satellite Home Viewer Improvement Act, which authorized the carriage of local television stations by satellite carriers, has brought local television to thousands across the country who might not have been able to get it before, and has brought competition in subscription television services to many others who before could only choose the local cable company. The passage last year of a loan guarantee program will help make the benefits of this law more widely available.

The Anticybersquatting Consumer Protection Act helps guard against fraudulent or pornographic websites that confuse, offend, or defraud unwitting online consumers who go to sites with famous business names only to find that someone else is using that trademarked name in bad faith under false pretenses. This law also helps protect the goodwill of American businesses that could be hurt by the bad faith misuse of their trademarked business name in ways that tarnish their

name or undermine consumer confidence in their brands.

The American Inventor Protection Act is helping to further serve American innovators with more streamlined procedures at the United States Patent and Trademark Office, and better organizing the Office so that it will better serve its customers, American inventors. There are also protections for inventors from unscrupulous businesses that prey on small inventors who are not familiar with the procedures of obtaining a patent.

The Digital Millennium Copyright Act updated copyright law for the Internet, while striking a balance necessary to foster technological development and full deployment of the Internet. This law has set the groundwork for entertainment convergence on a single interactive platform where the consumer is king and can set his or her own schedule for news, information, entertainment, communication, and so on.

Well, Madam President, this is just a sampling of what we have achieved together. And it is a prelude to what we can do in the future.

Today, we are here to discuss S. 320, the Intellectual Property and High Technology Technical Amendments Act. S. 320 is a technical corrections bill to clean up some scrivener's errors that have crept into the U.S. Code in the patent, trademark, and copyright laws. We, the sponsors, believe it is to the benefit of smooth functioning of the law to clean up the Code to make it easier to use, and to more accurately reflect Congressional intent.

Specifically, the bill corrects typographical errors such as misspellings, dropped or erroneous cross-references or punctuation errors. It also makes consistent the titles of the U.S. Patent and Trademark Office and its officers. It also clarifies some unclear drafting in the Code on some procedural matters at the USPTO, such as making it clear that if foreign trademark applicants fail to designate a U.S. agent, the USPTO Commissioner is deemed to be that agent for delivery of documents regarding that application; and ensuring that no prior art effect will be given to foreign patents or patent applications unless they are published in English. It makes it easier for small inventors to sit on the USPTO Advisory Committee. These pro-American inventor policies are codified now in the law, but not clearly drafted. This bill makes them clearer.

All of these changes make the intellectual property laws of our country easier to use and understand for our constituents who invent, create, innovate and so serve our other citizens. It also makes the law clearer for those who use the inventions and creations of others. I believe there is no controversy about the provisions of this bill, and it clears the way for further Congressional action to foster the growth of our most innovative sector, our intellectual property sector.

With regard to that, Senator LEAHY and I are releasing today our joint High Technology and Intellectual Property legislative agenda.

I would like to mention some of the items on that agenda and discuss some of them briefly.

In the Internet Age, many basic questions need to be asked anew about the relationships between the artists and the media companies that market and distribute their product; about the rights of consumers and fans to use works in new ways and the ability of technology companies and other mediators to assist them in those uses; and about the accessibility of works to scholars, students, or others for legitimate purposes. We need to continue to think about how the copyright system applies in the Internet world, where some of the assumptions underpinning traditional copyright law may not be relevant, or need to be applied by a proper analogy. Are there ways to clarify the rights and responsibilities of artists, owners, consumers, and users of copyrighted works? How can we foster the continued convergence of information, entertainment, and communication services on a variety of platforms and devices that will make life more enjoyable and convenient? We need to encourage an open and competitive environment in the production and distribution of content on the Internet.

As the Internet's new digital medium continues to grow, we must ensure that consumers are confident that personally identifiable information which they submit electronically are afforded adequate levels of privacy protection. As consumer confidence in the security of their personal and financial information is enhanced, Internet users will be more willing to go online, make purchases over the Internet and generally provide personal information required by businesses and organizations over the Internet. At the same time, we must ensure that any initiatives have the least regulatory effect on the growth of e-commerce and on commercial free speech rights protected by the Constitution. We expect to examine the adequacy of Internet privacy protection and will, where necessary, advance reforms aimed at ensuring greater privacy protection.

For example, the Committee expects to examine the following:

(1) How are privacy concerns impacting the growth of e-commerce, in the financial services industry, in the insurance industry, in online retailing, etc., and the deployment of new technologies that could further the growth of, and consumer access to, the Internet?

(2) Does Congress need to amend criminal or civil rights laws to address consumer electronic privacy concerns?

(3) Does U.S. encryption policy negatively affect the growth of e-commerce?

(4) What is the impact of the European Union's Internet Privacy Directive on U.S. industry and e-commerce?

(5) Can Federal law enforcement, particularly civil rights enforcers, play a larger role in safeguarding the privacy concerns of Internet users?

(6) To what extent can web-sites and Government agencies track the Internet activities of individual users and what should be done to ensure greater protection of personally identifiable or financially sensitive data?

We would like to work toward reforms that can more fully deploy the Internet to make educational opportunities more widely available to students in remote locations, to life-long learners, and to enhance the educational experience of all students.

The Internet can bring new experiences to remote locations. My own home state of Utah has been experimenting with ways to bring the best possible educational experience to learners all across our state, some of whom live in remote rural areas, using wired technology. We would like to see how we can further support efforts to harness the communicative power of the wired world on behalf of students across the country.

Science is advancing rapidly and the challenge to the patent system of genetics, biotechnology, and business method patents are daunting. Whole new subject matter areas are being exploited, from patents on business methods from financial services to e-commerce tools on the Internet. Both the complexity and the sheer volume of patent applications are expanding exponentially. Recent Supreme Court decisions have once again posed the question of state government responsibility to respect and protect intellectual property rights. And I believe we need to review the Drug Price Competition and Patent Term Restoration Act of 1984 to ensure that its balanced goals continue to be met.

As many know, that act helped to create the modern generic drug industry. It has been estimated that it has largely saved consumers $10 billion every year since 1984. It is considered one of the most important consumer protection acts in the history of the country.

As the assignment of domain names transitions from a single company to a competitive, market-based system, we need to stay vigilant with regard to the significant antitrust and intellectual property ramifications this process holds for American businesses and consumers. We intend to build on our record of strengthening protection for online consumers by protecting the trademarks consumers rely on in cyberspace, while also encouraging the full range of positive interactions the Internet makes possible. I think the Internet can be a place of infinite variety while we continue to allow consumers to rely on brand names they know in the e-commerce context. The world-wide nature of the Internet also heightens the need for the United States to join international efforts to make worldwide intellectual property

protection, including that of trademarks, more efficient and effective for Americans. In particular, I hope we can move ahead on the United States accession to the Madrid Protocol.

I have always maintained that proper and timely enforcement of federal antitrust laws can foster both competition and innovation, while minimizing the need for government regulation. This is an especially important paradigm for the Internet. We need to carefully think through the antitrust implications of Business-to-Business exchanges. We also need to consider carefully what remedies should be imposed in cases where antitrust violations do occur, notwithstanding the generally dynamic and competitive nature of Internet-related industries. We will also need to review the increasing legal tension in the high technology industry between intellectual property rights and antitrust laws. There has always been a tension here, but in the Internet world, we need to be careful that intellectual property or content power is not leveraged into distribution power, or otherwise used in anticompetitive ways. Furthermore, the Internet poses new questions about the competitive need to protect collections of data in a way that preserves incentives for the creation of databases without unduly hampering the free flow of information in anticompetitive ways.

Access to new ''broadband'' technologies is increasingly important for full deployment and enjoyment of the Internet. We will need to consider the countervailing rights and duties of local phone companies and cable companies, either of which may provide broadband services in a local area. Specifically, what rights of access to broadband lines should competitors have, and what right to content should competitive distribution services have?

The Internet is a radically new medium not just for commerce, but also for speech, broadcasting and advertising. As we analogize from traditional media such as broadcasting, we need to ask afresh what regulations make sense in this new medium, if any, and how do we cope with different media competing toward largely the same goal, but with differing rules?

In summary Madam President, this non-controversial technical corrections bill clears the way for an exciting agenda for the 107th Congress in the Judiciary Committee. I hope we can pass this bill today, and I look forward to working with my colleague from Vermont on this most interesting and ambitious agenda.

In fact, I enjoy working with him. We have worked together all these years, and I think maybe we can get more done this year than in the past. Hopefully, we can move these agendas forward in the best interest of all Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, have the yeas and nays been ordered on S. 320?

The PRESIDING OFFICER. They have not been.

Mr. LEAHY. 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. LEAHY. Madam President, I thank my good friend from Utah for his comments. He and I have been working closely on an agenda for the coming year for the Judiciary Committee. As always, the agenda will reflect not only the needs of the Senate, but the friendship that the two of us have had for well over 20 years.

I congratulate Senator HATCH for his continuing leadership in improving our copyright, trademark, and patent law. Our intellectual property laws are important engines for our economy, fueling the creative energy responsible for America's global leadership in the software, movie, music, and high-tech industries.

The bill we considered today contains amendments recommended to us by the Copyright Office. I commend the Register of Copyrights, Marybeth Peters, for the expertise she brings to her office and the assistance she brings to us. At the end of my statement, I ask that a letter from Marybeth Peters in support of this legislation be printed in the RECORD.

(See exhibit 1.)

Mr. LEAHY. Over the past years, Senator HATCH and I, and others on the Judiciary Committee, have worked constructively and productively together on intellectual property matters. Just in the last Congress, we were able to pass the Anticybersquatting Consumer Protection Act, the Patent Fee Integrity and Innovation Protection Act, the Trademarks Amendments Act, the Satellite Home Viewers Improvements Act, and the American Inventors Protection Act. These significant intellectual property matters were preceded by our work together forging a consensus on the Digital Millennium Copyright Act, the Copyright Term Extension Act, the PTO Reauthorization Act, the Trademark Law Treaty Implementation Act, and many others. We and the other members of the committee have worked to ensure that divisive partisanship stays clear of this important area.

The proof of what we in Congress can accomplish when we put partisan differences aside, roll up our sleeves, and do the hard work or crafting compromises is demonstrated by our record of legislative achievements on intellectual property matters.

I hope all Senators will look at what Senator HATCH and I have been able to do when we set aside partisan differences and make sure we do things that work.

This bill makes technical corrections to and various non-substantive changes in our intellectual property laws. Introduction and passage of this bill is a good start for this Congress, but we must not lose sight of the other copyright, patent and trademark issues requiring our attention. The Senate Judiciary Committee has a full slate of intellectual property matters to consider. I am pleased to work on a bipartisan basis with the chairman on an agenda to provide the creators and inventors of copyrighted and patented works with the protection they may need in our global economy, while at the same time providing libraries, educational institutions, and other users with the clarity they need as to what constitutes fair use of such work.

We have to realize things have changed. There has been a lot in the press in the past couple days about the Ninth Circuit Court of Appeals decision in Napster. I suggest that if anyone thinks this is the end of the whole issue, they are mistaken.

It is clear that creators and owners of copyrighted property should have their copyrights protected, and they should certainly be compensated for their artistry and their work.

Those who distribute or produce copyrighted material, including movies, music, and books, have to realize their own business practices may well have to change and be a lot different. Profit margins may change, depending upon how it is done. Artists are not going to be beholden just to a few mega distributors. With the Internet, they are going to be able to work out their own way of distributing their material. They are going to be able to get themselves known if they want, even if it is by distributing their music, movies, or books for free.

It is a different world out there, but it is just one example of the kinds of issues we have to look at. Applying copyright principles to new situations should not be done just by court-made law which is imprecise, at best, because a court is limited to the factual situation before it rather than a full panoply of circumstances, but can be done here, recognizing we have a whole new way of doing things.

I remember when I was growing up in Montpelier, VT, my parents owned a small printing business. We used either moveable type or hot lead type. It was a laborious process. One thing I learned was not only to proofread in a hurry, but to read upside down and backward, as well as right side up and forward, because that is the way the letters work. It is a matter of consternation sometimes. People do not realize I am reading what is before me.

Now I look at the business, and there has been enormous change. It is less labor intensive in the setting up—it is not even type anymore, now it is offset. It changes the whole economy, but opens up a whole new world, all using different kinds of copyrighted material.

Among the things we should look at is protection from State infringement.

In response to the Supreme Court's decisions in the Florida Prepaid and College Savings Bank cases, I introduced in the last Congress legislation to restore Federal protection for intellectual property to guard against infringement by the States.

This is a reaction to an activist U.S. Supreme Court which held that States and their institutions cannot be held liable for patent infringement and other violations of the Federal intellectual property laws, even though those same States can and do enjoy the full protection of those laws for themselves.

Basically, the Supreme Court—it seemed to me anyway—seems to be willing to rewrite the rule of law with regard to the Constitution, certainly when it comes to telling States what they cannot do. We know they are not hesitant to do that. The legislation I sponsored would condition a State's ability to obtain new intellectual property rights on its waiver of sovereign immunity in future intellectual property suits.

It would also improve the limited remedies available to enforce a nonwaiving State's obligations under Federal law and the U.S. Constitution. This is a critical area in which the Congress should act.

Then we have distance education. The Senate Judiciary Committee held a hearing in the last Congress on the Copyright Office's thorough and balanced report on copyright and digital distance education, something that can be very important to those of us from rural States where there may be small schools.

While the distinguished Presiding Officer has metropolitan areas in her State, she also has very rural areas. Schools in rural areas may not be able to hire the top math teacher, the top language teacher, or the top science teacher, even though all these may be needed, but three or four of them together can do so if they are connected in such a way that they can utilize this.

We need to address legislative recommendations outlined in the Copyright Office's report to ensure our laws permit the appropriate use of copyrighted works in valid distance learning activities. I know Senator HATCH shares my goal for the schools in this country, particularly in rural areas. We can use this technology to maximize the educational experiences of our children.

It is an important area for the Judiciary Committee to examine. Not everybody comes from large schools. I had about 30 in my high school graduating class. Interestingly, every 4 years, all 500 of those 30 students show up at my door saying they were a high school classmate; could they please have a ticket to the Presidential inauguration.

We have the Madrid Protocol Implementation Act. I introduced legislation in the last two Congresses to help American businesses, and especially small and medium-sized companies, protect their trademarks as they go into international markets. The legislation would do so by conforming American trademark application procedures to the terms of the Madrid protocol.

The Clinton administration transmitted the protocol to the Senate for its advise and consent last year. I regret we did not work on it promptly. I hope the new President will urge that action because ratification by the United States of this treaty would help create a one-stop international trademark registration process, an enormous benefit for American businesses.

Next we have business method patents. The PTO has been subject to criticism for granting patents for obvious routines which implement existing business methods. The patent reform law that Senator HATCH and I worked out in the last Congress addressed one aspect of this matter: The prior user defense at least protects those who previously practiced that particular art. We should hold a hearing and engage the PTO in a dialog about this important issue to find out what you do with initial patents.

Frankly, I find patenting electronic business practices not that far removed from the situation where two competing hardware stores in the spring put the seeds, the Rototillers, and whatnot out front and in the winter put the snowblowers out front. Should one be allowed to patent that process so in the summer its competitor would have to have its snowblowers out front and could not put out lawn items? I think not. That is what we are looking at, except now in a digital age.

The Organization for Economic Cooperation and Development criticized the PTO for granting overly broad biotechnology patent protections. This area, as well as the international protection of patent rights, warrants examination and careful monitoring.

Then we have the issue of rural satellite television and Internet service. It is important to the State of Vermont. It is important to every rural community. It is certainly important to mine. I live in a house where I cannot get any television. I used to joke that I would get one and a quarter. I do not even get the quarter anymore. I cannot get anything, but I can if I have satellite television, and I can get my Internet service the same way. Senator HATCH and I worked together to address this issue in the major Satellite Home Viewers Law passed last Congress.

We authorized a rural loan guarantee program to help facilitate deployment in rural areas. That law included a priority for loans that offered financing for high-speed Internet access. That is a great tool in eliminating the digital divide between urban and rural America.

So we want to make sure that gets done and done right.

The job of this Congress is to ensure that the administration gets the job done so that those goals are met and the programs we have established are fully implemented.

The ninth circuit's ruling in the Napster case on Monday highlights the tensions between new online tools and services and protection of intellectual property rights. In the long term, where it counts the most, both sides—copyright holders and advocates for advances in new technology—can find victories in this ruling.

Nothing should stop the genius of a Shawn Fanning or those who come up with new online technologies like Napster.

While Napster customers may not initially see it that way, the availability of new music and other creative works—and its contributions to the vibrancy of our culture and in fueling our economy—depends on clearly understood and adequately enforced copyright protection. The Court of Appeals has sent the case back to the district court to ensure that the rights of creators are protected and that the online marketplace is just that, and not a free-for-all.

The exponential growth of Napster has proven that the Internet works well to distribute music, but this case is a warning that copyrights may not be ignored when new online services are deployed. The Internet can and must serve the needs not only of Internet users and innovators of new technologies, but also of artists, songwriters, performers and copyright holders. The Judiciary Committee should examine this issue closely to ensure that our laws are working well to meet all these needs.

Last Congress I introduced the Drug Competition Act of 2000, S. 2993, to give the Justice Department and the FTC the information they need to prevent anticompetitive practices which delay the availability of low-cost generic prescription drugs. I intend to re-introduce this bill soon and work with my colleagues to enact it this year to help assure that the availability of lower cost prescription drugs.

I noted upon passage of the Digital Millennium Copyright Act in 1998 that there was not enough time before the end of that Congress to give due consideration to the issue of database protection, and that I hoped the Senate Judiciary Committee would hold hearings and consider database protection legislation. Despite the passage of time, the Judiciary Committee has not yet held hearings on this issue.

I support legal protection against commercial misappropriation of collections of information, but am sensitive to the concerns raised by the libraries, certain educational institutions, and the scientific community. This is a complex and important matter that I look forward to considering in this Congress.

Product identification codes provide a means for manufacturers to track their goods, which can be important to protect consumers in case of defective,

tainted, or harmful products and to implement product recalls. Defacing, removing, or tampering with product identification codes can thwart these tracking efforts, with potential safety consequences for American consumers. We should examine the scope of, and legislative solutions to remedy, this problem.

Senator HATCH and I worked together to pass cybersquatting legislation in the last Congress to protect registered trademarks online. This is an issue that has concerned me since the Congress passed the Federal Trademark Dilution Act of 1995, when I expressed my hope that the new law would ''help stem the use of deceptive Internet addresses taken by those who are choosing marks that are associated with the products and reputations of others.'' (CONGRESSIONAL RECORD, December 29, 1995, page S19312).

The Internet Corporation for Assigned Names and Numbers (I–CANN) has recently added new top-level domain names and is negotiating contracts with the new registries. Senator HATCH and I followed these developments closely and together wrote to then Secretary of Commerce Norman Mineta on December 15, 2000, for the Commerce Department's assurances that the introduction of the new TLDs be achieved in a manner that minimizes the abuses of trademark rights. The Judiciary Committee has an important oversight role to play in this area.

We also will need to pay careful attention to the increasing consolidation in the airline, telecommunications, petroleum, electric, agriculture, and other sectors of the economy to ensure that consumers are protected from anticompetitive practices. The Judiciary Committee has already held one hearing on airline consolidation in this Congress and I stand ready to work with my colleagues on legislation to address competition problems.

I have already joined with the Democratic leader and several of my colleagues on the Securing a Future for Independent Agriculture Act, S. 20, to address the growing serious problem of consolidation in the agriculture processing sector. In addition, we need to carefully monitor international efforts to harmonize competition law to ensure that American companies and consumers are fairly treated and that our antitrust policies are not weakened.

This bill represents a good start on the work before the Senate Judiciary Committee to update American intellectual property law to ensure that it serves to advance and protect American interests both here and abroad. The list of addititional copyright, patent, and trademark issues that require our attention shows that we have a lot more work to do.

EXHIBIT 1

REGISTER OF COPYRIGHTS,
LIBRARY OF CONGRESS,
*Washington, DC, February 12, 2001.*

Hon. PATRICK J. LEAHY,
*U.S. Senate, Committee on the Judiciary, Washington, DC.*

DEAR SENATOR LEAHY: I understand that you will be sponsoring legislation in this Congress that will incorporate last year's proposed Copyright Technical Corrections Act of 2000, H.R. 5106.

The Copyright Office proposed the technical corrections that were included in H.R. 5106 to address some minor drafting errors in the Intellectual Property and Communications Omnibus Reform Act of 1999 and to correct some other technical discrepancies in Title 17. None of these proposed corrections are substantive.

I believe that it is important that the provisions of Title 17 be clear, and therefore I thank you for your leadership on this legislation and hope that you will be successful in obtaining its passage.

Sincerely,

MARYBETH PETERS,
*Register of Copyrights.*

Mr. HATCH. Madam President, how much time remains?

The PRESIDING OFFICER. The Senator from Utah has 15 minutes 18 seconds.

Mr. HATCH. Madam President, I will tell everybody I do not intend to use that whole time. I will use part of it.

THE NINTH CIRCUIT DECISION IN THE NAPSTER CASE

Mr. HATCH. Madam President, I would like to take a few moments while we are on the subject of copyright law to address the Ninth Circuit Court of Appeals' long-awaited decision in the Napster case. I have been considering the opinion for the last few days, and it may be some time before all of us grasp its full implications. I believe the Judiciary Committee will need to hold hearings on the decision's possible implications and to get an update on developments in the online music market. I will consult with my ranking member and other interested parties, and will likely look into the matter in the coming weeks.

As I have considered the case over the last couple of days, I have been troubled by the possible practical problems that may arise from this decision. I am troubled as a strong supporter and prime author of much of our copyright law and intellectual property rights.

By ordering the lower court to impose a preliminary injunction—before a trial on the merits, mind you—on this service that had developed a community of over 50 million music fans, it could have the effect of shutting down Napster entirely, depriving more than 50 million consumers access to a music service they have enjoyed. The Napster community represents a huge consumer demand for the kind of online music services Napster, rightly or wrongly, has offered and, to date, the major record labels have been unable to satisfy. Now, I understand that the labels have been working hard to get offerings online, and I have seen some projects beginning recently. I have been promised consumer roll-outs this year. But these offerings have been slow in coming and have not been broadly deployed as of yet. I hope deployment will be speeded up to meet the unsatisfied demand that may be caused by interruptions in Napster service as the litigation continues through trial on the merits and appeals.

I am longtime advocate of strong intellectual property laws. There is something in our legal system called copyright, and the principle underlying copyright is a sound one. I believe that artists Must be compensated for their creativity. And I believe that Napster as it currently operates, threatens this principle. I authored Digital Millennium Copyright Act, which has ensured that, as a general matter, copyright law should apply to the Internet. I am proud of my work in furtherance of that Act. I have mentioned Senator LEAHY in particular, and there others as well.

Yet, I also believe that the compensation principle underlying copyright can coexist—and has in fact coexisted—with society's evolving technologies for generations. And, in each case this coexistence has benefited both the copyright owner and the consumer, in what you might call an expansion of the pie, in other words.

So let's turn to the present controversy. It might be helpful to review some facts. In the span of about one and a half years, Napster has seen its client software downloaded more than 62 million times. Over 8 million people a day log onto the Napster service. At any one time there may be as many as 1.7 million people simultaneously using the service. It is, quite simply, a virtual community of unprecedented reach and scale. It is the most popular application in the history of the Internet and, I have to say, in the history of music.

It is also free and, unfortunately, according to the court, it is probably facilitating copyright infringement. The major labels, which account for over 80 percent of the CD's sold in this country, is rightly shaken by the Napster phenomenon. Although the industry saw its sales increase by 4.4 percent in the year 2000, it believes it would have sold more CD's had it not been for Napster. And the district court and Court of Appeals agreed with them. The labels have, as is their right under the laws—many of which I have authored—pursued legal redress through out judicial system. Were I in their shoes, I question whether I would have taken a different course of action.

Now the parties have brought their dispute to the point where the erosion of the copyright laws might be the frightening outcome.

I am particularly troubled because, if the popular Napster service, which has a relationship with one of the major record companies, Bertelsmann, is shut down, and no licensed online services exist to fill this consumer demand, I fear that this consumer demand will be

filled by Napster clones, particularly ones like Gnutella or Freenet, which have no central server, and no central business office with which to negotiate a marketplace licensing arrangement. Such a development would further undermine the position of copyright law online, and the position of artists in the new digital world that the Internet is developing.

Furthermore, if past experience is any indication, I would expect that my colleagues, like me, will be contacted by the over 50 million Napster fans who oppose the injunction and fear the demise of Napster. This may prompt a legislative response. I know that people in Congress are weighing various legislative solutions, some intriguing, some troubling and counter to the pubic interest.

Some of these responses could strike the important intellectual property rights of artists and copyright owners online entirely, undoing the carefully balanced development I have tried to foster over the years, and possibly harming consumers as well as creators in the long run.

I guess my feeling about this Ninth Circuit decision is a gnawing concern that this legal victory for the record labels may prove pyrrhic or shortsighted from a policy perspective. Some have suggested that the labels merely wished to establish a legal precedent and then would be willing to work on negotiating licenses. Well, it seems to me that now might be a good time to get those deals done, for the good of music fans, and for the good of the copyright industries and the artists they represent.

I have long been an advocate for strong intellectual property rights protection and enforcement. I have urged the labels and composers and publishers working out synergistic arrangements with online music distributors and Internet technologist that will serve the artists and their audience. Such synergy is possible. I was pleased when Bertelsmann took the initiative in harnessing the consumer demand evidenced by Napster and decided to work cooperatively together to develop a service that would benefit both of them and those they seek to serve, the artists and music fans. I again urge the other major music industry players to take significant steps toward this end, and again, I think now is a good time to do it. I have recently discussed my views with some of the interested parties, and I believe there is some interest in working this out for the benefit of all parties, including consumers and creators. I stand ready, willing and able to try to help them in this matter.

Last July, the Committee held its first of two hearings on the subject. At this hearing, I was joined by my colleague and friend, the distinguished ranking member and former chairman of the Judiciary Committee, Senator LEAHY. The two of us encouraged a marketplace resolution to the Napster, and the other, digital music controversies.

I think working together in the marketplace cooperatively will lead to the best result for all parties, the record labels, the online music services, the artists and the music fans. I hope the focus will be on the latter two. After all, without artists, there is nothing to convey, and without the fans, there is no one to convey it to. I think keeping the focus on the artists and the audience can help the technologists and the copyright industries find a way for all to flourish. And I hope this opportunity is taken before it is lost.

I hope this opportunity is taken before it is lost. I wanted to make these remarks on the floor, and I hope we can resolve these problems in a way that benefits artists, consumers, publishers, and others who are interested in this matter. I think if we get together and work this out, it will be in the best interests of everybody.

I am prepared to yield my time.

Mr. LEAHY. Madam President, I yield whatever time remains.

Mr. HATCH. I yield my time as well. We can proceed.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER (Mr. THOMPSON). The bill having been read for the third time, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kentucky (Mr. BUNNING and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

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

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—98

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

NOT VOTING—2

| | |
|---|---|
| Bunning | Crapo |

The bill (S. 320) was passed, as follows:

S. 320

*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 ''Intellectual Property and High Technology Technical Amendments Act of 2001''.

**SEC. 2. OFFICERS AND EMPLOYEES.**

(a) RENAMING OF OFFICERS.—(1) Title 35, United States Code, is amended—

(A) by striking ''Director'' each place it appears and inserting ''Commissioner''; and

(B) by striking ''Director's'' each place it appears and inserting ''Commissioner's''.

(2) The Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1051 et seq.) is amended by striking ''Director'' each place it appears and inserting ''Commissioner''.

(3)(A) Title 35, United States Code, is amended by striking ''Commissioner for Patents'' each place it appears and inserting ''Assistant Commissioner for Patents''.

(B) Section 3(b)(2) of title 35, United States Code, is amended—

(i) in the paragraph heading, by striking ''COMMISSIONERS'' and inserting ''ASSISTANT COMMISSIONERS'';

(ii) in subparagraph (A), in the last sentence—

(I) by striking ''a Commissioner'' and inserting ''an Assistant Commissioner''; and

(II) by striking ''the Commissioner'' and inserting ''the Assistant Commissioner'';

(iii) in subparagraph (B)—

(I) by striking ''Commissioners'' each place it appears and inserting ''Assistant Commissioners'';

(II) by striking ''Commissioners'' ' each place it appears and inserting ''Assistant Commissioners' ''; and

(iv) in subparagraph (C), by striking ''Commissioners'' and inserting ''Assistant Commissioners''.

(C) Section 3(f) of title 35, United States Code, is amended in paragraphs (2) and (3), by striking ''the Commissioner'' each place it appears and inserting ''the Assistant Commissioner''.

(D) Section 13 of title 35, United States Code, is amended—

(i) by striking ''Commissioner of'' each place it appears and inserting ''Assistant Commissioner for''; and

(ii) by striking ''Commissioners'' and inserting ''Assistant Commissioners''.

(E) Chapter 17 of title 35, United States Code, is amended by striking ''Commissioner of Patents'' each place it appears and inserting ''Assistant Commissioner for Patents''.

(F) Section 297 of title 35, United States Code, is amended by striking ''Commissioner of Patents'' each place it appears and inserting ''Commissioner''.

(4) Title 35, United States Code, is amended by striking ''Commissioner for Trademarks'' each place it appears and inserting ''Assistant Commissioner for Trademarks''.

(5) Section 5314 of title 5, United States Code, is amended by striking

''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.''

and inserting

''Under Secretary of Commerce for Intellectual Property and Commissioner of the

United States Patent and Trademark Office.''.

(6)(A) Section 303 of title 35, United States Code, is amended—

(i) in the section heading by striking ''**Director** '' and inserting ''**Commissioner**''; and

(ii) by striking ''Director's'' and inserting ''Commissioner's''.

(B) The item relating to section 303 in the table of sections for chapter 30 of title 35, United States Code, is amended by striking ''Director'' and inserting ''Commissioner''.

(b) ADDITIONAL CLERICAL AMENDMENTS.—

(1) The following provisions of law are amended by striking ''Director'' each place it appears and inserting ''Commissioner''.

(A) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B).

(B) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r).

(C) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)).

(D) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)).

(E) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)).

(F) Section 1295(a)(4)(B) of title 28, United States Code.

(G) Section 1744 of title 28, United States Code.

(H) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181).

(I) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

(J) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457).

(K) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)).

(L) Section 10(i) of the Trading with the enemy Act (50 U.S.C. App. 10(i)).

(M) Section 4203 of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113.

(2) The item relating to section 1744 in the table of sections for chapter 115 of title 28, United States Code, is amended by striking ''generally'' and inserting '', generally''.

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Director of the United States Patent and Trademark Office or to the Commissioner of Patents and Trademarks is deemed to refer to the Under Secretary of Commerce for Intellectual Property and Commissioner of the United States Patent and Trademark Office;

(2) to the Commissioner for Patents is deemed to refer to the Assistant Commissioner for Patents; and

(3) to the Commissioner for Trademarks is deemed to refer to the Assistant Commissioner for Trademarks.

**SEC. 3. CLARIFICATION OF REEXAMINATION PROCEDURE ACT OF 1999; TECHNICAL AMENDMENTS.**

(a) OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—Title 35, United States Code, is amended as follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking ''person'' and inserting ''third-party requester''; and

(B) in subsection (c), by striking ''Unless the requesting person is the owner of the patent, the'' and inserting ''The''.

(2) Section 312 is amended—

(A) in subsection (a), by striking the last sentence; and

(B) by striking '', if any''.

(3) Section 314(b)(1) is amended—

(A) by striking ''(1) This'' and all that follows through ''(2)'' and inserting ''(1)'';

(B) by striking ''the third-party requester shall receive a copy'' and inserting ''the Office shall send to the third-party requester a copy''; and

(C) by redesignating paragraph (3) as paragraph (2).

(4) Section 315(c) is amended by striking ''United States Code,''.

(5) Section 317 is amended—

(A) in subsection (a), by striking ''patent owner nor the third-party requester, if any, nor privies of either'' and inserting ''third-party requester nor its privies''; and

(B) in subsection (b), by striking ''United States Code,''.

(b) CONFORMING AMENDMENTS.—

(1) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Subsections (a), (b), and (c) of section 134 of title 35, United States Code, are each amended by striking ''administrative patent judge'' each place it appears and inserting ''primary examiner''.

(2) PROCEEDING ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: ''In an ex parte case or any reexamination case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.''.

(c) CLERICAL AMENDMENTS.—

(1) Section 4604(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999, is amended by striking ''Part 3'' and inserting ''Part III''.

(2) Section 4604(b) of that Act is amended by striking ''title 25'' and inserting ''title 35''.

(d) EFFECTIVE DATE.—The amendments made by sections 4605(c) and 4605(e) of the Intellectual Property and Communications Omnibus Reform Act, as enacted by section 1000(a)(9) of Public Law 106–113, shall apply to any reexamination filed in the United States Patent and Trademark Office on or after the date of the enactment of Public Law 106–113.

**SEC. 4. PATENT AND TRADEMARK EFFICIENCY ACT AMENDMENTS.**

(a) DEPUTY COMMISSIONER.—

(1) Section 17(b) of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067(b)), is amended by inserting ''the Deputy Commissioner,'' after ''Commissioner,''.

(2) Section 6(a) of title 35, United States Code, is amended by inserting ''the Deputy Commissioner,'' after ''Commissioner,''.

(b) PUBLIC ADVISORY COMMITTEES.—Section 5 of title 35, United States Code, is amended—

(1) in subsection (i), by inserting '', privileged,'' after ''personnel''; and

(2) by adding at the end the following new subsection:

''(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees.''.

(c) MISCELLANEOUS.—Section 153 of title 35, United States Code, is amended by striking ''and attested by an officer of the Patent and Trademark Office designated by the Commissioner,''.

**SEC. 5. DOMESTIC PUBLICATION OF FOREIGN FILED PATENT APPLICATIONS ACT OF 1999 AMENDMENTS.**

Section 154(d)(4)(A) of title 35, United States Code, as in effect on November 29, 2000, is amended—

(1) by striking ''on which the Patent and Trademark Office receives a copy of the'' and inserting ''of''; and

(2) by striking ''international application'' the last place it appears and inserting ''publication''.

**SEC. 6. DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD.**

Subtitle E of title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 4505 is amended to read as follows:

**''SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.**

''Section 102(e) of title 35, United States Code, is amended to read as follows:

'' '(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States if and only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or' ''.

(2) Section 4507 is amended—

(A) in paragraph (1), by striking ''Section 11'' and inserting ''Section 10'';

(B) in paragraph (2), by striking ''Section 12'' and inserting ''Section 11''.

(C) in paragraph (3), by striking ''Section 13'' and inserting ''Section 12'';

(D) in paragraph (4), by striking ''12 and 13'' and inserting ''11 and 12'';

(E) in section 374 of title 35, United States Code, as amended by paragraph (10), by striking ''confer the same rights and shall have the same effect under this title as an application for patent published'' and inserting ''be deemed a publication''; and

(F) by adding at the end the following:

''(12) The item relating to section 374 in the table of contents for chapter 37 of title 35, United States Code, is amended to read as follows:

''374. Publication of international application.''.

(3) Section 4508 is amended to read as follows:

**''SEC. 4508. EFFECTIVE DATE.**

''Except as otherwise provided in this section, sections 4502 through 4507, and the amendments made by such sections, shall take effect on November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by sections 4504 and 4505 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Commissioner. If an application is filed on or after November 29, 2000, or is published pursuant to a request from the applicant, and the application claims the benefit of one or more prior-filed applications under section 119(e), 120, or 365(c) of title 35, United States Code, then the amendment made by section 4505 shall apply to the prior-filed application in determining the filing date in the United States of the application.''.

**SEC. 7. MISCELLANEOUS CLERICAL AMENDMENTS.**

(a) AMENDMENTS TO TITLE 35.—The following provisions of title 35, United States Code, are amended:

(1) Section 2(b) is amended in paragraphs (2)(B) and (4)(B), by striking '', United States Code''.

(2) Section 3 is amended—

(A) in subsection (a)(2)(B), by striking ''United States Code,'';

(B) in subsection (b)(2)—

(i) in the first sentence of subparagraph (A), by striking '', United States Code'';

(ii) in the first sentence of subparagraph (B)—

(I) by striking ''United States Code,''; and

(II) by striking '', United States Code'';

(iii) in the second sentence of subparagraph (B)—

(I) by striking ''United States Code,''; and

(II) by striking '', United States Code.'' and inserting a period;

(iv) in the last sentence of subparagraph (B), by striking '', United States Code''; and

(v) in subparagraph (C), by striking '', United States Code''; and

(C) in subsection (c)—

(i) in the subsection caption, by striking '', UNITED STATES CODE''; and

(ii) by striking ''United States Code,''.

(3) Section 5 is amended in subsections (e) and (g), by striking '', United States Code'' each place it appears.

(4) The table of chapters for part I is amended in the item relating to chapter 3, by striking ''**before**'' and inserting ''**Before**''.

(5) The item relating to section 21 in the table of contents for chapter 2 is amended to read as follows:

''21. Filing date and day for taking action.''.

(6) The item relating to chapter 12 in the table of chapters for part II is amended to read as follows:

**''12. Examination of Application ..... 131''.**

(7) The item relating to section 116 in the table of contents for chapter 11 is amended to read as follows:

''116. Inventors.''.

(8) Section 154(b)(4) is amended by striking '', United States Code,''.

(9) Section 156 is amended—

(A) in subsection (b)(3)(B), by striking ''paragraphs'' and inserting ''paragraph'';

(B) in subsection (d)(2)(B)(i), by striking ''below the office'' and inserting ''below the Office''; and

(C) in subsection (g)(6)(B)(iii), by striking ''submittted'' and inserting ''submitted''.

(10) The item relating to section 183 in the table of contents for chapter 17 is amended by striking ''of'' and inserting ''to''.

(11) Section 185 is amended by striking the second period at the end of the section.

(12) Section 201(a) is amended—

(A) by striking ''United States Code,''; and

(B) by striking ''5, United States Code.'' and inserting ''5.''.

(13) Section 202 is amended—

(A) in subsection (b)(4), by striking ''last paragraph of section 203(2)'' and inserting ''section 203(b)''; and

(B) in subsection (c)—

(i) in paragraph (4) by striking ''rights;'' and inserting ''rights,''; and

(ii) in paragraph (5) by striking ''of the United States Code''.

(14) Section 203 is amended—

(A) in paragraph (2)—

(i) by striking ''(2)'' and inserting ''(b)'';

(ii) by striking the quotation marks and comma before ''as appropriate''; and

(iii) by striking ''paragraphs (a) and (c)'' and inserting ''paragraphs (1) and (3) of subsection (a)''; and

(B) in the first paragraph—

(i) by striking ''(a)'', ''(b)'', ''(c)'', and (d)'' and inserting ''(1)'', ''(2)'', ''(3)'', and (4)'', respectively; and

(ii) by striking ''(1.'' and inserting ''(a)''.

(15) Section 209 is amended in subsections (a) and (f)(1), by striking ''of the United States Code''.

(16) Section 210 is amended—

(A) in subsection (a)—

(i) in paragraph (11), by striking ''5901'' and inserting ''5908''; and

(ii) in paragraph (20) by striking ''178(j)'' and inserting ''178j''; and

(B) in subsection (c)—

(i) by striking ''paragraph 202(c)(4)'' and inserting ''section 202(c)(4)''; and

(ii) by striking ''title..'' and inserting ''title.''.

(17) The item relating to chapter 29 in the table of chapters for part III is amended by inserting a comma after ''**Patent**''.

(18) The item relating to section 256 in the table of contents for chapter 25 is amended to read as follows:

''256. Correction of named inventor.''.

(19) Section 294 is amended—

(A) in subsection (b), by striking ''United States Code,''; and

(B) in subsection (c), in the second sentence by striking ''court to'' and inserting ''court of''.

(20)(A) The item relating to section 374 in the table of contents for chapter 37 is amended to read as follows:

''374. Publication of international application.''.

(B) The amendment made by subparagraph (A) shall take effect on November 29, 2000.

(21) Section 371(b) is amended by adding at the end a period.

(22) Section 371(d) is amended by adding at the end a period.

(23) Paragraphs (1), (2), and (3) of section 376(a) are each amended by striking the semicolon and inserting a period.

(b) OTHER AMENDMENTS.—

(1) Section 4732(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999 is amended—

(A) in paragraph (9)(A)(ii), by inserting ''in subsection (b),'' after ''(ii)''; and

(B) in paragraph (10)(A), by inserting after ''title 35, United States Code,'' the following: ''other than sections 1 through 6 (as amended by chapter 1 of this subtitle),''.

(2) Section 4802(1) of that Act is amended by inserting ''to'' before ''citizens''.

(3) Section 4804 of that Act is amended—

(A) in subsection (b), by striking ''11(a)'' and inserting ''10(a)''; and

(B) in subsection (c), by striking ''13'' and inserting ''12''.

(4) Section 4402(b)(1) of that Act is amended by striking ''in the fourth paragraph''.

**SEC. 8. TECHNICAL CORRECTIONS IN TRADEMARK LAW.**

(a) AWARD OF DAMAGES.—Section 35(a) of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1117(a)), is amended by striking ''a violation under section 43(a), (c), or (d),'' and inserting ''a violation under section 43(a) or (d),''.

(b) ADDITIONAL TECHNICAL AMENDMENTS.—The Trademark Act of 1946 is further amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended in the first sentence by striking ''specifying the date of the applicant's first use'' and all that follows through the end of the sentence and inserting ''specifying the date of the applicant's first use of the mark in commerce and those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce.''.

(2) Section 1(e) (15 U.S.C. 1051(e)) is amended to read as follows:

''(e) If the applicant is not domiciled in the United States the applicant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner.'';

(3) Section 8(f) (15 U.S.C. 1058(f)) is amended to read as follows:

''(f) If the registrant is not domiciled in the United States, the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner.'';

(4) Section 9(c) (15 U.S.C. 1059(c)) is amended to read as follows:

''(c) If the registrant is not domiciled in the United States the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Commissioner.'';

(5) Subsections (a) and (b) of section 10 (15 U.S.C. 1060(a) and (b)) are amended to read as follows:

''(a)(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

''(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

''(3) Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent

and Trademark Office, the record shall be prima facie evidence of execution.

''(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

''(5) The United States Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

''(b) An assignee not domiciled in the United States may designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Commissioner.'';

(7) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking the second comma after ''numeral''.

(8) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is amended by aligning the text with paragraph (7).

(9) Section 34(d)(1)(A) (15 U.S.C. 1116(d)(1)(A)) is amended by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code,''.

(10) Section 34(d)(1)(B)(ii) (15 U.S.C. 1116(d)(1)(B)(ii)) is amended by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code''.

(11) Section 34(d)(11) is amended by striking ''6621 of the Internal Revenue Code of 1954'' and inserting ''6621(a)(2) of the Internal Revenue Code of 1986''.

(12) Section 35(b) (15 U.S.C. 1117(b)) is amended—

(A) by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code,''; and

(B) by striking ''6621 of the Internal Revenue Code of 1954'' and inserting ''6621(a)(2) of the Internal Revenue Code of 1986''.

(13) Section 44(e) (15 U.S.C. 1126(e)) is amended by striking ''a certification'' and inserting ''a true copy, a photocopy, a certification,''.

**SEC. 9. PATENT AND TRADEMARK FEE CLERICAL AMENDMENT.**

The Patent and Trademark Fee Fairness Act of 1999 (113 Stat. 1537–546 et seq.), as enacted by section 1000(a)(9) of Public Law 106–113, is amended in section 4203, by striking ''111(a)'' and inserting ''1113(a)''.

**SEC. 10. COPYRIGHT RELATED CORRECTIONS TO 1999 OMNIBUS REFORM ACT.**

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 1007 is amended—

(A) in paragraph (2), by striking ''paragraph (2)'' and inserting ''paragraph (2)(A)''; and

(B) in paragraph (3), by striking ''1005(e)'' and inserting ''1005(d)''.

(2) Section 1006(b) is amended by striking ''119(b)(1)(B)(iii)'' and inserting ''119(b)(1)(B)(ii)''.

(3)(A) Section 1006(a) is amended—

(i) in paragraph (1), by adding ''and'' after the semicolon;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2).

(B) Section 1011(b)(2)(A) is amended to read as follows:

''(A) in paragraph (1), by striking 'primary transmission made by a superstation and embodying a performance or display of a work' and inserting 'performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed';''.

**SEC. 11. AMENDMENTS TO TITLE 17, UNITED STATES CODE.**

Title 17, United States Code, is amended as follows:

(1) Section 119(a)(6) is amended by striking ''of performance'' and inserting ''of a performance''.

(2)(A) The section heading for section 122 is amended by striking ''**rights; secondary**'' and inserting ''**rights: Secondary**''.

(B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

''122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.''.

(3)(A) The section heading for section 121 is amended by striking ''**reproduction**'' and inserting ''**Reproduction**''.

(B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking ''reproduction'' and inserting ''Reproduction''.

(4)(A) Section 106 is amended by striking ''107 through 121'' and inserting ''107 through 122''.

(B) Section 501(a) is amended by striking ''106 through 121'' and inserting ''106 through 122''.

(C) Section 511(a) is amended by striking ''106 through 121'' and inserting ''106 through 122''.

(5) Section 101 is amended—

(A) by moving the definition of ''computer program'' so that it appears after the definition of ''compilation''; and

(B) by moving the definition of ''registration'' so that it appears after the definition of ''publicly''.

(6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking ''conditions;'' and inserting ''conditions:''.

(7) Section 118(b)(1) is amended in the second sentence by striking ''to it''.

(8) Section 119(b)(1)(A) is amended—

(A) by striking ''transmitted'' and inserting ''retransmitted''; and

(B) by striking ''transmissions'' and inserting ''retransmissions''.

(9) Section 203(a)(2) is amended—

(A) in subparagraph (A)—

(i) by striking ''(A) the'' and inserting ''(A) The''; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking ''(B) the'' and inserting ''(B) The''; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking ''(C) the'' and inserting ''(C) The''.

(10) Section 304(c)(2) is amended—

(A) in subparagraph (A)—

(i) by striking ''(A) the'' and inserting ''(A) The''; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking ''(B) the'' and inserting ''(B) The''; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking ''(C) the'' and inserting ''(C) The''.

(11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking ''licensure'' and inserting ''licensing''.

**SEC. 12. OTHER COPYRIGHT RELATED TECHNICAL AMENDMENTS.**

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking ''107 through 120'' and inserting ''107 through 122''.

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94–553 is amended by striking ''section 290(e) of title 15'' and inserting ''section 6 of the Standard Reference Data Act (15 U.S.C. 290e)''.

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking ''Notwithstanding'' and all that follows through ''United States Code,'' and inserting ''Notwithstanding the limitations under section 105 of title 17, United States Code,''.

The PRESIDING OFFICER. The Senator from Mississippi, Mr. COCHRAN, is recognized.

Mr. COCHRAN. Mr. President, I ask unanimous consent that I may proceed for up to 10 minutes as in morning business.

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

## NATIONAL MISSILE DEFENSE SYSTEM

Mr. COCHRAN. Mr. President, I take this time to respond to those who are suggesting we put off, or even cancel, the deployment of a national missile defense system.

One reason the critics of the program are giving for delay is the alleged opposition of our allies, particularly those in Europe. Earlier this month at the Munich Conference on International Security, Secretary of Defense Donald Rumsfeld made a forceful case for deployment of a defense against strategic ballistic missiles. He explained the rationale for our missile defense program, and he also made it clear that this administration intends to deploy such a system as soon as possible.

He told those attending the conference that deploying a missile defense system was a moral issue because ''no U.S. President can responsibly say his defense policy is calculated and designed to leave the American people undefended against threats that are known to exist.''

Former Secretary of State Kissinger, who negotiated the 1972 Anti-Ballistic Missile Treaty, also spoke at the conference. He said a U.S. President cannot allow a situation in which ''extinction of civilized life is one's only strategy.''

The response from our European allies was very encouraging. For months, critics have been saying that our allies firmly oppose our plans to deploy missile defenses and would never go along with them. But the Secretary General of NATO, George Robertson, said:

Now the Europeans have to accept that the Americans really intend to go ahead. . . . Now that the question of ''whether'' it's going to happen has been settled, I want an engagement inside NATO between the Americans and other allies about the ''how'' and the ''when.''

With respect to the threat, Secretary General Robertson said:

The interesting point is that there is now a recognition by leaders—American, European, and even Russian—that there is a new threat from the proliferation of ballistic missiles that has got to be dealt with. The Americans have said how they're going to deal with it. The Europeans are being offered a chance to share in that.

Robertson also added:

The concept of mutually assured destruction is obsolete. The old equation no longer works out: Russia and the United States in a balance of terror. Now there are groups and States acquiring missile technology and warheads with great facility. We are living in a dangerous new world.

Germany's views are also changing. Chancellor Gerhard Schroeder, addressing fellow Social Democratic Party members, said recently, ''We should be under no illusions that that there will be no difference of opinion with the new American leadership under President George W. Bush. First and foremost, it won't be about the planned National Missile Defense program but about trade policy issues. Differences over NMD are not the decisive factor in the German-American relationship.'' German Foreign Minister Fischer said that NMD ''above all is a national decision for the United States.'' In Moscow this week, he said, ''in the end, the Russians are going to accept it somehow.''

Here in Washington last week, Britain's Foreign Secretary said, ''On the question of what happens if national missile defense proceeds; if it means the U.S., feels more secure and therefore feels more able to assert itself in international areas of concern to us, we would regard that as a net gain in security.'' And the Prime Minister of Canada, who just a few months ago had joined Russian President Putin in calling for preservation of the ABM Treaty, said last week after consulting with President Bush, ''Perhaps we are in a different era.''

The Australian Foreign Minister noted last week that until now,

A lot of the debate has been directed at the United States. I frankly think an awful lot of the debate should instead be directed not only toward those countries that have got or are developing these missile systems but the countries that have been transferring that missile technology to others. . . . If there were no missiles, there would be no need for a missile defense system.

Dr. Javier Solana of Spain, former Secretary-General of NATO and now the director of foreign policy for the European Union, said ''The United States has the right to deploy'' an NMD system. Of the ABM Treaty, the so-called ''cornerstone of strategic stability,'' Dr. Solana said, ''It is not the Bible.''

The words we now hear from our European and other important allies are signaling changed attitudes. I think they have been influenced by the Bush administration's willingness to confront the NMD issue squarely, to consult fully with our allies, and to make clear a determination to protect this nation and its allies from long-range ballistic missile attack. The best ally is a strong one, and the actions of the Bush administration are an overdue reassurance that the United States will indeed be a strong alliance partner.

Of course, not every nation welcomes our NMD plans. France still has not embraced the concept, and Russia and China continue their opposition. But this shouldn't change our plans to deploy missile defenses. Our action threatens no nation, although it will create an obstacle for those who would threaten the U.S. Those who mean us no harm have nothing to fear from this purely defensive system; those who do mean us harm will learn that the United States will no longer commit itself to continuing vulnerability.

Another reason for proceeding as soon as possible to deploy missile defenses to protect the United States was highlighted last week in testimony presented to the Senate by the Director of Central Intelligence, George Tenet.

He said, ''we cannot underestimate the catalytic role that foreign assistance has played in advancing . . . missile and WMD programs, shortening the development times, and aiding production.'' He noted that it is increasingly difficult to predict those timelines, saying ''The missile and WMD proliferation problem continues to change in ways that make it harder to monitor and control, increasing the risks of substantial surprise.'' Director Tenet went on to say, ''It is that foreign assistance piece that you have to have that very precise intelligence to understand, and sometimes you get it and sometimes you don't.'' Because of the difficulty monitoring foreign assistance, Director Tenet added that ''these time lines all become illusory.''

He also noted that it is a mistake to think of nations who aspire to obtain missiles as technologically unsophisticated: ''We are not talking about unsophisticated countries. When you talk about Iraq and Iran, people need to understand these are countries with sophisticated capabilities, sophisticated technology, digital communications.''

And the danger does not stop when one of these nations acquires the technology that is now so freely available. Mr. Tenet warned about what he termed ''secondary proliferation'':

There is also great potential for secondary proliferation, for maturing state-sponsored programs such as those in Pakistan, Iran and India. Add to this group the private companies, scientists and engineers in Russia, China and India who may be increasing their involvement in these activities taking advantage of weak or unenforceable national export controls and the growing availability of technologies. These trends have continued, and in some cases have accelerated over the past year.

The Director of Central Intelligence added, ''So you know, the kind of technology flows that we see from big states to smaller states and then the inclination of those people who do the secondary proliferation I think is what's most worrisome to me.''

Some who oppose missile defense deployment point to diplomatic initiatives and political change as evidence that the threat is diminishing. For example, they point to recent efforts by North Korea's leader Kim Jong Il to present a more open face to the world. But according to the Director of Central Intelligence, little has actually changed with respect to North Korea's proliferation activities. For example, he testified,

Pyongyang's bold diplomatic outreach to the international community and engagement with South Korea reflect a significant change in strategy. The strategy is designed to assure the continued survival of Kim Jong Il by ending Pyongyang's political isolation and fixing the North's failing economy by attracting more aid. We do not know how far Kim will go in opening the North, but I can report to you that we have not yet seen a significant diminution of the threat from North to American and South Korean interests.

Pyongyang still believes that a strong military, capable of projecting power in the region, is an essential element of national power. Pyongyang's declared military-first policy requires massive investment in the armed forces, even at the expense of other national objectives . . . [T]he North Korean military appears, for now, to have halted its near decade-long slide in military capabilities. In addition to the North's longer-range missile threat to us, Pyongyang is also expanding its short- and medium-range missile inventory, putting our allies at risk.

Similar claims about diminishing threats have been made about Iran. A year ago, those who oppose missile defense were suggesting that because of the election of reform-minded leaders we need no longer worry about that country obtaining more capable missiles. Here is what the Director of Central Intelligence had to say about Iran in his testimony last week:

Iran has one of the largest and most capable ballistic missile programs in the Middle East. It's public statements suggest that it plans to develop longer-range rockets for use in a space-launch program. But Tehran could follow the North Korean pattern and test an ICBM capable of delivering a light payload to the United States in the next few years . . .

Events in the past year have been discouraging for positive change in Iran. . . . Prospects for near-term political reform in the near term are fading. Opponents of reform have not only muzzled the open press, they have also arrested prominent activists and blunted the legislature's powers. Over the summer, supreme leader Khamenei ordered the new legislature not to ease press restrictions, a key reformist pursuit, that signaled the narrow borders within which he would allow the legislature to operate.

I hope that reformers do make gains in Iran, although senior CIA officials have testified that Iranian ''reformers''—such as President Khatemi—are enthusiastic about acquiring ballistic missiles. I hope Iran will one day be a thriving democracy. But that day has not arrived, and our security policy cannot be based on hope.

We need missile defense not just because of the capabilities of particular countries, but because of the larger problem: The proliferation of missile technology has created a world in which we can no longer afford to leave ourselves vulnerable to an entire class of weapons. Remaining vulnerable only guarantees that some nation will seize upon this vulnerability and take the United States and our allies by surprise.

The Bush administration's resolve to deploy missile defenses is an essential first step in modernizing our national security assets. Because of the neglect our missile defense program has suffered over the last eight years, we now face a threat against which we will have no defense for several years. Because of decisions made by the previous administration, the only long-range missile defense we have in the near-term will be the ground-based system planned for initial deployment in Alaska. Additional resources must be provided so that other technologies and basing modes can be developed and tested. But now, we must move forward as fast as we can with the technology we have today. We must not prolong our vulnerability by waiting for newer and better technology. Therefore, it is important that the administration immediately begin construction of the NMD radar at Shemya, AK. Construction of the national missile defense radar at Shemya, AK, should begin immediately.

Construction of this radar was to have begun this May, but last September President Clinton postponed the decision to proceed, citing delays with other elements of the system and a lack of progress in convincing Russia to modernize the ABM Treaty to permit NMB deployment. However, construction of the Shemya radar is the so-called ''long-lead'' item in deployment of the NMD system; it is the step that takes the longest and must begin the soonest. Delaying construction of the NMD radar means delaying deployment of the entire system, and we cannot afford more unnecessary delays in this program.

There is still time to recover from the delays caused by President Clinton's postponement last fall. The radar design is complete, the funds have been appropriated, and any missile defense system we build will have to begin with an X-band radar at Shemy. So we should get on with it.

Beginning construction of the Shemya radar will be a demonstration of the determination of our government to fulfill its first constitutional duty, which is to provide for the security of our Nation. It will send an unmistakable signal to all—friend or potential foe—that the United States will not remain vulnerable any longer to those who threaten us with ballistic missiles.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, before I propound a unanimous consent request, I want to make some brief comments on the bill that I expect to call up.

## HONORING PAUL D. COVERDELL

Mr. LOTT. Mr. President, many of us in the Senate still greatly miss our distinguished and honorable colleague from Georgia, Paul Coverdell. There are not many days that go by that I do not think about him when I am working in this Chamber and in my office. We really have been grieving and thinking an awful lot about him over the months since his unfortunate early passing away as a result of his problems last year when he had a cerebral hemorrhage.

He was an extraordinary public servant. We all wanted to find a way to express our sorrow and to appropriately honor him. In that vein, I wanted to make sure we did not just have a rush to judgment of what we might try to do to honor him—doing it in several little ways but never an appropriate way.

After discussion on both sides of the aisle and getting approval of the Democratic leader, I asked four of our colleagues to serve as an informal task force to come up with an appropriate way to honor Senator Coverdell. These four Senators, two from each side of the aisle, were good friends and worked closely with Paul. They had a personal interest in it.

I thank Senator GRAMM of Texas, Senator DEWINE of Ohio, Senator HARRY REID of Nevada, and Senator ZELL MILLER of Georgia for taking the time to think about this, meeting together and coming up with ideas of how to appropriately honor Senator Coverdell.

That is how this bill came into being. A lot of ideas were considered. They were discussed with Senator Coverdell's former staff members, family, particularly his wife, and they came up with the suggestion that is included in this bill.

I thank Senator DASCHLE and Senator REID for being willing to be involved in this process. As a result of their efforts, we now have a bill.

## UNANIMOUS CONSENT REQUEST—A BILL HONORING PAUL D. COVERDELL

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a bill at the desk which honors Senator Paul D. Coverdell by naming the Peace Corps headquarters after our former colleague. I further ask unanimous consent that the bill be read the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. COCHRAN). Is there objection?

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

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr REID. As the majority leader has indicated, a significant amount of time has been spent on this matter. I remember as if it was yesterday Senator LOTT coming on the floor and making the announcement. It was a sad day in the history of this Senate, in the history of the State of Georgia, and certainly our country.

Those of us who knew Senator Coverdell know how closely he was associated with the majority leader and how he loved this institution. What the leader has said is very true. I worked with Senator MILLER, Senator GRAMM, and Senator DEWINE to come up with something that is appropriate. We think we have done that.

I do, though, have to object for one of the other Members of the Senate. It is something which is procedural in nature. I am confident we can work this out. I ask that the leader be understanding and that this matter be brought up after we get back from our next recess. I am confident in that period of time we will take care of the kinks. I would rather we do it that way than pass pieces of it.

I talked with Senator GRAMM and Senator MILLER, and we agreed to do it all at once rather than piecemeal.

The PRESIDING OFFICER. The Senator from Nevada objects.

Mr. LOTT. Mr. President, while I feel the objection is certainly unfortunate, I know that Senator REID wants to find a way to work through the problem that may exist. I will be glad to work with him and Senator MILLER.

Senator MILLER has been very generous with his time and very committed to this process. I talked with him a couple of times—just yesterday—to try to work through this. It is my expectation we will be able to clear this bill and take it up for consideration. It really is noncontroversial, and I believe it should be passed by unanimous consent.

I hope Members who do have a problem, or if there is a procedural problem, will find a way to work through it so we can honor this noble and respected Member. I invite Senator REID and any others to comment on the process, and if they have any remedy they can suggest, I am anxious to hear from them. I know effort is already underway to do that, and I know they will continue.

It will be my intent to file cloture on this matter if it is necessary prior to the recess of the Senate this week. I hope and expect we will not have to do that, but because of the requirements of S. Res. 8, if I have to file cloture, I will have to wait the requisite 12 hours now before filing the cloture on an amendable item, so I will have to begin the process.

Rather than leave it in that vein, I prefer we talk and we work this out and find a way to get it cleared and agreed to tomorrow before we leave for the Presidents Day recess.

Mr. REID. I appreciate the leader's comments. I would appreciate very much the leader not filing cloture. We do not need that or want that on this piece of legislation.

Mr. LOTT. I understand that.

## MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now be in a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

## COMMENDING SENATOR COCHRAN

Mr. LOTT. Mr. President, I commend my colleague, the Presiding Officer, Senator COCHRAN, for the remarks he made a few moments ago on the floor of the Senate with regard to the defense budget, particularly missile defense. He has been very thoughtful in this area. He has been involved for a number of years.

He serves as head of a bipartisan group of Senators who have been to Russia on behalf of the Senate, who have met with representatives from the government, the Duma of Russia, when they have been in the United States.

To put this in a positive way and note that President Bush intends to go forward with it when it is ready to be deployed and that we be prepared to have a serious discussion about it is fine, but I thank him for the way he has been involved in this issue and express my confidence that as we move forward on this very important defense item for our future, I know he will be involved in that.

I feel very good that President Bush and Secretary of Defense Rumsfeld will approach this matter in an appropriate way, with our defense budget funding but also in the way it is handled with our allies. I look forward to working together in the future on this important issue.

I yield the floor.

## BLACK HISTORY MONTH

Mr. SARBANES. Mr. President, I am very pleased to join in commemorating African-American History Month and particularly this year's theme, ''Creating and Defining the African-American Community: Family, Church, Politics and Culture.''

Since 1926, the month of February has served as a time for our citizens to recognize and applaud the vast contributions made by African-Americans to the founding and building of this great Nation. The vision of the noted author and scholar, Dr. Carter G. Woodson, led to this important annual celebration. As we note the theme of this year's Black History Month celebration, it is important to recognize the challenges ahead for African-Americans in a new age.

From early days, the family has been the backbone of the African-American culture in our country. Through a strong and stable family structure, African-Americans found companionship, love, and an understanding of the suffering endured during oppressive periods in history. The African-American family has served to strengthen and encourage young African-Americans to forge ahead to break barriers and rise to new heights within American culture.

The unemployment rate for African-Americans has fallen from 14.2 percent in 1992 to 8.3 percent in 1999, the lowest annual level on record. The median household income of African-Americans is up 15.1 percent since 1993, from $22,034 in 1993 to $25,351 in 1998. Real wages of African-Americans have risen rapidly in the past two years, up about 5.8 percent for men and 6.2 percent for women since 1996.

The African-American poverty rate has dropped from 33.1 percent in 1993 to 26.1 percent in 1998, the lowest level ever recorded and the largest five-year drop in more than twenty-five years. Since 1993, the child poverty rate among African-Americans has dropped from 46.1 percent to 36.7 percent in 1998. While still too large, this represents the largest five-year drop on record. It is critical that we in Congress continue to work to enact legislation that will further strengthen African-American families and enable these rates to continue to decrease at record levels.

Religion, like family, has played a vital role in African-American life in this country, with the Black Church a substantial and enduring presence. Throughout the early period of our Nation's development, African-Americans established their own religious institutions. Although these institutions were not always formally recognized, it should be noted that the African Methodist Episcopal Church was founded in 1787, followed closely by the African Baptist Church in 1788. Throughout our Nation's history, the Black Church has served as both a stabilizing influence and as a catalyst for needed change.

During slavery, the African-American Church was a place of spiritual sanctuary and community. After Blacks were freed, the Church remained a line of defense and comfort against racism. The Black Church served as an agency of social reorientation and reconstruction, providing reinforcement for the values of marriage, family, morality, and spirituality in the face of the corrosive effects of discrimination.

The Black Church became the center for economic cooperation, pooling resources to buy churches, building mutual aid societies which provided social services, purchasing and helping resettle enslaved Africans, and establishing businesses. From its earliest days as an invisible spiritural community, the Black Church supported social change and struggle, providing leaders and leadership at various points in the struggle against racism and discrimination.

The civil rights movement of the 1960s provided the catalyst for African-Americans to move into the political arena. Three major factors encouraged the beginning of this new movement for civil rights. First, many African-Americans served with honor in World War II, as they had in many wars since the American revolution. However, in this instance, African-American leaders pointed to the records of these veterans to show the injustice of racial discrimination against patriots. Second, more and more African-Americans in the North had made economic gains, increased their education, and registered to vote. Third, the NAACP had attracted many new members and received increased financial support from all citizens.

In addition, a young group of energetic lawyers, including Thurgood Marshall, of Baltimore, Maryland, used the legal system to bring about important changes in the lives of African-Americans, while Dr. Martin Luther King, Jr. appealed to the conscience of all citizens. When Congress passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965, Clarence Mitchell, Jr., of Maryland, played a critical part in steering this legislation through Congress.

African-Americans began to assume more influential roles in the Federal Government as a result of the civil rights movement, a development which benefitted the entire Nation. In 1966, Dr. Robert C. Weaver became the Secretary of Housing and Urban Development, the first Black Cabinet Member and Edward Brooke became the first African-American elected to the Senate since reconstruction. In 1967, Thurgood Marshall became the first Black Justice on the Supreme Court. In 1969, Shirley Chisholm of New York became the first Black woman to serve in the U.S. House of Representatives.

Progress continued in the next three decades. In 1976, Patricia Harris became the first Black woman Cabinet Member and in 1977 when Clifford Alexander was confirmed as the first Black Secretary of the Army. In 1989, Douglas Wilder of Virginia became the first elected African-American Governor in the Nation. In 1992, Carol Moseley-Braun became the first African-American female U.S. Senator. In 1993, Ron Brown became the first African-American Secretary of Commerce, Jesse Brown became the first African-American Secretary of the Veterans Administration, and Hazel O'Leary became the first black Secretary of Energy. In 1997, Rodney Slater became the first African-American Secretary of Transportation and Alexis Herman became the first African-American Secretary of Labor. In 2001, Roderick Paige became the first African-American Secretary of Education and General Colin Powell, in addition to being the first African-American Chairman of the Joint Chiefs of Staff, became the first U.S. Secretary of State.

African-Americans have played significant roles in influencing and changing American life and culture. Through such fields as arts and entertainment,

the military, politics and civil rights, African-Americans have been key to the progress and prosperity of our Nation. Blacks have contributed to the artistic and literary heritage of America from the early years to the present. They have influenced the field of music as composers, vocalists, and instrumentalists and played a seminal role in the emergence of blues, jazz, gospel, and rhythm and blues.

Although African-Americans owned and published newspapers in the 19th century, their achievements in the communications industry have been most noted in the 20th century, when they produced and contributed to magazines, newspapers, and television and radio news and talk shows in unprecedented numbers. There are now hundreds of Black-owned radio stations throughout the country. While integrated into professional sports relatively recently, African-American athletes have reached the highest levels of accomplishment. They also comprise some of the finest athletes representing the United States in the Olympic Games.

As we move into the new Millenium, we look forward to the continued growth and prosperity of African-American citizens. Our Nation's history is replete with the contributions of African-Americans. Black History Month affords all Americans an opportunity to celebrate the great achievements of African-Americans, to celebrate how far this Nation has come, and to remind us of how far we have to go.

## DR. BENJAMIN ELIJAH MAYS

Mr. HOLLINGS. Mr. President, I rise today to bring the country's attention to one of its most gifted educators, civil rights leaders and theologians, the late Dr. Benjamin Elijah Mays, and to again encourage the President to award Dr. Mays a Presidential Medal of Freedom. Dr. Mays lived an extraordinary life that began in a very unextraordinary setting. The son of slaves, Dr. Mays grew up in the rural community of Epworth, South Carolina where poverty and racism were everyday realities and the church was sometimes the only solace to be found. Yet, as the title of Dr. Mays' autobiography, ''Born to Rebel'' reveals, he was never satisfied with the status quo and looked to education as the key to his own success, and later the key to sweeping social change.

After working his way through South Carolina College, Bates College and a doctoral program at the University of Chicago, Dr. Mays worked as a teacher, an urban league representative and later dean of the School of Religion at Howard University here in Washington. Then, in 1940, he took the reins at Morehouse College and—to borrow a phrase—the rest was history. As President of Morehouse, Dr. Mays took an ailing institution and transformed it into one of America's most vital academic centers and an epicenter for the growing civil rights movement. He was instrumental in the elimination of segregated public facilities in Atlanta and promoted the cause of nonviolence through peaceful student protests in a time often marred by racial violence. Dr. Martin Luther King, Jr. and other influential 20th century leaders considered Dr. Mays a mentor and scores of colleges and universities—from Harvard University to Lander University in South Carolina—have acknowledged his impressive achievements by awarding him an honorary degree.

After retiring from Morehouse after 27 years, Dr. Mays did not fade from the spotlight—far from it. He served as president of the Atlanta Board of Education for 12 years, ensuring that new generations of children received the same quality education he had fought so hard to obtain back in turn-of-the-century South Carolina. Dr. Mays said it best in his autobiography: ''Foremost in my life has been my honest endeavors to find the truth and proclaim it.'' Now is the time for us to proclaim Dr. Benjamin Mays one of our nation's most distinguished citizens by awarding him a posthumous Presidential Medal of Freedom.

## ASYLUM AND DOMESTIC VIOLENCE

Mr. LEAHY. Mr. President, before leaving office, Attorney General Reno ordered the Board of Immigration Appeals to reconsider its decision to reject the asylum claim of a Guatemalan domestic violence victim. I applaud the former Attorney General for her actions in this case, entitled Matter of R.A., and I encourage the Bush Administration to continue with her efforts to provide a safe harbor for victims of severe domestic abuse.

The facts of the R.A. case are chilling. Ms. Rodi Alvarado Pena sought asylum after suffering from unthinkable abuse at the hands of her husband in her native Guatemala, abuse that ended only when she escaped to the United States in 1995. She said that her husband raped and pistol-whipped her, and beat her unconscious in front of her children. She said that law enforcement authorities in Guatemala told her that they would not protect her from violent crimes committed against her by her husband. And she believed that her husband would kill her if she returned to Guatemala.

The INS did not dispute what Ms. Pena said, and in 1996, an immigration judge determined that she was entitled to asylum. But in 1999, the Board of Immigration Appeals (''BIA'') reversed that decision on the grounds that even if everything Ms. Pena said were true, she did not qualify for asylum because victims of domestic abuse do not constitute a ''social group'' under existing law. This decision seemed to me and a number of other Senators and Representatives to be inconsistent with previous decisions extending asylum to victims of sexual abuse. I wrote Doris Meissner, then the Commissioner of the INS, in August 1999 to express my concerns about the case. I joined a group of Senators writing Attorney General Reno about this matter in November 1999, and raised those concerns again in letters to the Attorney General in February and September 2000. Finally, I reiterated my concerns to Ms. Meissner in August 2000.

The Justice Department released a proposed rule in December that would make it easier for women to base asylum petitions on gender-based persecution. Then-Attorney General Reno's January 19 order stays the R.A. case until a final version of that rule is approved, at which time the BIA will reconsider the case in light of that rule. I urge the Bush Administration to approve a final rule that provides strong protections for victims of domestic violence and other forms of gender-based oppression. And I urge the BIA to apply that rule in a way that provides the maximum protection for such women.

The United States should have—and I believe does have—a bipartisan commitment to refugees. I have been joined by Republicans such as Senators BROWNBACK and JEFFORDS in my attempts to draw attention to this case. And I am optimistic that the Bush Administration will share our concerns. No one wants to see a victim of domestic violence returned to face further abuse, especially where her government does not have the will or ability to protect her. Working together, and building on the foundation laid by Attorney General Reno, we can prevent that from happening.

## TRIBUTE TO FORMER SENATOR ALAN CRANSTON

Mr. ROCKEFELLER. Mr. President, I join many of my colleagues in paying tribute to former Senator Alan Cranston, who died on New Year's Eve, 2000. Since I came to the Senate in 1985, I have had the honor of serving on the Committee on Veterans' Affairs, and my first 8 years on the committee were under the superb chairmanship of Senator Cranston. During our years, I came to know and appreciate his unbounded dedication to the veterans of this country, and his extraordinary record of leadership and commitment to our Nation throughout his 24 years of public service in the U.S. Senate.

Senator Cranston played an integral role in veterans affairs from his first days in the Senate, serving initially as Chairman of the Veterans' Affairs Subcommittee of the then-Committee on Labor and Public Welfare. When that subcommittee became the full Committee on Veterans' Affairs in 1971, he was a charter member of it. He became Chairman of the full Committee in 1977, was ranking member from 1978–1986, and then Chairman again in 1987, until he left the Senate in 1993.

Throughout his tenure, Senator Cranston demonstrated a devoted commitment to the men and women who risk their lives for the safety and welfare of our Nation. Although he opposed the war in Vietnam, he was a strong champion for the rights and benefits of those who served in it.

Senator Cranston's vision—to ensure that our country uphold its obligation to meet the post-service needs of veterans and their families—was the inspiration for the many pieces of legislation passed during his tenure. He showed his concern for disabled veterans and their families in many ways, including authoring support programs that provided for grants, cost-of- living increases in benefits, adaptive equipment, rehabilitation, and other services.

Senator Cranston's record on issues related to the employment and education of veterans is unequaled. As early as 1970, he authored the Veterans' Education and Training Amendments Act, which displayed his heartfelt concern for Vietnam-era veterans, and served as the foundation for other key initiatives over the years.

As a strong advocate for health care reform myself, I appreciated Senator Cranston's efforts over the years to improve veterans' health care through affirmative legislation. He brought national attention to the many needs of VA health care facilities, which resulted in the improvement of the quality of their staffs, facilities, and services.

Senator Cranston's patience in pursuit of his goals is legendary. For example, he introduced legislation in 1971 to establish a VA readjustment counseling program for Vietnam veterans. When it failed that year, he reintroduced it in the next Congress, and the next, and the next, never losing sight of his vision. Four Congresses later, in 1979, it was finally accepted by the House of Representatives. The VA's Vet Center Program was established that year and, in the ensuing years, this program helped many Vietnam veterans deal with their adjustment problems after service, including post-traumatic stress disorder.

After the program was established, Senator Cranston fought successfully to make it permanent, thereby enabling Vet Centers to survive proposed cuts by the Reagan administration. He also pushed for enactment of legislation which extended the eligibility period for readjustment counseling. In 1991, Senator Cranston authored legislation which allowed veterans of later conflicts, including the Persian Gulf War, Panama, Grenada, and Lebanon, to receive assistance at Vet Centers as well.

Another example of Senator Cranston's persistence was his effort to provide an opportunity for veterans to seek outside review of VA decisions on claims for benefits. He began working on this issue in the mid-70's and stayed with it through final enactment in 1988 of legislation which established a court to review veterans' claims. That court, now known as the U.S. Court of Appeals for Veterans Claims, stands as a legacy to Senator Cranston's commitment to making sure that veterans are treated fairly by the government that they served.

The list of Senator Cranston's achievements is long—for veterans, his home State of California, our country, and the world. Senator Cranston's leadership had a broad sweep, way beyond the concerns of veterans. From nuclear disarmament to housing policy to education to civil rights, Senator Cranston fought to do the right thing, with energy and passion. For nearly a quarter of a century, he was a true champion for the less fortunate among our society.

Senator Cranston's legacy is immense, and I know that his leadership, which continued after he left this Chamber, will be missed. I consider myself fortunate to have had the opportunity to work side-by-side with him over the years. By continuing his fight for the people we represent and the ideals we were elected to uphold, I seek to carry on his mission.

Mr. President, I ask unanimous consent that an article about Senator Cranston by Thomas Tighe, a former staff member of the Senate Committee on Veterans' Affairs, be printed in the RECORD. His thoughts on Senator Cranston, which appeared in the January 7, 2001, edition of the Santa Barbara News-Press, are quite compelling.

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

ALAN CRANSTON: HE SEPARATED THE WAR FROM THE WARRIOR

(By Thomas Tighe, President and CEO of Direct Relief International)

Alan Cranston stood for and accomplished many important things during the course of his life and Senate career, which, as might be expected given his low-key approach, received little comment upon his death. But having worked for Alan—as he insisted all his staff call him—during his last several years in office, I was saddened by both his passing and the absence of public recognition for much of what his life's work accomplished.

Elected in 1968 strongly opposing the war in Vietnam, Senator Cranston was assigned the chair of the subcommittee responsible for overseeing the veterans health care system. He was among the very first in our country to separate the war from the warrior, as he sought to have the system do right by the returning soldiers whose wartime experiences, severity of injury, and readjustment seemed somehow different from those of earlier wars.

While retaining his aversion to war, Alan Cranston devoted much of his career in the Senate to ensuring that the country's obligation to those who fought in war—however unpopular—was recognized as fundamentally important and honored accordingly. He pushed hard to expand spinal-cord injury, blindness, and traumatic brain injury care, which were lacking and desperately needed. He championed mental health services, authoring legislation to create ''Vet Centers'' where veterans themselves counseled each other and to fund research that ultimately obtained formal recognition and treatment for post-traumatic stress disorder as a ''real'' condition that affected soldiers. Drug and alcohol services, vocational rehabilitation, and comprehensive assistance for homeless veterans all resulted from his insight, his perseverance, and his commitment to those who served our country.

The terms ''paramedic'' and ''medevac'' did not exist in civilian society in the late 1960s—they do today because Alan saw how effective the combination of medical personnel, telecommunications, and helicopters had been in treating battlefield injuries in Vietnam, and he authored the first pilot program to apply this model to the civilian sector.

Senator Cranston also was the most vigorous, insightful, tough, and effective supporter that the Peace Corps has ever had in the Congress—stemming from his early involvement with Sargent Shriver in the early 1960's before he was elected. I know about these issues, and his remarkable legacy, because I worked on them for Alan as a committee lawyer in the Senate and, after he left office, as the Chief Operating Officer of the Peace Corps.

But there were many, many other issues that Senator Cranston not only cared about but worked to effectuate in a painfully thorough, respectful, and principled way. He was an early and stalwart advocate for preservation and judicious stewardship of the environment, an unyielding voice for a woman's right to make reproductive health choices, and of course, a relentless pursuer of world peace and the abolition of nuclear weapons—upon which he continued to work passionately until the day he died.

Those efforts have made a tremendous positive difference in the lives of millions of people in this country and around the world.

For me, Alan Cranston's standard of adhering to principle while achieving practical success remains a constant source of inspiration and motivation, as I am sure is true for the hundreds of others who worked on his staff over the course of 24 years. His was an example that one's strongly held ideological and policy beliefs, whether labeled ''liberal'' or ''conservative,'' should not be confused with or overwhelmed by partisanship if it prevented meaningful progress. And he insisted upon honest and vigorous oversight of publicly funded programs he supported—to avoid defending on principle something indefensible in practice, thereby eroding support for the principle itself.

Once, while trying to describe an obstacle on a Peace Corps matter, I made a flip reference to the ''America Right or Wrong'' crowd. He asked if I knew where that expression came from, which I did not. He said it was usually misunderstood and, as in my case, misused, and told me that it was a wonderfully patriotic statement. He stared at me calmly, with a slight smile and with the presence of nearly 80 years of unimaginably rich experiences in life and politics, and said, ''America, right or wrong. When it's right, keep it right. When it's wrong, make it right.''

It was a privilege to work for Alan Cranston, and to know that is what he tried to do.

## VA LEADS THE NATION IN END-OF-LIFE CARE

Mr. ROCKEFELLER. Mr. President, the Department of Veterans Affairs has been quick to embrace the idea that more needs to be done to deal with patients' pain, and this has become an integral part of VA's overall efforts to

improve care at the end of life—for veterans and for all Americans. As ranking member of the Committee on Veterans' Affairs, I am enormously proud of VA's efforts in pain management and end-of-life care. I suspect, however, that many of my colleagues are unaware of VA's good work in this area.

We simply must recognize the lack of services and resources for people who are suffering with pain, especially those who need long-term institutional care and other alternatives, such as hospice or home health for chronic conditions. The health care and related needs of Americans are very diverse. We must target problems and address them with creativity, with a variety of resources that can help different groups in different ways. Taking a look at the VA's success in this area is a good place to start fixing the problem.

I therefore ask unanimous consent that a press release on VA's pain management initiatives and a Washington Post article on VA's success in this area be printed in the RECORD.

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

VA INITIATES PAIN MANAGEMENT PROGRAM

Pain is one of the most common reasons people consult a physician, according to the American Academy of Pain Medicine and the American Pain Society. In fact, it is the primary symptom in more than 80 percent of all doctor visits and affects more than 50 million people. In January 1999, the Department of Veterans Affairs (VA) took the lead in pain management by launching a nationwide effort to reduce pain and suffering for the 3.4 million veterans who use VA health care facilities.

VA AND PAIN MANAGEMENT

VA believes that no patient should suffer preventable pain. Doctors and nurses throughout VA's 1,200 sites of medical care are required to treat pain as a ''fifth vital sign,'' meaning they should assess and record patients' pain just as they note the other four health-care basics—blood pressure, pulse, temperature and breathing rate. They ask patients to rate their pain on a scale of zero to 10, then consult with the patients about ways to deal with it.

''It changed how VA approached pain,'' said Dr. Jane Tollett, national coordinator of VA pain management strategy. ''We're too often obsessed with finding out what's going on at the molecular, cellular and pharmacological levels as opposed to asking: Is the person feeling better?'' Measuring pain as a vital sign was part of the first step in the following comprehensive strategy to make pain management a routine part of veterans' care.

Pain Assessment and Treatment: Procedures for early recognition of pain and prompt effective treatment began at all VA medical facilities. Pain management protocols were set up, including ready access to resources such as pain specialist and multidisciplinary pain clinics. VA updated its Computerized Patient Record System (CPRS) to document a patient's pain history. Patient and family education about pain management was included in patient treatment plans.

Evaluation of Outcomes and Quality of Pain Management: VA began to systematically measure outcomes and quality of pain management, including patient satisfaction measures. Across the nation, VA set up quarterly data collection to evaluate: Was the patient assessed for pain using a 0–10 scale? Was there intervention if pain was reported as 4 or more? Was there a plan for pain care? Was the intervention evaluated for effectiveness?

Research: VA expanded research on management of acute and chronic pain, emphasizing conditions that are most prevalent among veterans. Currently, there are nine pain research projects funded by VA. Research funded by the Health Services Research and Development Service focuses on identifying research priorities, providing scientific evidence for pain management protocols throughout VA and evaluating and monitoring the quality of care.

EDUCATION OF HEALTH CARE PROFESSIONALS

VA is assuring that clinical staff, such as physicians and nurses, have orientation and education on pain assessment and pain management. In collaboration with the Department of Defense and the community, VA is developing clinical guidelines for pain associated with surgery, cancer and chronic conditions.

Additionally, VA initiated an extensive education program for health care providers that includes orientation for new employees and professional trainees, four internet sessions on ''pharmacotherapy of acute and chronic pain,'' satellite broadcasts and interactive sessions with VA health care facilities, guest lectures on topics like pain assessment and treatment of the demented, purchase and distribution of pain management videos, and a Web site ''vaww.mst.lrn.va.gov/nmintranet/pain.''

VA also focuses on pain management education for medical students and health care professional trainees through VA's affiliations with academic institutions. Among recent milestones:

The Robert Wood Johnson Foundation last year awarded VA a grant of $985,595 to help train physicians in end-of-life care, including pain management.

The VA Office of Academic Affiliations recently awarded additional funding to nine VA medical facilities to support graduate education residences in anesthesiology pain management, including VA medical centers in Milwaukee, Wis.; Durnham, N.C.; and Loma Linda, Calif. and the health care systems in North Texas, New Mexico, Puget Sound (Wash.), Palo Alto (Calif.), and North Florida-South Georgia.

NATIONAL PAIN MANAGEMENT STRATEGY

The complexity of chronic pain management is often beyond the expertise of a single practitioner, especially for veterans whose pain problems are complicated by such things as homelessness, post traumatic stress disorder and combat injuries. Additionally, pain management has been made an integral part of palliative and end-of-life care. The effective management of pain for all veterans cared for by VA requires a nationwide coordinated approach. To accomplish this, VA formed a team made up of representatives from an array of disciplines—anesthesiology, nursing, psychiatry, surgery, oncology, pharmacology, gerontology and neurology.

Funded by an unrestricted educational grant, VA is producing a Web-based physician education program aimed at end-of-life issues and an online forum for VA pain management in which more than 200 clinicians actively participate.

In December 2000, a pain management and end-of-life conference is scheduled to showcase innovation and effective practices within VA, address specialized topics with expert faculty and solve systematic problems that cause barriers to improving pain management care. Additionally, VA will set up programs to support clinicians in settings that are remote from pain experts, centers or clinics.

''Untreated or undertreated pain takes its toll not just in monetary loss but also in the psychosocial and physical cost to patients and their families. Pain can exacerbate feelings of distress, anxiety and depression. . . . When severe pain goes untreated and/or depression is present, some people may consider or attempt suicide. The message is clear: all those in pain have the right to systematic assessment and ongoing management of pain by health care professionals.''—(The Journal of Care Management, November 1999)

## ADDITIONAL STATEMENTS

### IN MEMORIAM OF THE MEN AND WOMEN OF THE 14TH QUARTERMASTER DETACHMENT WHO LOST THEIR LIVES IN OPERATION DESERT STORM

• Mr. SANTORUM. Mr. President, I stand before you today to honor the tenth anniversary of a terrible tragedy that faced the men and women who serve in the United States Armed Forces. I speak about an attack carried out by Saddam Hussein that took the lives of brave men and women from the Commonwealth of Pennsylvania who were proudly serving their country as members of our armed services. We are indebted to those who made the ultimate sacrifice for our country during that conflict, and they will remain in our hearts and memories forever.

The 14th Quartermaster Detachment of Greensburg, PA, was mobilized and ordered to active duty on January 15, 1991 in support of the Persian Gulf crisis. On February 25, 1991, only days after the Desert Storm conflict began, the 14th Quartermaster Detachment suffered the greatest number of casualties of any allied unit during Operation Desert Storm. An Iraqi Scud missile destroyed the building where the unit was being housed, killing 28 soldiers and wounding 99. Of those casualties, 13 members of the 14th were killed and 43 were wounded. Desert Storm ended only hours after this tragedy.

To recognize the supreme sacrifice that these men and women undertook for our great nation, Major General Rodney D. Ruddock, Commander, 99th Regional Support Command, will hold an anniversary ceremony on February 25, 2001 to honor the 14th Quartermaster Detachment of Greensburg, PA. During this solemn event, we will honor, not only the men and women who lost their lives 10 years ago, but all the men and women who serve in the Armed Forces and selflessly put their lives on the line every day in order to preserve our nation's freedom. We, as Americans, will remain eternally grateful for the sacrifices and true courage that our men and women in uniform display on our behalf in serving this great nation.

It is at this time that I ask my Senate colleagues to join with me in honoring the members of the 14th Quartermaster Detachment.•

## 50TH BIRTHDAY OF THE GIRL SCOUTS OF CONESTOGA COUNCIL

• Mr. GRASSLEY. Mr. President, on the occasion of the 50th Birthday of the Girl Scouts of Conestoga Council, I would like to congratulate this fine organization.

Conestoga Council was formed in 1951 and presently serves nearly 4,000 girls in a twelve-county area in Northeast Iowa. The Council delivers traditional Girl Scout programming through troop meetings and activities, camp opportunities and educational learning. In addition, the Council supports eight in-school out reach programs for girls of diverse ethnic and cultural backgrounds. The Council has broadened its delivery approach by partnering with the Winnebago Council of Boy Scouts of America to offer day camp activities and experiences through Camp Quest to hundreds of children who would not otherwise have the opportunity to participate.

The Council continues to fulfill its mission of helping girls grow strong with the assistance of hundreds of volunteers throughout Eastern Iowa. Thousands of girls' lives have been touched and enriched through their experience with the Conestoga Council.

Again, I would like to express my congratulations to the Girl Scouts of Conestoga Council for reaching this milestone and I wish them all the best as they continue to serve girls in Northeast Iowa.•

## TRIBUTE TO COLONEL PAUL W. ARCARI, U.S. AIR FORCE, RETIRED

• Mr. WARNER. Mr. President, I rise today to pay tribute to Colonel Paul Arcari, United States Air Force, Retired—in recognition of his distinguished service to his country.

For nearly 46 years, first for 30 years in the Air Force, and later for The Retired Officers Association, Colonel Arcari has worked tirelessly for the men and women of the military.

Born in Manchester, CT, he entered the Air Force as a second lieutenant in 1955 and earned his navigator wings the following year. He amassed 4,400 flying hours with the Military Airlift Command, including 418 combat missions in Southeast Asia in the late sixties.

In 1969 Colonel Arcari was assigned as legislative analyst in the Office of the Secretary of Defense and Headquarters, U.S. Air Force. During the next 17 years, including 13 years as Chief of the Air Force Entitlements Division, Colonel Arcari earned the reputation as the Department of Defense's preeminent authority on military compensation matters. In addition to helping craft the All-Volunteer Force pay table and the military Survivor Benefit Plan, his inputs to the Senate Armed Services Committee proved invaluable in crafting the Nunn-Warner compensation enhancements that assisted in turning around the retention and readiness crisis of the late 1970's and early 1980's. He retired from active duty in February 1985.

Following retirement, Colonel Arcari joined The Retired Officers Association and served as Deputy Director and since 1990 as Director of Government Relations.

Under Colonel Arcari's professional stewardship, The Retired Officers Association has played a vital role as the principal advocate of legislative initiatives to improve readiness and the quality of life for all members of the uniformed service community—active, reserve, and retired, as well as their families.

Colonel Arcari has worked closely with, and has been a valuable resource for, the Senate Armed Services Committee as we enacted a wide range of much-needed improvements for our military personnel. His efforts in the areas of military compensation, retirement benefits, health care and fair cost-of-living adjustments, COLA, for retired personnel and their families has been invaluable in improving long term retention of our armed forces. I am particularly gratified that during the past two years in which I have been privileged to serve as Chairman of the Senate Armed Services Committee I have been able to enact some of the most substantial quality-of-life enhancements for active, reserve, and retired service members and their families in decades. Colonel Arcari played an important role in this effort.

Colonel Arcari's long and unique career of leadership and personal dedication to fostering readiness by protecting every service member's welfare is an inspiration and a continuing lesson to all who care about our men and women of our military. My best wishes go with him. Colonel Arcari, I salute you on behalf of all the men and women, past and present, who wear the uniform.•

## COAST GUARD CUTTER ''WOODRUSH''

• Mr. MURKOWSKI. Mr. President, I rise today to honor the men and women who have served aboard the United States Coast Guard Cutter *Woodrush*, WLB 407, homeported in Sitka, in my own state of Alaska.

On March 2, 2001, the USCGC *Woodrush* will be decommissioned, departing for Baltimore, MD. There, she is to be transferred to the navy of the Republic of Ghana.

Although she is the youngest of the 39 seagoing buoy tenders constructed during World War II, the *Woodrush* has logged nearly 57 years of service to our nation.

She was built for less than $1 million in Duluth, Minnesota, and commissioned on September 22, 1944. For thirty-five years she sailed from Duluth, servicing aids to navigation, conducting search and rescue missions, and icebreaking on the Great Lakes.

In 1979, she began a major refit at the Coast Guard shipyard in Baltimore. She has been homeported in Sitka since leaving the shipyard in 1980.

*Woodrush's* primary mission has been keeping aids to navigation in good condition. Her crew maintained 165 shore lights and 69 buoys throughout the 2,000 square-mile Southeastern Alaska panhandle. The work of the *Woodrush* has been crucial to the safety of the thousands of tugboats, fishing vessels, ferries, pleasure boats and cruise ships that navigate those sometimes treacherous waters each year.

USCGC *Woodrush* also participated in several notable search and rescue missions. She was one of the first ships to arrive on the scene of the wreck of the *Edmond Fitzgerald* in 1975, when the ore freighter went down with all hands in a violent storm on Lake Superior. Her sonar located two large pieces of wreckage, and she served as a platform for the U.S. Navy's Controlled Underwater Recovery Vehicle, which found the sunken hull.

In 1980, *Woodrush* responded to the uncontrolled fire and eventual loss of the cruise ship *Princendam* off Graham Island, British Columbia. The efforts of *Woodrush* and her crew, as well as other rescue units, led to the successful rescue of all passengers and crew, with no loss of life.

In August 1993, *Woodrush* assisted the 248-foot cruise ship, M/V *Yorktown Clipper*, after it ran aground. *Woodrush* crewmembers helped control the flooding and ensured that all 130 passengers were taken safely off the vessel.

Not all of the crew's adventures were at sea. In the summer of 1994, personnel from *Woodrush* helped extinguish a dangerous fire in the small community of Tenakee, Alaska. Their efforts helped keep the fire from spreading out of control in the 30-knot winds.

Protection of the environment is yet another of the Coast Guard's many missions. Over the years, *Woodrush* has contributed in many ways, including service as one of the numerous Coast Guard vessels that responded to the 1989 Exxon Valdez oil spill in Prince William Sound. Each year, the *Woodrush* crew has trained to handle future accidents. It is reassuring to know that their skills have not been needed to date, but even more so to know they have been, like the Coast Guard's motto, ''Always Ready.''

During her 57 years of service, the *Woodrush* and her crew earned several awards, including the Meritorious Unit Commendation, the American Campaign Service Ribbon, the World War II Service Ribbon, and the National Defense Medal. *Woodrush* was a Bronze Winner of the Coast Guard Commandant's Quality Award in both 1997 and 1998 and, in 1997, she also won the Coast Guard Foundation's Admiral John B. Hayes Award. The Hayes Award honors the Pacific Area unit that best demonstrates the commitment to excellence and professionalism embodied in the traditions of the United States Coast Guard.

USCGC *Woodrush* will service her last aid to navigation on February 27. To

all the men and women who have served as her crew, I extend my thanks and appreciation. Your faithful attention to duty—guiding mariners to safety, aiding citizens in distress, and defending all the interests of the United States will be remembered. You have truly been Semper Paratus.●

## TRIBUTE TO LAURA STEPHAN

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Laura Stephan of Merrimack, New Hampshire, for being honored with the ''President's Award'' from the Merrimack Chamber of Commerce.

Laura has served the citizens of Merrimack selflessly with enthusiasm and loyalty. Her demonstrated ability to continuously provide high quality assistance in all aspects of Chamber activities is commendable.

Laura is a graduate from the State University of New York in Albany with a Liberal Arts degree. She is the Treasurer of the State of New Hampshire Women's Council of Realtors and is an active member of the Nashua Chapter of the Women's Council of Realtors who has received the ''Affiliate of the Year Award'' from the Greater Nashua Board of Realtors.

Active in numerous community projects, Laura has served as the President of the American Stage Festival Theater Guild and as a member of its Board of Trustees. She is also an active member and committee chairperson for Merrimack Friends and Family.

Laura and her husband, Gary, reside in Merrimack. She is a passionate volunteer for the Humane Society of Nashua and is committed to promoting a better quality of life in the community.

Laura has enthusiastically provided dedicated service to her local community and to the people of New Hampshire. It is an honor to represent her in the U.S. Senate.●

## MESSAGE FROM THE HOUSE

At 2:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2. An act to establish a procedure to safeguard the combined surpluses of the Social Security and Medicare hospital insurance trust funds.

H.R. 524. An act to require the Director of the National Institute of Standards and Technology to assist small and medium-sized manufacturers and other such businesses to successfully integrate and utilize electronic commerce technologies and business practices, and to authorize the National Institute of Standards and Technology to assess critical enterprise integration standards and implementation activities for major manufacturing industries and to develop a plan for enterprise integration for each major manufacturing industry.

H.R. 544. An act to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents.

H.R. 559. An act to designate the United States courthouse located at 1 Courthouse Way in Boston, Massachusetts, as the ''John Joseph Moakley United States Courthouse.''

The message also announced that the House passed the following bill, without amendment:

S. 279. An act affecting the representation of the majority and minority membership of the Senate Members of the Joint Economic Committee.

The message further announced the House agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 28. A concurrent resolution providing for a joint session of Congress to receive a message from the President.

H. Con. Res. 32. A concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that pursuant to section 1505 of Public Law 99–498 (20 U.S.C. 4412), the Speaker appoints the following Members of the House of Representatives to the Board of Trustees of the Institute of American Indian Native Culture and Arts Development: Mr. YOUNG of Alaska and Mr. KILDEE of Michigan.

The message further announced that pursuant to sections 5580 and 5581 of the Revised Statutes (20 U.S.C. 42–43), the Speaker appoints the following Members of the House of Representatives to the Board of Regents of the Smithsonian Institution: Mr. REGULA of Ohio, Mr. SAM JOHNSON of Texas, and Mr. MATSUI of California.

The message also announced that pursuant to section 103 of Public Law 99–371 (20 U.S.C. 4303), the Speaker appoints the following Member of the House of Representatives to the Board of Trustees of Gallaudet University: Mr. LAHOOD of Illinois.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2. An act to establish a procedure to safeguard the combined surpluses of the Social Security and Medicare hospital insurance trust funds; to the Committee on Finance.

H.R. 524. An act to require the Director of the National Institute of Standards and Technology to assist small and medium-sized manufacturers and other such businesses to successfully integrate and utilize electronic commerce technologies and business practices, and to authorize the National Institute of Standards and Technology to assess critical enterprise integration standards and implementation activities for major manufacturing industries and to develop a plan for enterprise integration for each major manufacturing industry; to the Committee on Commerce, Science and Transportation.

H.R. 554. An act to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents; to the Committee on Commerce, Science, and Transportation.

## 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–632. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia ; Post Rate-of-Progress Plans, One-Hour Ozone Attainment Demonstrations and Attainment Date Extension for the Metropolitan Washington, D.C. Ozone Nonattainment Area; Correction'' (FRL6943–9) received on February 8, 2001; to the Committee on Environment and Public Works.

EC–633. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California; Correction'' (FRL6941–1) received on February 8, 2001; to the Committee on Environment and Public Works.

EC–634. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Significant New Uses of Certain Chemical Substances; Delay of Effective Date'' (FRL6769–7) received on February 8, 2001; to the Committee on Environment and Public Works.

EC–635. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Approval of Opacity Recodifications and Revisions to Visible Emissions Requirements COMAR 26.11.06.02'' (FRL6916–6) received on February 6, 2001; to the Committee on Environment and Public Works.

EC–636. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; New Source Review Regulations'' (FRL6922–8) received on February 6, 2001; to the Committee on Environment and Public Works.

EC–637. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program'' (FRL6913–3) received on February 6 , 2001; to the Committee on Environment and Public Works.

EC–638. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Environmental Program Grants for Tribes , Final Rule: Delay of Effective Date'' (FRL6943–5) received on February 6, 2001; to the Committee on Environment and Public Works.

EC–639. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Significant New Uses of Certain Chemical Substances; Delay of Effective Date'' (FRL6769–7) received on February 6, 2001; to the Committee on Environment and Public Works.

EC–640. A communication from the Director of the Office of Congressional Affairs, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Guidance on Risk-Informed Decision Making in License Amendment Reviews'' (RIS2001–02) received on February 12, 2001; to the Committee on Environment and Public Works.

EC–641. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Zayante Bad-Winged Grasshopper'' (RIN1018–AG28) received on February 12, 2001; to the Committee on Environment and Public Works.

EC–642. A communication from the Acting Director of the Fish and Wildlife Service, Division of Endangered Species, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Morro Shoulderband Snail'' (RIN1018–AG27) received on February 12, 2001; to the Committee on Environment and Public Works.

EC–643. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Threatened Status for Mountain Plover'' (RIN1018–AF35) received on February 12, 2001; to the Committee on Environment and Public Works.

EC–644. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Arroyo Toad'' (RIN1018–AG15) received on February 12, 2001; to the Committee on Environment and Public Works.

EC–645. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Charlotte, NC)'' (Docket No. 00–178) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–646. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Columbia City, Florida)'' (Docket No. 97–252) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–647. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Video Description of Video Programming, Report and Order'' (Docket No. 99–339) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–648. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Video Description of Video Programming'' ((Docket No. 99–339)(FCC No. 01–7)) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–649. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of the Commissions Regulations Governing Attribution of Broadcast and Cable/MDS Interests, MM 94–150; Review of the Commission Regulations and Policies Affecting Investment In the Broadcast Industry, MM 92–51; Reexamination of the Commission's Cross-Interest Policy, MM 87–154'' (FCC No. 00–438) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–650. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Creation of Low Power Radio Service'' (Docket No. 99–25) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–651. A communication from the Chief of the Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Part 2 of the Commission's Rules to Allocate Additional Spectrum to the Inter-Satellite, Fixed, and Mobile Services and to Permit Unlicensed Devices to Use Certain Segments in the 50 .2–50.4 GHz and 51.4–71.0 GHz Bands'' (Docket No. 99–261) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–652. A communication from the Chief of the Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules With Regard to the 3650–3700 MHz Government Transfer Band'' (Docket No. 98–237) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–653. A communication from the Chief of the Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range'' (Docket No. 98–206) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–654. A communication from the Senior Transportation Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Update of Drug and Alcohol Procedural Rules (Section 610 Review)'' (RIN2105–AC49) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–655. A communication from the Senior Transportation Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Update of Drug and Alcohol Procedural Rules (Section 610 Review)'' (RIN2105–AC49) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–656. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Guides for the Jewelry , Precious Metals and Industries, 16 C.F.R. Part 23'' received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–657. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Amplifier Rule 16 C.F .R. Part 432'' (RIN3084–AA81) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–658. A communication from the Secretary of the Commission, Bureau of Competition, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Premerger Notification ; Reporting and Waiting Period Requirements Interim Rules with Request for Comment'' (RIN3084–AA23) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–659. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Indian Mountain, AK'' ((RIN2120–AA66)(2001–0030)) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–660. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regattas and Marine Parades'' ((RIN2115–AF17)(2001–0001)) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–661. A communication from the Chief of the Network Services Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Numbering Resource Optimization, Second Report and Order, Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200, FCC 00–429'' received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–662. A communication from the Deputy Chief of the Network Service Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations'' (Docket No. 99–216) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–663. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Hillsborogh River (CGD07–01–002)'' (RIN2115–AE47) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–664. A communication from the Deputy Assistant Chief Counsel of the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Power Brake Regulations: Freight Power Brake Revisions: Delay of Effective Date'' (RIN2130–AB16) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–665. A communication from the Associate Bureau Chief of the Wireless Telecommunications Bureau, Policy Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems'' (Docket No. 94–102) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–666. A communication from the Assistant Chief Counsel for Hazardous Materials

Safety, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Harmonization with the United National Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions'' (RIN2137–AD41) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–667. A communication from the Trial Attorney for the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Locational Requirement for Dispatching of United States Rail Operations'' (RIN2130–AB38) received on February 12, 2001; to the Committee on Commerce, Science, and Transportation.

## 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. THOMAS (for himself and Mr. HELMS):

S. 322. A bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER:

S. 323. A bill to amend the Elementary and Secondary Education Act of 1965 to establish scholarships for inviting new scholars to participate in renewing education, and mentor teacher programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SHELBY:

S. 324. A bill to amend the Gramm-Leach-Bliley Act, to prohibit the sale and purchase of the social security number of an individual by financial institutions, to include social security numbers in the definition of nonpublic personal information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. DEWINE, Mr. DURBIN, Mrs . MURRAY, and Mr. THURMOND):

S. 325. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. COLLINS (for herself, Mr. BOND, Mr. KERRY, Mr. REED, Mr. JEFFORDS, Mr. ROBERTS, Mr. LEVIN, Mr . HUTCHINSON, Mrs. MURRAY, Mr. ENZI, Ms. MIKULSKI, Mr. SMITH of New Hampshire, Mr. SANTORUM, Mr. CHAFEE, Mr. DEWINE, Mr. HELMS, Mrs. HUTCHISON, Mr. SPECTER, Mr. MURKOWSKI, Ms. SNOWE, Mr. WARNER, Mr. GREGG, Mrs. CARNAHAN, Mr. LUGAR, and Mr. COCHRAN):

S. 326. A bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas; to the Committee on Finance.

By Mr. REED (for himself, Mr. COCHRAN, Mr. KENNEDY, Mr . DODD, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. CHAFEE , Mr. ROCKEFELLER, Mr. REID, Mr. SARBANES, and Mr. BAUCUS):

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; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, and Mr. BREAUX):

S. 328. A bill to amend the Coastal Zone Management Act; read the first time.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. GRAHAM):

S. 329. A bill to require the Secretary of the Interior to conduct a theme study on the peopling of America, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TORRICELLI:

S. 330. A bill to expand the powers of the Secretary of the Treasury to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Secretary to include firearm products and non-powder firearms; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. KERRY, and Ms. MIKULSKI):

S. 331. A bill to amend the Internal Revenue Code of 1986 to incorporate certain provisions of the Women's Health and Cancer Rights Act of 1998; to the Committee on Finance.

By Mr. DeWINE (for himself and Mr. REID):

S. 332. A bill to provide for a study of anesthesia services furnished under the medicare program, and to expand arrangements under which certified registered nurse anesthetists may furnish such services; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. ROBERTS, Mr. MCCONNELL, and Mr. BURNS):

S. 333. A bill to provide tax and regulatory relief for farmers and to improve the competitiveness of American agricultural commodities and products in global markets; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. WYDEN, Mr. SESSIONS, and Mr. WARNER):

S. 334. A bill to provide for a Rural Education Initiative; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself, Mr. GRAHAM, Mr. BUNNING , Mr. DEWINE, Mr. WARNER, and Mr. LUGAR):

S. 335. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for distributions from qualified State tuition programs which are used to pay education expenses, and for other purposes; to the Committee on Finance.

By Mr. BOND:

S. 336. A bill to amend the Internal Revenue Code of 1986 to allow use of cash accounting method for certain small businesses; to the Committee on Finance.

By Mr. DOMENICI:

S. 337. A bill to amend the Elementary and Secondary Education Act of 1965 to assist State and local educational agencies in establishing teacher recruitment centers, teacher internship programs, and mobile professional development teams, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN (for himself and Mr. REID):

S. 338. A bill to protect amateur athletics and combat illegal sports gambling; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. FRIST, Mr. SESSIONS, Mr. BREAUX, Ms. LANDRIEU, and Mr. BAYH):

S. 339. A bill to provide for improved educational opportunities in rural schools and districts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mrs. BOXER, Mr. SANTORUM, Mr. MURKOWSKI, Mr. COCHRAN, Mr. JOHNSON, Mrs. MURRAY, Mr. FITZGERALD, Mr. SCHUMER, Mr. HARKIN, Mr. REED, Mr. SARBANES, Mr. THOMAS, Mr . LUGAR, Mr. LIEBERMAN, Ms. SNOWE, Mr. BIDEN, Mr. BYRD, Mr. SHELBY, Mr. INOUYE, Mr. DURBIN, Mr. JEFFORDS, Mr. GREGG, Ms. MIKULSKI, Mr. SMITH of New Hampshire, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. CLELAND, Mr. KERRY, Mr. DODD, Mr. GRAHAM, Mr. TORRICELLI, Mr. INHOFE, Mr. ROCKEFELLER, Mr. WARNER, Mr. LEVIN, Mr. DEWINE, Mr. BINGAMAN, Mr. BENNETT, Mr. KOHL, Mr. STEVENS, Mr. DOMENICI, Mr. THOMPSON, Mr. GRASSLEY, Mr. SMITH of Oregon, Mr. SESSIONS, Mr. HAGEL, Mr. ENZI, Mr. BREAUX, Mr. EDWARDS, Mr. CORZINE, Mrs. HUTCHISON, and Mr. REID):

S. Res. 20. A resolution designating March 25, 2001, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. LEAHY, Mr. LOTT, and Mr. LIEBERMAN):

S. Res. 21. A resolution directing the Sergeant-at-Arms to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and Joint Committee documents; to the Committee on Rules and Administration.

By Mr. HUTCHINSON (for himself, Mr. WELLSTONE, Mr. HELMS, Mr. TORRICELLI, Ms. COLLINS, Mr. DAYTON, Mr. SMITH of New Hampshire, Mr. KYL, Mr. SPECTER, Mr. FEINGOLD, Mr. HARKIN, and Mr. SANTORUM):

S. Res. 22. A resolution urging the appropriate representative of the United States to the United Nations Commission on Human Rights to introduce at the annual meeting of the Commission a resolution calling upon the Peoples Republic of China to end its human rights violations in China and Tibet, and for other purposes; to the Committee on Foreign Relations.

By Mr. CLELAND (for himself, Mr. MILLER, and Mr. HOLLINGS):

S. Res. 23. A resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself, Mr. HUTCHINSON, Mr. DOMENICI, Mr. VOINOVICH, and Mr. COCHRAN):

S. Res. 24. A resolution honoring the contributions of Catholic schools; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself, Mr. CRAIG, Mr. BINGAMAN, and Mr. CRAPO):

S. Con. Res. 11. A concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully

develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. FRIST, Mr. KENNEDY, Mr . SANTORUM, Mr. SPECTER, Mr. DORGAN, Ms. MIKULSKI, Mr. DEWINE, Mr. HAGEL, Mr. KERRY, Ms. COLLINS, Mrs. FEINSTEIN, Mr. WELLSTONE, Mr. LEVIN, Mr. BIDEN, Mr. CLELAND, Mr. FEINGOLD, Mr. ENZI, Ms. LANDRIEU, Mr. ROCKEFELLER, Mr. INOUYE, Mr. TORRICELLI, Mr. GRAHAM, Mr. REID, Mrs. CLINTON, Mr. DODD, Mr. BREAUX, Mr. KOHL, and Mrs. LINCOLN):

S. Con. Res. 12. A concurrent resolution expressing the sense of Congress regarding the importance of organ, tissue, bone marrow, and blood donation, and supporting National Donor Day; considered and agreed to.

By Mr. DEWINE (for himself, Mr. HELMS, Mr. DODD, Mr. MCCAIN, Mr. LOTT, Ms. LANDRIEU, Mr. GRASSLEY, Mr. BREAUX, Mr. CHAFEE, Mr. VOINOVICH, and Mr. LEAHY):

S. Con. Res. 13. A concurrent resolution expressing the sense of Congress with respect to the upcoming trip of President George W. Bush to Mexico to meet with the newly elected President Vicente Fox, and with respect to future cooperative efforts between the United States and Mexico; considered and agreed to.

By Mr. CAMPBELL (for himself and Mr. KOHL):

S. Con. Res. 14. A concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it; to the Committee on Health, Education, Labor, and Pensions.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself and Mr. HELMS):

S. 322. A bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I rise today to introduce the no net loss of private lands bill. This legislation has to do with acquisition of lands by the Federal Government, particularly lands to be acquired by the Federal Government in the West. This is a commonsense proposal, I believe, to Federal land acquisitions in public land States of the West.

The Federal Government continues to acquire large amounts of land throughout the Nation. In many instances, it is justified. There are many reasons why land should be acquired, but there does become a question of how much land in any given State will belong to the Federal Government.

In almost every State, officials and concerned citizens are saying we need to address this question of public land needs before we continue to increase the holdings of the Federal Government. The Federal Government is not always the best neighbor of the people in the West, largely because so much land in our States—in my State, 50 percent of the State—belongs to the Federal Government. Even though everyone wants to protect the lands, and that is an obligation we all have, we also have an opportunity for the most part to use these lands in multiple use. We should be able to have both access for hunting, fishing, grazing, for visitation and camping, and use the lands for other economic activity in such a way that we can protect the environment.

What we have run into from time to time is the effort to lock up the public lands and restrict access. We find this happening in a number of ways, including excessive emphasis on roads, where people cannot have access to the lands they occupy.

Interestingly enough, we hear from all kinds of people. Often they say it is the oil companies. As a matter of fact, it is often disabled veterans. For example, they say they would like to go into the back country and get into some of the public lands, but if we don't have highway access for doing that, it is impossible.

This setting aside and this decisionmaking that comes from the top down creates great hardships for many local communities, destroys jobs, and depresses the economy in many places around the West. As we provide funds—and there is always a proposition to provide automatic funding for acquisition—it threatens the culture, it threatens the economics of many of our States and local governments, and the rights of individual property owners throughout the Nation. Even this proposed language would put constraints on mandatory spending and Federal land acquisition. If we don't do that, we will see it increasing at a faster and faster pace.

How does it work? The bill limits the amount of private land the Federal Government acquires in States where 25 percent or more now belongs to the Federal Government. When a Federal Government has reason, and they will have reasons to purchase 100 acres or more, it will require disposing of an equal value of amount away from Federal ownership. If there is 40-percent Federal ownership in your State, and there were good reasons to acquire more, there would have to be an exchange of lands so the 40-percent factor continues.

Fifty percent of Wyoming and much of the West is already owned by the Federal Government. Many people throughout the country don't realize that. They know about Yellowstone Park. But much of the State was left in Federal ownership when the homestead proposition was completed and these lands were never really set aside for value of the land. They were just there when this homestead stopped. They came under Federal ownership, not because of any particular reason but because that is the way it was at that time.

I think it is time for the Federal Government to make a move to protect private property owners and use restraint in terms of land acquisition. The no net loss of private lands acquisition bill will provide that discipline. As I mentioned, this amendment does not limit the ability to acquire pristine or special areas in the future, areas that have a particular use and that use should be under Federal ownership. They can continue to acquire more land in many areas. But in order to do that, as I mentioned, there would have to be some trading.

Regarding the Federal land ownership pattern, I suppose many people expected more, but in Alaska almost 68 percent of the State belongs to the Federal Government. Even in Arizona, as highly populated as it is, almost half, 47 percent, is Federally owned. In Colorado, it is 36 percent; in Idaho, 61 percent of the State is in Federal ownership; the number in Montana is 28 percent, and Nevada is 83 percent federally owned. Really, you could make a case that much of this land could be better managed by local or State governments or if it were in the private sector. In New Mexico, the percentage of Federal land ownership is 33 percent; Oregon, 52; Utah, 64; Washington, 29; and Wyoming, 49 percent.

So we are talking about providing an opportunity for the Federal Government to continue to acquire those lands if there is good reason to do that, but to recognize the impact that it does have on private ownership, on the economy, and on the culture of the states. We have some offsets.

In our State, we have 23 counties. They are quite different, but in some of those counties—for instance, my home county, ark County, Cody, WY, which is right outside of Yellowstone Park—82 percent of that county belongs to the Federal Government. In Teton County, next to Yellowstone, It is 96 percent. Four percent of Teton's land is in non-Federal ownership.

I think this is a reasonable thing to do. It certainly does not preclude the acquisition of lands the Federal Government has a good reason to acquire. It simply says if you want to acquire some, let's take a look at the other 50 percent that you already own of the State and see if we can't dispose of something in equal value.

By Mr. SHELBY:

S. 324. A bill to amend the Gramm-Leach-Bliley Act, to prohibit the sale and purchase of the social security number of an individual by financial institutions, to include social security numbers in the definition of nonpublic personal information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SHELBY. Mr. President, I rise today to introduce the Social Security Privacy Act of 2001. This legislation would prohibit the sale and purchase of an individual's Social Security number by financial institutions and include Social Security numbers as ''nonpublic personal information'' thereby subjecting the sharing of Social Security

numbers to the privacy protections of the Gramm-Leach-Bliley Act.

I believe Congress has a duty to stop Social Security numbers from being bought and sold like some common commodity. While the Social Security number was created by the federal government to track workers' earnings and eligibility for Social Security benefits, we all recognize that it has become something much more than that. The number is now the key to just about all the personal information concerning an individual.

There was never any intention or consideration for financial institutions to use a person's social security number as a universal access number. Such easy access and extreme availability of personal information leads to adverse consequences including fraud, abuse, identity theft and in the most extreme cases—staking and death.

While Congress waits to act, the number of incidents involving identity theft are rapidly increasing. In fact, last year the Washington Post, reported that ''ID Theft Becoming Public Fear No. 1.'' The New York Times noted that, ''Law enforcement authorities are becoming increasingly worried about a sudden, sharp rise in the incidence of identity theft, the outright pilfering of peoples personal information for use in obtaining credit cards, loans and other goods.''

Not only is identity theft happening more often, recent events confirm that no one is immune from this problem. Just last month, a California man was convicted of using Tiger Woods' Social Security number to obtain credit cards that he used to run up more than $17,000 in charges in Mr. Woods' name.

Identity theft can affect anyone. It is extremely serious. It costs our economy hundreds of millions of dollars each year. Once it occurs, it is very difficult for the victim to restore his or her good name and credit rating. The incidences of identity theft are growing at an ever increasing pace.

Now, how does identity theft relate to the average financial institution? In 1999, a reputable Fortune 500 company, U.S. Bancorp, legally sold account information—including Social Security numbers—of one million of its customers to MemberWorks, a telemarketer of membership programs that offer discounts on such things as travel to health care services. Now some may believe we stopped such activity by including a provision, Section 502 (d), in the Gramm-Leach-Bliley Act limiting the ability of institutions to share account information with telemarketers.

That provision, however, does not stop a financial institution from buying and selling individual Social Security numbers. Indeed, it is even legal to sell individual's birth date, and mother's maiden name. If you have those three things, you have the keys to the kingdom—not to mention any and every account that individual has.

The evolution of technology is making the collection, aggregation, and dissemination of vast amounts of personal information easier and cheaper. The longer we wait to act on this very important issue—an issue that is supported by a vast majority of Americans—the more the American people lose confidence in the U.S. Congress and out ability to lead.

This legislation would basically prohibit the sale and purchase of an individual's Social Security number. I do not know anyone in this country that believes financial institutions should be making a profit by trafficking individual's Social Security numbers. While financial institutions have used the Social Security number as an identifier, the sale and purchase of these numbers facilitates criminal activity and can result in significant invasions of individual privacy.

In addition, my legislation would include Social Security numbers as ''nonpublic personal information'' for the purpose of the Gramm-Leach-Bliley Act, thereby subjecting the sharing of Social Security numbers to the privacy protections in that Act. Current regulations say that Social Security numbers are not considered nonpublic personal information if the number is ''publicly available,'' as in bankruptcy filings, etc.

I just cannot find a reason as to why Congress should aid and abet criminals in attaining individual Social Security numbers by having a law on the books that treats Social Security numbers as ''public information.'' Indeed, no American would agree the public good is being served by making their personal Social Security number available for anyone who wants to see it.

For those of you who are concerned that this legislation would hinder a financial holding company from sharing information among its affiliates, fear not. This legislation does not limit a financial institution's ability to share an individual's Social Security number among affiliates in any way.

I hope my colleagues will join me in protecting the Social Security numbers.

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By Mr. FRIST (for himself, Mr. DEWINE, Mr. DURBIN, Mrs. MURRAY, and Mr. THURMOND):

S. 325. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FRIST. Mr. President, I am pleased today to introduce the Gift of Life Congressional Medal Act of 2001. This legislation, which does not cost taxpayers a penny, will recognize the thousands of individuals each year who share the gift of life through organ donation. Moreover, it will encourage potential donors and enhance public awareness of the importance of organ donation to the over 74,000 Americans waiting for a transplant.

In 1999, there were almost 22,000 transplants—a large increase over the roughly 13,000 transplants performed ten years ago. However, the demand for transplants has skyrocketed, more than tripling in the past ten years.

As a heart and lung transplant surgeon, I saw one in four of my patients die because of the lack of available donors, and more and more patients waiting for an organ transplant die each year before they can receive an organ. More than 6000 patients died in 1999 before they could receive a transplant. Since 1988, more than 38,000 patients have died because of the lack of organ donors. There are simply not enough organ donors; public awareness has not kept up with the rapid advances of transplantation. It is our duty to do all we can to raise awareness about the gift of life.

Last fall, the Department of Health and Human Services announced an increase of nearly 4 percent in organ donation levels. While I was pleased to see this news, this is only a small step towards addressing our nation's organ shortage. Much more remains to be done.

The Gift of Life Congressional Medal Act will make each donor or donor family eligible to receive a commemorative Congressional medal. This creates a tremendous opportunity to honor those sharing life through donation and increase public awareness of this issue.

Recent years have witnessed a tremendous coalescing on both sides of the aisle around the importance of awakening public compassion and awareness of those needing organ transplants. I appreciate the growing support for this issue and look forward to working with my colleagues to encourage people to give life to others.

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By Ms. COLLINS (for herself, Mr. BOND, Mr. KERRY, Mr. REED, Mr. JEFFORDS, Mr. ROBERTS, Mr. LEVIN, Mr. HUTCHINSON, Mrs. MURRAY, Mr. ENZI, Ms. MIKULSKI, Mr. SMITH of New Hampshire, Mr. SANTORUM, Mr. CHAFEE, Mr. DEWINE, Mr. HELMS, Mrs. HUTCHISON, Mr. SPECTER, Mr. MURKOWSKI, Ms. SNOWE, Mr. WARNER, Mr. GREGG, Mrs. CARNAHAN, Mr. LUGAR, and Mr. COCHRAN):

S. 326. A bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with Senators BOND, REED, JEFFORDS, KERRY, ROBERTS, MURRAY, HUTCHINSON, LEVIN, ENZI, MIKULSKI, SANTORUM, HUTCHISON, CHAFEE, DEWINE, HELMS, SPECTER, MURKOWSKI, WARNER, BOB SMITH, LUGAR, SNOWE, and others in introducing the Home Care Stability Act of 2001 to eliminate the automatic 15 percent reduction in Medicare payments to home health

agencies that is currently scheduled to go into effect on October 1, 2002. The legislation we are introducing this morning will also extend the temporary 10 percent add-on payment for home health patients in rural areas to ensure that these patients continue to have access to care.

Health care has gone full circle. Patients are spending less time in the hospital. More and more procedures are being done on an outpatient basis, and recovery and care for patients with chronic diseases and conditions has increasingly been taking place in the home. Moreover, the number of older Americans who are chronically ill or disabled in some way continues to grow each year.

Concerns about how to care effectively and compassionately for these individuals will only multiply as our population ages and as it is at greater risk for chronic disease and disability.

As a consequence, home health care has become an increasingly important part of our health care system. The kind of highly skilled and often technically complex services that our Nation's home health agencies provide have enabled millions of our most frail and vulnerable senior citizens to avoid hospitals and nursing homes and to receive the care they need just where they want to be: in the security, privacy, and comfort of their own homes.

By the late 1990s, home health care was the fastest growing component of Medicare spending. The program was growing at an average annual rate of 25 percent. For this reason, Congress and the administration, as part of the Balanced Budget Act of 1997, initiated changes that were intended to slow the growth in spending and make the program more cost-effective and efficient.

These measures, however, have unfortunately produced cuts in home health care spending that were far, far beyond what Congress ever intended. According to preliminary estimates by the CBO, home health care spending dropped to $9.2 billion last year, half the amount that was being spent just 3 years earlier, in 1997.

On the horizon is yet an additional 15-percent cut that would put many of our already struggling home health agencies at risk and which would seriously jeopardize access to critical home health services for millions of our Nation's seniors.

It is now crystal clear that the savings goals set for home health in the Balanced Budget Act of 1997 have not only been met, but far exceeded. The most recent CBO projections show that the post-Balanced Budget Act reductions in home health will be about $69 billion between fiscal years 1998 and 2002. That is more than four times the $16 billion the CBO originally estimated for that time period, and it is a clear indication that the Medicare home health cutbacks have been far deeper and far more wide-reaching than Congress ever intended.

As a consequence, we have home health agencies across the country that are experiencing acute financial difficulties and cashflow problems. These financial difficulties are inhibiting their ability to deliver much needed care. Approximately 3,300 home health agencies have either closed or stopped serving Medicare patients nationwide—3,300, Mr. President. That is how deep these cuts were.

Moreover, the Health Care Financing Administration estimates that 900,000 fewer home health patients received services in 1999 than in 1997. This points to the most central and important consequence of these cuts. The fact is that cuts of this magnitude simply cannot be sustained without adversely affecting the quality and availability of patient care.

The effects of these regulations and cuts have been particularly devastating in my home State of Maine. The number of home health patients in Maine dropped from almost 49,000 to 37,545. That is a change of 23 percent. This means there are 11,000 senior citizens or disabled citizens in Maine who are no longer receiving home health services.

What has happened to those 11,000 individuals? I have talked with patients, and I have talked with home health nurses throughout the State of Maine, and I found that many of these patients have ended up going into nursing homes prematurely. Others have been repeatedly hospitalized with problems that could have been avoided had they been continuing to receive their home health benefits. Still others are trying to pay for the care themselves, often on very limited means. And yet others are going without care altogether.

A home health nurse in Saco, ME, told me of a patient who she believes ultimately died because she lost her home health benefits. She lost those nurses coming to check on her condition. The result was that she developed an infection that the home health nurse undoubtedly would have caught. The result was a tragedy in this case.

We have seen a 40-percent drop in the number of visits in the State of Maine and a 31-percent cut in Medicare reimbursements to home health agencies.

Keep in mind that Maine's home health agencies have historically been very prudent in their use of resources. They were low cost to begin with. The problem is, when you have cuts of these magnitudes imposed on agencies that are already low-cost providers, they simply cannot sustain the cuts and continue to deliver the services that our seniors need.

The real losers in this situation are our Nation's seniors, particularly those sicker Medicare patients with complex care needs who are already experiencing difficulty in getting the home care services they deserve.

I am very concerned that additional deep cuts are already on the horizon. As I mentioned, on October 1, 2002, an additional automatic 15-percent cut is scheduled to go into effect. We need to act.

Last year we passed legislation, the Medicare, Medicaid, and S-CHIP Benefits Improvement and Protection Act, which did provide a small measure of relief to our Nation's struggling home health agencies. It did, for example, delay by another year the 15-percent cut I have discussed this morning, but I do not think that goes far enough. The automatic reduction should be eliminated completely. We do not need it to achieve the savings estimated by the Balanced Budget Act. Those have already been far surpassed, and the implications for health care for some of our most frail and ill senior citizens are enormous.

The fact is, an additional 15-percent cut in Medicare home health payments would ring the death knell for those low-cost agencies which are currently struggling to hang on, and it would further reduce our seniors' access to critical home care services.

This is the fourth year we have fought this battle. To simply keep delaying this cut by yet another year is to leave a sword of Damocles hanging over our home health system. It makes it very difficult for our home health agencies to plan how they are going to serve their Medicare patients in the future. It encourages them to turn away patients who are going to be very expensive to care for, and it forces us to spend valuable time, energy, and resources fighting for repeal every single year—time and resources that would far better be spent ensuring the success of the Medicare home health prospective payments system.

The legislation we are introducing today would once and for all eliminate the automatic cut. It would also make permanent the temporary 10-percent add-on for home health services furnished patients in rural areas. That was included in the legislation last year. We would make it permanent.

As the Presiding Officer well knows, it is sometimes very expensive for home health agencies to deliver services to rural patients. They have to travel long distances, and it takes a long time to reach those patients. That all adds to the cost. In fact, surveys show that the delivery of home health services in rural areas can be as much as 12 to 15 percent more costly because of the extra travel time required, higher transportation expenses, and other factors.

This provision will ensure that our seniors living in rural areas continue to have access to critical high-quality home health services.

Mr. President, the Home Health Care Stability Act will provide a needed measure of relief and certainty for cost-efficient home health agencies across the country that are experiencing acute financial problems that are inhibiting their ability to deliver much needed care, particularly to chronically ill Medicare patients with complex care needs. I urge all of my colleagues to join us in cosponsoring this important legislation.

Let's get the job done once and for all this year. Let's repeal that 15-percent cut that otherwise would go into effect. Let's remove that uncertainty that is hanging over our home health agencies, and let's recommit ourselves to providing quality home health care benefits to our seniors and our disabled citizens.

Mr. BOND. Mr. President, I rise today to join with my colleague from Maine, Senator COLLINS, to introduce legislation that addresses the ongoing crisis in home health care. Twenty-two of our colleagues join with us today to offer the Home Health Payment Fairness Act to deal with this crisis and to try to ensure that seniors and disabled Americans have appropriate access to high-quality home health care.

Home health care is an important part of Medicare in which seniors and the disabled can get basic nursing and therapy care in their home, if their health or physical condition makes it almost impossible to leave home. Often home health is an alternative to more expensive services that may be provided in a hospital or a skilled nursing facility—and thus is a cost-effective way to provide needed care.

It is convenient, but much more importantly, patients love it. They love it because home health care is the key to fulfilling what is virtually a universal desire among seniors and those with disabilities—to remain independent and within the comfort of their own homes despite their health problems.

Yet we have a crisis in home health—too many seniors who could and should be receiving home health are not getting it. They may be suffering, in their home, without getting the health care they need. Or, they may be getting care, but only because they have been forced into a nursing home rather than being able to stay in the comfort and the dignity of their home. Either way, they are not getting the most appropriate care—and this is tragic.

As with so many other problems with Medicare in the last few years, the problem comes from two sources—the Balanced Budget Act, and the Health Care Financing Administration.

We all know the basic story by now—in an effort to balance the budget, Congress in the BBA tried to cut the growth in Medicare spending. Yet the real-world results went much further than we intended—partially because of things beyond anyone's control, but largely due to faulty implementation and the excessive regulatory zeal of HCFA. As the cuts and regulation went out-of-control, health care providers struggled to survive, but many were forced to close entirely or to stop serving Medicare. This harmed patients because they lost care options that had been available previously.

This basic storyline applies to patients and providers in all parts of Medicare—hospitals, nursing homes, home health care—everyone. But there are two things that distinguish the home health crisis from all of the other problems that stem from the Balanced Budget Act.

First and most importantly, no other group of Medicare patients and providers have endured as many difficulties. This is a big claim, given the many horror stories we've heard about the Balanced Budget Act. But absolutely nobody has suffered like home health patients and home health agencies. The numbers don't lie.

Two years after the Balanced Budget Act, almost 900,000 fewer seniors and disabled Americans were receiving home health care than previously. That's upwards of a million patients—one of every four who had been receiving home health—who simply disappeared from the world of home care. Unfortunately, the explanation is not a miraculous improvement in the health of our nation's seniors that drastically reduced the need for home health care. No, almost one million fewer people were receiving home care because the help just wasn't available.

This is partly because more than 3,300 of the nation's 10,000 home health agencies have either gone out-of-business, or have stopped serving Medicare patients. That's one-third of the home health providers—gone. Can you imagine the outrage we would have in this country if one-third of the hospitals simply disappeared?

In some areas, this hasn't been a major problem because there were other local home health agencies to pick up the slack. But in many parts of America—particularly in rural America—this has led to a serious problem of getting access to care.

In one sense, what's bad for the patient is good for the budget. Medicare home health spending has actually gone down for three straight years—dropping by 46 percent from 1997 and 2000. In Medicare, these types of cuts in spending are absolutely unprecedented. No other type of health care service in Medicare has ever seen drastic cuts like this. Remember, our goal in the Balanced Budget Act was to slow down the growth of the program, not to slash almost half of the spending out of vital services like home health care. In 1997, we envisioned $16 billion in savings from home health over five years—but the most recent estimates show that we are on target to get $69 billion in savings, more then four times the target figure. This is not how anybody wanted to balance the federal budget.

No State has been spared this crisis, but the seniors and the disabled in my home state of Missouri have been particularly hard-hit. 27,000 fewer patients are receiving home care than before—that's a drop of 30 percent. And while Missouri had 300 home health agencies when the Balanced Budget Act passed, we now have just 161. That's almost 140 health care providers that Missourians need—but that are now gone.

All of this points to the fact that the breadth and the depth of the post-Balanced Budget Act problems are undeniably worse in home health care than any other part of Medicare. That's the first thing that distinguishes home care from other struggling Medicare providers.

The second thing that is unique about home health—the biggest cuts may be yet to come.

While hospitals, nursing homes, hospice programs, and other Medicare providers still face some additional Balanced Budget Act cuts, most of the BBA provisions have already either taken effect or been erased by the two ''Medicare giveback'' bills we have passed into law.

But home health care patients and providers still have the largest BBA cut of all staring them in the fact—the 15-percent across-the-board home health cuts that are now scheduled for October of 2002. That's a 15-percent cut on top of everything else that has happened thus far—on top of the loss of 900,000 patients, on top of the loss of 3,000-plus home health agencies, and on top of the loss of almost half of Medicare home health spending.

I do not believe this should happen, and I actually don't know of anybody who believes the 15-percent home health cuts should go into effect. That's why Congress has already delayed the 15-percent cuts three separate times.

To impose these cuts, given all that home health care has been through, would be adding insult to injury. It would risk putting thousands more home health agencies out-of-business, perhaps risking the care for a million more patients.

Today, Senator COLLINS and I propose to fix this once and for all—no more mere delays, no more half-measures. The key provision in the Home Health Payment Fairness Act would permanently eliminate these 15-percent cuts. This will be expensive—probably more than $10 billion over 10 years. I don't think anybody in Congress wants to drop the guillotine on home health by imposing these cuts—that's what the three delays have shown. We need to just bite the bullet and get rid of them once and for all.

The one additional key provision in our bill would make permanent the 10-percent bonus payments that we are about to start giving rural home health agencies. These new rural payments recognize that, historically, rural patients have been more expensive due to the added transportation and labor costs incurred as home health nurses travel longer distances between visits. The second Medicare ''giveback'' bill that Congress just passed into law in December authorized these bonus payments for the first time—but only for a two-year period. The reasons that rural patients cost more are going to last for more than two years—we believe the added rural payments should as well.

This policy change will provide desperately-needed assistance to help home health care in rural America—which, as I mentioned earlier, has been much harder hit by the home health

crisis. These added payments would be similar to the 10-percent incentive bonus Medicare currently pays to doctors in rural areas, and would serve the same purpose as the various Medicare mechanisms we have to protect rural hospitals. The rural incentives for doctors and hospitals are part of permanent law; the rural incentives for home health should be too.

Home health care has been through enough. Our Nation's dedicated home health providers—and you know they are dedicated if they have struck with it through the difficulties of the last few years—deserve to be left along and given a rest. They deserve to be left alone to recover from the post-Balanced Budget Act chaos. They deserve to be left alone in order to adjust to a brand new home health payment system that Medicare put into place a few months ago—a new payment system specifically designed to reduce overuse of service in a much more intelligent and appropriate way than arbitrary cuts like those that are scheduled. And they deserve to be left alone to focus on providing high-quality care to Medicare patients. The seniors and disabled Americans who rely on home health for their health care, and for their independence, deserve no less.

Mr. ALLARD. I thank the Senator from Missouri for his leadership on home health care. I agree with him. It does save money for the patient, and we want to encourage it as far as health care is concerned.

Mr. REED. Mr. President, I rise today to join the chorus of support for the Home Health Payment Fairness Act. The intent of this important legislation is two-fold—first, eliminate the impending 15 percent reduction in home health payments scheduled to take effect in October 2002, and second, restore a modicum of stability and predictability to the home health funding stream after years of volatility and turmoil. I was pleased to introduce similar language with Senator COLLINS last Congress; I am pleased to do so again.

Over the past several years, Congress has worked to address the unintended consequences of the 1997 Balanced Budget Act, BBA. Specifically, we have sought to alleviate the tremendous financial burdens that have been borne by the home health industry and the patients who rely on these agencies for care. Since the enactment of the BBA, there has been a remarkable 48 percent decline in Medicare home health expenditures. Moreover, across the nation, home health agencies have been forced to cut back on services, and in some cases, close their doors forever. As a result, vulnerable and frail Medicare beneficiaries are being deprived of medically needed health services that enable these populations to receive care while remaining in the comfort of their homes and communities.

While we have been able to correct for a number of the problems, one issue we have yet to resolve affirmatively is the impending 15 percent for home health services. This reduction, which was originally scheduled to take effect in October 2000, has been delayed since 2002. While this delay is certainly significant, we can and must do more to restore predictability to the home health reimbursement system. We must see to it that the 15 percent cut is eliminated—and I hope we can achieve that goal this year.

As we have already seen, reductions of this magnitude are all too often shouldered by small, nonprofit home health agencies and the elderly and disabled beneficiaries they serve. Home health care agencies in my home state of Rhode Island have been especially hard hit by these changes. We have seen a significant decline in the number of beneficiaries served and access to care for more medically complex patients threatened by these cuts. These reductions have clearly had negative impact on patients who heavily rely on home health services.

Nationally, between 1997 and 1998, the number of Medicare beneficiaries receiving home health services has fallen 14 percent, while the total number of home health visits has fallen by 40 percent. We have seen a similar trend in Rhode Island, where over 3,000 fewer beneficiaries are receiving home health care—representing a decline of 16 percent—and the total number of visits has fallen 38 percent. These individuals are either being forced to turn to more expensive alternatives, such as institutional-based nursing homes and skilled nursing facilities for their care, or these individuals are simply going without care, which places an immeasurable burden on the family and friends of vulnerable beneficiaries.

I truly do not believe this is the path we want to remain on when it comes to home health care. In light of the impending ''senior boom'' that will be hitting our entitlement programs in a few short years, we should be doing all we can to preserve and strengthen the Medicare home health benefit. We can begin to do so by eliminating the 15 percent reduction in home health payments. By taking this step, we will alleviate an enormous burden that has been looming over financially strapped home health agencies as well as the frail and vulnerable Medicare beneficiaries who rely on these critical services.

I urge my colleagues to join us in supporting this critical legislation, and I look forward to working with Senator COLLINS and my other colleagues on the home health issue this Congress.

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By Mr. REED (for himself, Mr. COCHRAN, Mr. KENNEDY, Mr. DODD, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. REID, Mr. SARBANES, and Mr. BAUCUS):

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; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce bipartisan legislation to support and strengthen America's school libraries.

Research shows that well-equipped and well-staffed school libraries are essential to promoting literacy, learning, and achievement. Indeed, recent studies in Colorado, Pennsylvania, and Alaska reveal that a strong library media program, consisting of a well-stocked school library staffed by a trained, school-library media specialist, helps students learn more and score higher on standardized tests than their peers in library-impoverished schools. These findings echo earlier studies conducted in the 1990s, which found that students in schools with well-equipped libraries and professional library specialists performed better on achievement tests for reading comprehension and basic research skills.

Mr. President, with our ever-changing global economy, access to information and the skills to use it are vital to ensuring that young Americans are competitive and informed citizens of the world. That is why the school library is so important in supplementing what is learned in the classroom; promoting better learning, including reading, research, library use, and electronic database skills; and providing the foundation for independent learning that allows students to achieve throughout their educational careers and their lives.

While the promise of a well-equipped school library to promote literacy, learning, and achievement is boundless, and its importance greater than ever, the condition of libraries today does not live up to that potential. As Linda Wood, a school-library media specialist from South Kingstown High School in Rhode Island, noted during a Health, Education, Labor, and Pensions Committee hearing two years ago, school library collections are outdated and sparse.

Many schools across the nation are dependent on books purchased in the mid-1960s with dedicated funding provided under the original Elementary and Secondary Education Act (ESEA) of 1965. Many of the books still on school library shelves today were purchased with this funding and have not been replaced since 1981, when this dedicated funding was folded into what is now the Title VI block grant. As a result, many books in our school libraries predate the landing of manned spacecraft on the moon, the breakup of the Soviet Union, the end of Apartheid, the Internet, and advances in DNA research.

Mr. President, over the past several months I have received over one hundred books pulled from library shelves

across the country which further illustrate the sad state of school libraries today. I would like to cite just a few examples.

A book entitled Rockets Into Space, copyright 1959, informs students that ''there is a way to get to the moon and even distant planets, [but the trip must] be made in two stages. The first stage would be from earth to a space station. The second stage would be from the space station to the moon. It would cost a lot of money to buy a ticket to the moon.'' This book was checked out of a Los Angeles school library 13 times since 1995.

Further, a book found on a Rhode Island school library shelf, entitled Studying the Middle East in Elementary and Secondary Schools, copyright 1968, contains the following information: ''UNDERSTANDING SOME CHARACTERISTICS OF THE ARABS—It is difficult to generalize about any group of people and yet there are some characteristics which seem predominant and helpful in understanding the Arabs.'' Needless to say, the book then proceeds to describe characteristics of Arab people in derogatory terms.

And finally, a book entitled Colonial Life in America, copyright 1962, found on a shelf in a Philadelphia school library, informs the student that life on ''a large plantation in the South was like a village. Slave families had their own cabins.'' This book describes southern plantation life as idyllic, without reference to the harshness and injustice of life as a slave.

As you can see, in a rapidly changing world, our students are placed at a major disadvantage if the only scientific, geographical, and historical materials they have access to are outdated and inaccurate. The reason for this sad state of affairs is the loss of targeted, national funding for school libraries.

In sum, school library funding is grossly inadequate to the task of improving and supplementing collections. Library spending per student today is a small fraction of the cost of a new book. Indeed, while the average school library book costs $16, the average spending per student for books is approximately $6.75 in elementary schools; $7.30 in middle schools; and $6.25 in high schools. Consequently, many schools cannot remove outdated books from their shelves because there is no money to replace these books.

My home state of Rhode Island is working on an innovative effort to ensure that students gain access to materials not available in their own school libraries. RILINK, the Rhode Island Library Information Network for Kids, gives students and teachers 24-hour Internet access to a statewide catalog of school library holdings, complete with information about the book's status on the shelf. RILINK also allows for on-line request of materials via interlibrary loan, with rapid delivery through a statewide courier system, and provides links from book information records to related Internet research sites, allowing a single book request to serve as a point of departure for a galaxy of information sources.

Unfortunately, such innovations, which could benefit schoolchildren across the nation, cannot be expanded without adequate library funding. Indeed, the only federal funding that is currently available to school libraries is the Title VI block grant, which allows expenditure for school library and instructional materials as one of nine choices for local uses of funds. Since 1981, states have chosen other needs above school library books and technology. Sadly, districts only spend an estimated 17 percent of funds on school library and instructional materials. This amount is wholly insufficient to replace outdated books in both our classrooms and school libraries, and this lack of targeting and diffusion of funding is why block grants are so harmful.

Mr. President, well-trained school library media specialists are also essential to helping students unlock their potential. These individuals are at the heart of guiding students in their work, providing research training, maintaining and developing collections, and ensuring that a library fulfills its potential. In addition, they have the skills to guide students in the use of the broad variety of advanced technological education resources now available.

Unfortunately, only 68 percent of schools have state-certified library media specialists, according to Department of Education figures, and, on average, there is only one specialist for every 591 students. This shortage means that many school libraries are staffed by volunteers and are open only a few days a week.

I am introducing this bipartisan bill today, along with Senators COCHRAN, KENNEDY, DODD, BINGAMAN, WELLSTONE, MURRAY, MIKULSKI, CLINTON, CHAFEE, ROCKEFELLER, REID, SARBANES, and BAUCUS to restore the funding that is critical to improving school libraries. The Improving Literacy Through School Libraries Act authorizes $500 million to help school libraries with the greatest needs update their collections and would ensure that students have access to the informational tools they need to learn and achieve at the highest levels. This bill allows for maximum flexibility, enabling schools to use the funds to update library media resources, such as books and advanced technology, train school-library media specialists, and facilitate resource-sharing among school libraries. The bill also establishes the School Library Access Program to provide students with access to school libraries during non-school hours, including before and after school, weekends, and summers.

Providing access to the most up-to-date school library collections is an essential part of increasing student achievement, improving literacy skills, and helping students become lifelong learners. The bipartisan Improving Literacy Through School Libraries Act is strongly supported by the American Library Association, and will help accomplish these essential goals. I urge my colleagues to cosponsor this important legislation and work for its inclusion in the upcoming reauthorization of the Elementary and Secondary Education Act.

I ask unanimous consent that the text of this bill and a letter of support written by the American Library Association be printed in the RECORD.

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

S. 327

*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 ''Improving Literacy Through School Libraries Act of 2001''.

**SEC. 2. SCHOOL LIBRARY MEDIA RESOURCES.**

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.) is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following:

**''PART E—ASSISTANCE TO SCHOOL LIBRARIES TO IMPROVE LITERACY**

**''Subpart 1—Library Media Resources**

**''SEC. 2350. PURPOSE.**

''The purposes of this subpart are—

''(1) to improve literacy skills and academic achievement of students by providing students with increased access to up-to-date school library materials, a well-equipped, technologically advanced school library media center, and well-trained, professionally certified school library media specialists;

''(2) to support the acquisition of up-to-date school library media resources for the use of students, school library media specialists, and teachers in elementary schools and secondary schools;

''(3) to provide school library media specialists with the tools and training opportunities necessary for the specialists to facilitate the development and enhancement of the information literacy, information retrieval, and critical thinking skills of students; and

''(4)(A) to ensure the effective coordination of resources for library, technology, and professional development activities for elementary schools and secondary schools; and

''(B) to ensure collaboration between school library media specialists, and elementary school and secondary school teachers and administrators, in developing curriculum-based instructional activities for students so that school library media specialists are partners in the learning process of students.

**''SEC. 2351. STATE ALLOTMENTS.**

''The Secretary shall allot to each eligible State educational agency for a fiscal year an amount that bears the same relation to the amount appropriated under section 2360 and not reserved under section 2359 for the fiscal year as the amount the State educational agency received under part A of title I for the preceding fiscal year bears to the amount all eligible State educational agencies received under part A of title I for the preceding fiscal year.

**''SEC. 2352. STATE APPLICATIONS.**

''To be eligible to receive an allotment under section 2351 for a State for a fiscal

year, the State educational agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The application shall contain a description of—

''(1) the manner in which the State educational agency will use the needs assessment described in section 2355(1) and poverty data to allocate funds made available through the allotment to the local educational agencies in the State with the greatest need for school library media improvement;

''(2) the manner in which the State educational agency will effectively coordinate all Federal and State funds available for literacy, library, technology, and professional development activities to assist local educational agencies, elementary schools, and secondary schools in—

''(A) acquiring up-to-date school library media resources in all formats, including books and advanced technology such as Internet connections; and

''(B) providing training for school library media specialists;

''(3) the manner in which the State educational agency will develop standards for the incorporation of new technologies into the curricula of elementary schools and secondary schools through school library media programs to develop and enhance the information literacy, information retrieval, and critical thinking skills of students; and

''(4) the manner in which the State educational agency will evaluate the quality and impact of activities carried out under this subpart by local educational agencies to make determinations regarding the need of the agencies for technical assistance and whether to continue funding the agencies under this subpart.

**''SEC. 2353. STATE RESERVATION.**

''A State educational agency that receives an allotment under section 2351 may reserve not more than 3 percent of the funds made available through the allotment to provide technical assistance, disseminate information about effective school library media programs, and pay administrative costs, relating to this subpart.

**''SEC. 2354. LOCAL ALLOCATIONS.**

''(a) IN GENERAL.—A State educational agency that receives an allotment under section 2351 for a fiscal year shall use the funds made available through the allotment and not reserved under section 2353 to make allocations to local educational agencies.

''(b) AGENCIES.—The State educational agency shall allocate the funds to the local educational agencies in the State that have—

''(1) the greatest need for school library media improvement according to the needs assessment described in section 2355(1); and

''(2) the highest percentages of poverty, as measured in accordance with section 1113(a)(5).

**''SEC. 2355. LOCAL APPLICATION.**

''To be eligible to receive an allocation under section 2354 for a fiscal year, a local educational agency shall submit to the State educational agency an application at such time, in such manner, and containing such information as the State educational agency shall require. The application shall contain—

''(1) a needs assessment relating to need for school library media improvement, based on the age and condition of school library media resources (including book collections), access of school library media centers to advanced technology, including Internet connections, and the availability of well-trained, professionally certified school library media specialists, in schools served by the local educational agency;

''(2) a description of the manner in which the local educational agency will use the needs assessment to assist schools with the greatest need for school library media improvement;

''(3) a description of the manner in which the local educational agency will use the funds provided through the allocation to carry out the activities described in section 2356;

''(4) a description of the manner in which the local educational agency will develop and carry out the activities described in section 2356 with the extensive participation of school library media specialists, elementary school and secondary school teachers and administrators, and parents;

''(5) a description of the manner in which the local educational agency will effectively coordinate—

''(A) funds provided under this subpart with the Federal, State, and local funds received by the agency for literacy, library, technology, and professional development activities; and

''(B) activities carried out under this subpart with the Federal, State, and local library, technology, and professional development activities carried out by the local educational agency; and

''(6) a description of the manner in which the local educational agency will collect and analyze data on the quality and impact of activities carried out under this subpart by schools served by the local educational agency.

**''SEC. 2356. LOCAL ACTIVITIES.**

''A local educational agency that receives a local allocation under section 2354 may use the funds made available through the allocation—

''(1) to acquire up-to-date school library media resources, including books;

''(2) to acquire and utilize advanced technology, incorporated into the curricula of the schools, to develop and enhance the information literacy, information retrieval, and critical thinking skills of students;

''(3) to acquire and utilize advanced technology, including Internet links, to facilitate resource-sharing among schools and school library media centers, and public and academic libraries, where possible;

''(4) to provide professional development opportunities for school library media specialists; and

''(5) to foster increased collaboration between school library media specialists and elementary school and secondary school teachers and administrators.

**''SEC. 2357. ACCOUNTABILITY AND CONTINUATION OF FUNDS.**

''Each local educational agency that receives funding under this subpart for a fiscal year shall be eligible to continue to receive the funding—

''(1) for each of the 2 following fiscal years; and

''(2) for each fiscal year subsequent to the 2 following fiscal years, if the local educational agency demonstrates that the agency has increased—

''(A) the availability of, and the access of students, school library media specialists, and elementary school and secondary school teachers to, up-to-date school library media resources, including books and advanced technology, in elementary schools and secondary schools served by the local educational agency;

''(B) the number of well-trained, professionally certified school library media specialists in those schools; and

''(C) collaboration between school library media specialists and elementary school and secondary school teachers and administrators for those schools.

**''SEC. 2358. SUPPLEMENT NOT SUPPLANT.**

''Funds made available under this subpart shall be used to supplement and not supplant other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities.

**''SEC. 2359. NATIONAL ACTIVITIES.**

''The Secretary shall reserve not more than 3 percent of the amount appropriated under section 2360 for a fiscal year—

''(1) for an annual, independent, national evaluation of the activities assisted under this subpart, to be conducted not later than 3 years after the date of enactment of this subpart; and

''(2) to broadly disseminate information to help States, local educational agencies, school library media specialists, and elementary school and secondary school teachers and administrators learn about effective school library media programs.

**''SEC. 2360. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this subpart $475,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

**''Subpart 2—School Library Access Program**

**''SEC. 2361. PROGRAM.**

''(a) IN GENERAL.—The Secretary may make grants to local educational agencies to provide students with access to libraries in elementary schools and secondary schools during non-school hours, including the hours before and after school, weekends, and summer vacation periods.

''(b) APPLICATIONS.—To be eligible to receive a grant under subsection (a), a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) PRIORITY.—In making grants under subsection (a), the Secretary shall give priority to local educational agencies that demonstrate, in applications submitted under subsection (b), that the agencies—

''(1) seek to provide activities that will increase literacy skills and student achievement;

''(2) have effectively coordinated services and funding with entities involved in other Federal, State, and local efforts, to provide programs and activities for students during the non-school hours described in subsection (a); and

''(3) have a high level of community support.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $25,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

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AMERICAN LIBRARY ASSOCIATION,
*Washington, DC, February 13, 2001.*

Hon. JACK REED,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR REED: I would like to take this opportunity to thank you and Senator Thad Cochran for your bi-partisan support of school libraries as you introduce the Improving Literacy Through School Libraries Act of 2001. This bill would provide assistance to the nation's school libraries and school library media specialists at a time when they are laboring mightily to cope with the challenges of increasing school enrollment, new technology and the lack of funding for school library resources.

As an academic librarian in New York, I know personally how this legislation will contribute to effective learning by our school children. Many of the nation's school

libraries have collections that are old, inaccurate and out of date. How can we encourage children to read, continue their education in college and become life-long learners if the material we have available for them is inadequate?

Your legislation proposes to upgrade collections, encourage and train school librarians, and effect greater cooperation between school professionals directly involved teaching children—school library media specialists, teachers and administrators. This critical legislation should be included in the reauthorization process now going forward in the Senate. The school children of today deserve the best resources we have to give them.

On behalf of the 61,000 school, public, academic and special librarians, library trustees, friends of libraries and library supporters, I thank you for your effort to improve the resources in school libraries. We offer the support of our members in working towards passage of the legislation.

Sincerely,

NANCY C. KRANICH,
*President.*

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By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. GRAHAM):

S. 329. A bill to require the Secretary of the Interior to conduct a theme study on the peopling of America, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, America is truly unique in that almost all of us are migrants or immigrants to the United States, originating in different regions—whether from Asia, from islands in the Pacific Ocean, Mexico, or valleys and mesas of the Southwest, Europe or other regions of the world. The prehistory and the contemporary history of this nation are inextricably linked to the mosaic or migrations, immigrations and existing cultures in the U.S. that has resulted in the peopling of America. Americans are all travelers from diverse areas, regions, continents and islands.

We need a better understanding of this coherent and unifying theme in America. With this in mind, I am introducing legislation, along with my colleagues Senator INOUYE and Senator GRAHAM, authorizing the National Park Service to conduct a theme study on the peopling of America. An identical bill passed the Senate last Congress, and I am optimistic that the Senate will again pass this bill.

The purpose of the study is to provide a basis for identifying, interpreting and preserving sites related to the migration, immigration and settling of America. The peopling of America is the story of our nation's population and how we came to be the diverse set of people that we are today. The peopling of America will acknowledge the contributions and trials of the first peoples who settled the North American continent, the Pacific Islands, and the lands that later became the United States of America. The peopling of America has continued as Spanish, Portuguese, French, Dutch, and English laid claim to lands and opened the floodgates of European migration and the involuntary migration of Africans to the Americas.

This was just the beginning. America has been growing and changing ever since. It is critical that we document and include the growth and change in the United States as groups of people move across external and internal boundaries that make up our nation. By understanding all our contributions, the strength within all cultures, and the diffusion of cultural ways through the United States, we will be a better nation. The strength of American culture is in our diversity and rests on a comprehensive understanding of the peopling of America.

The theme study I am proposing will authorize the Secretary of the Interior to identify regions, areas, trails, districts and cultures that illustrate and commemorate key events in the migration, immigration and settlement of the population of the United States, and which can provide a basis for the preservation and interpretation of the peopling of America. It includes preservation and education strategies to capture elements of our national culture and history such as immigration, migration, ethnicity, family, gender, health, neighborhood, and community. In addition, the study will make recommendations regarding National Historic Landmark designations and National Register of Historic Places nominations, as appropriate. The study will also facilitate the development of cooperative programs with education institutions, public history organizations, state and local governments, and groups knowledgeable about the peopling of America.

We are entering a new millennium with hope and opportunity. It is incumbent on us to reflect on the extent to which the energy and wealth of the United States depends on our population diversity. Looking back, we understand that our history, and our very national character, is defined by the grand, entangled movements of people to America and across the American landscape—through original residency, European colonization, forced migrations, economic migrations, or politically-motivated immigration—that has given rise to the rich interactions that make the American character and experience unique. I would venture to say that no other nation has the heterogeneous patchwork of migration and movement around the country that is found and that makes us the American Nation.

We embody the cultures and traditions that our forebears brought from other places and shores, as well as the new traditions and cultures that we adopted or created anew upon arrival. Whether we are the original inhabitants of the rich Pacific Northwest, settled in the rangelands and agrarian West, the industrialized Northeast, the small towns of the Midwest, or the genteel cities of the South, our forebears inevitably contributed their background and created new relationships with peoples of other backgrounds and cultures. Our rich heritage as Americans is comprehensible only through the stories of our various constituent cultures, carried with us from other lands and transformed by encounters with other cultures.

All Americans are travelers. All cultures have creation stories and histories that place us here from somewhere. Whether we came to this land as native peoples. English colonists, Africans who were brought in slavery, Filipinos who came to work in Hawaii's cane fields, Mexican ranchers, or Chinese merchants, the process by which our nation was peopled transformed us from strangers from different shores into neighbors unified in our inimitable diversity—Americans all. It is essential for us to understand this process, not only to understand who and where we are, but also to help us understand who we wish to be and where we should be headed as a nation. As the caretaker of some of our most important cultural and historical resources, from Ellis Island to San Juan Island, from Chaco Canyon to Kennesaw Mountain, the National Park Service is in a unique position to conduct a study that can offer guidance on this fundamental subject.

Currently we have only one focal point in the national park system that celebrates the peopling of America with significance. Ellis Island and the Statue of Liberty National Monument. Ellis Island welcomed over 12 million immigrants between 1892 and 1954, an overwhelming majority of whom crossed the Atlantic from Europe. Ellis Island celebrates these immigrant experiences through their museum, historic buildings, and memorial wall. Immensely popular as it is, Ellis Island is focused on Atlantic immigration and thus reflects the experience only of those groups (primarily Eastern and Southern Europeans) who were processed at the island during its active period, 1892–1954.

Not all immigrants and their descendants can identify with Ellis Island. Tens of millions of other immigrants traveled to our great country through other ports of entry and in different periods of our Nation's history and prehistory. Ellis Island tells only part of the American story. There are other chapters, just as compelling, that must be told.

On the West Coast, Angel Island Immigration Station, tucked in San Francisco Bay, was open from 1910 to 1940 and processed hundreds of thousands of Pacific Rim immigrants through its portals. An estimated 175,000 Chinese immigrants and more than 20,000 Japanese made the long Pacific passage to the United States. Their experiences are a West Coast mirror of the Ellis Island experience. But the migration story on the West Coast is much longer and broader than Angel Island. Many earlier migrants to the West Coast contributed to the rich history of California, including the original resident

Native Americans, Spanish explorers, Mexican ranchers, Russian colonists, American migrants from the Eastern states who came overland or around the Horn, German and Irish military recruits, Chinese railroad laborers, Portuguese and Italian farmers, and many other groups. The diversity and experience of these groups reflects the diversity and experience of all immigrants who entered the United States via the Western states, including Alaska, Washington, Oregon, and California.

The study we propose is consistent with the agency's latest official thematic framework which establishes the subject of human population movement and change—or ''peopling places''—as a primary thematic category for study and interpretation. The framework, which serves as a general guideline for interpretation, was revised in 1996 in response to a Congressional mandate—Civil War Sites Study Act of 1990, Public Law 101–628, Sec. 1209—that the full diversity of American history and prehistory be expressed in the National Park Service's identification and interpretation of historic and prehistoric properties.

In conclusion, we believe that this bill will shed light on the unique blend of pluralism and unity that characterizes our national polity. With its responsibility for cultural and historical parks, the Park Service plays a unique role in enhancing our understanding of the peopling of America and thus of a fuller comprehension of our relationships with each other—past, present, and future.

I urge my colleagues to support this initiative. 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. 329

*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 ''Peopling of America Theme Study Act''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) an important facet of the history of the United States is the story of how the United States was populated;

(2) the migration, immigration, and settlement of the population of the United States—

(A) is broadly termed the ''peopling of America''; and

(B) is characterized by—

(i) the movement of groups of people across external and internal boundaries of the United States and territories of the United States; and

(ii) the interactions of those groups with each other and with other populations;

(3) each of those groups has made unique, important contributions to American history, culture, art, and life;

(4) the spiritual, intellectual, cultural, political, and economic vitality of the United States is a result of the pluralism and diversity of the American population;

(5) the success of the United States in embracing and accommodating diversity has strengthened the national fabric and unified the United States in its values, institutions, experiences, goals, and accomplishments;

(6)(A) the National Park Service's official thematic framework, revised in 1996, responds to the requirement of section 1209 of the Civil War Sites Study Act of 1990 (16 U.S.C. 1a–5 note; title XII of Public Law 101–628), that ''the Secretary shall ensure that the full diversity of American history and prehistory are represented'' in the identification and interpretation of historic properties by the National Park Service; and

(B) the thematic framework recognizes that ''people are the primary agents of change'' and establishes the theme of human population movement and change—or ''peopling places''—as a primary thematic category for interpretation and preservation; and

(7) although there are approximately 70,000 listings on the National Register of Historic Places, sites associated with the exploration and settlement of the United States by a broad range of cultures are not well represented.

(b) PURPOSES.—The purposes of this Act are—

(1) to foster a much-needed understanding of the diversity and contribution of the breadth of groups who have peopled the United States; and

(2) to strengthen the ability of the National Park Service to include groups and events otherwise not recognized in the peopling of the United States.

**SEC. 3. DEFINITIONS.**

In this Act:

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

(2) THEME STUDY.—The term ''theme study'' means the national historic landmark theme study required under section 4.

(3) PEOPLING OF AMERICA.—The term ''peopling of America'' means the migration, immigration, and settlement of the population of the United States.

**SEC. 4. NATIONAL HISTORIC LANDMARK THEME STUDY ON THE PEOPLING OF AMERICA.**

(a) THEME STUDY REQUIRED.—The Secretary shall prepare and submit to Congress a national historic landmark theme study on the peopling of America.

(b) PURPOSE.—The purpose of the theme study shall be to identify regions, areas, trails, districts, communities, sites, buildings, structures, objects, organizations, societies, and cultures that—

(1) best illustrate and commemorate key events or decisions affecting the peopling of America; and

(2) can provide a basis for the preservation and interpretation of the peopling of America that has shaped the culture and society of the United States.

(c) IDENTIFICATION AND DESIGNATION OF POTENTIAL NEW NATIONAL HISTORIC LANDMARKS.—

(1) IN GENERAL.—The theme study shall identify and recommend for designation new national historic landmarks.

(2) LIST OF APPROPRIATE SITES.—The theme study shall—

(A) include a list, in order of importance or merit, of the most appropriate sites for national historic landmark designation; and

(B) encourage the nomination of other properties to the National Register of Historic Places.

(3) DESIGNATION.—On the basis of the theme study, the Secretary shall designate new national historic landmarks.

(d) NATIONAL PARK SYSTEM.—

(1) IDENTIFICATION OF SITES WITHIN CURRENT UNITS.—The theme study shall identify appropriate sites within units of the National Park System at which the peopling of America may be interpreted.

(2) IDENTIFICATION OF NEW SITES.—On the basis of the theme study, the Secretary shall recommend to Congress sites for which studies for potential inclusion in the National Park System should be authorized.

(e) CONTINUING AUTHORITY.—After the date of submission to Congress of the theme study, the Secretary shall, on a continuing basis, as appropriate to interpret the peopling of America—

(1) evaluate, identify, and designate new national historic landmarks; and

(2) evaluate, identify, and recommend to Congress sites for which studies for potential inclusion in the National Park System should be authorized.

(f) PUBLIC EDUCATION AND RESEARCH.—

(1) LINKAGES.—

(A) ESTABLISHMENT.—On the basis of the theme study, the Secretary may identify appropriate means for establishing linkages—

(i) between—

(I) regions, areas, trails, districts, communities, sites, buildings, structures, objects, organizations, societies, and cultures identified under subsections (b) and (d); and

(II) groups of people; and

(ii) between—

(I) regions, areas, trails, districts, communities, sites, buildings, structures, objects, organizations, societies, and cultures identified under subsection (b); and

(II) units of the National Park System identified under subsection (d).

(B) PURPOSE.—The purpose of the linkages shall be to maximize opportunities for public education and scholarly research on the peopling of America.

(2) COOPERATIVE ARRANGEMENTS.—On the basis of the theme study, the Secretary shall, subject to the availability of funds, enter into cooperative arrangements with State and local governments, educational institutions, local historical organizations, communities, and other appropriate entities to preserve and interpret key sites in the peopling of America.

(3) EDUCATIONAL INITIATIVES.—

(A) IN GENERAL.—The documentation in the theme study shall be used for broad educational initiatives such as—

(i) popular publications;

(ii) curriculum material such as the Teaching with Historic Places program;

(iii) heritage tourism products such as the National Register of Historic Places Travel Itineraries program; and

(iv) oral history and ethnographic programs.

(B) COOPERATIVE PROGRAMS.—On the basis of the theme study, the Secretary shall implement cooperative programs to encourage the preservation and interpretation of the peopling of America.

**SEC. 5. COOPERATIVE AGREEMENTS.**

The Secretary may enter into cooperative agreements with educational institutions, professional associations, or other entities knowledgeable about the peopling of America—

(1) to prepare the theme study;

(2) to ensure that the theme study is prepared in accordance with generally accepted scholarly standards; and

(3) to promote cooperative arrangements and programs relating to the peopling of America.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

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By Mr. TORRICELLI:

S. 330. A bill to expand the powers of the Secretary of the Treasury to regulate the manufacture, distribution, and

sale of firearms and ammunition, and to expand the jurisdiction of the Secretary to include firearm products and non-powder firearms; to the Committee on the Judiciary.

Mr. TORRICELLI. Mr. President, I rise today to introduce the Firearms Safety and Consumer Protection Act of 2001. I am sure that this bill will face opposition, but I am equally sure that the need for this bill is so clear, and the logic so unquestionable, that we will eventually see gun consumers fighting for the passage of the legislation.

Mr. President, I have long fought against the gun injuries that have plagued America for years. We succeeded in enacting the Brady bill and the ban on devastating assault weapons. And in the 104th Congress, even in the midst of what many consider a hostile Congress, we told domestic violence offenders that they could no longer own a gun. These were each measures aimed at the criminal misuse of firearms.

But there is another subject that the NRA just hates to talk about—the countless injuries that occur to innocent gun owners, recreational hunters, and to law enforcement. Every year in this country, countless people die and many more are injured by defective or poorly manufactured firearms. Yet the Consumer Products Safety Commission, which has the power to regulate every other product sold to the American consumer, lacks the ability to regulate the manufacture of firearms.

Amazingly, in a nation that regulates everything from the air we breathe, to the cars we drive, to the cribs that hold our children, the most dangerous consumer product sold, firearms, are unregulated. Studies show that inexpensive safety technology and the elimination of flawed guns could prevent a third of accidental firearms deaths. Despite this fact, the Federal government is powerless to stop gun companies from distributing defective guns or failing to warn consumers of dangerous products.

This gaping loophole in our consumer protection laws can often be disastrous for gun users. To take just one recent example, even when a gun manufacturer discovered that it had sold countless defective guns with a tendency to misfire, no recall was mandated and no action could be taken by the federal government. The guns remained on the street, and consumers were defenseless. Time after time, consumers, hunters, and gun owners are each left out in the cold, without the knowledge of danger or the assistance necessary to protect themselves from it.

For too long now, the gun industry has successfully kept guns exempt from consumer protection laws, and we must finally bring guns into line with every other consumer product. Logic, common sense, and the many innocent victims of defective firearms all cry out for us to act—and act we must.

To that end, I am introducing the Firearms Safety and Consumer Protection Act, legislation giving the Secretary of the Treasury the power to regulate the manufacture, distribution, and sale of firearms and ammunition. The time has come to stop dangerous and defective guns from killing American consumers. I urge my colleagues to support this bill. I ask 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. 330

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Firearms Safety and Consumer Protection Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:



**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to protect the public against unreasonable risk of injury and death associated with firearms and related products;

(2) to develop safety standards for firearms and related products;

(3) to assist consumers in evaluating the comparative safety of firearms and related products;

(4) to promote research and investigation into the causes and prevention of firearm-related deaths and injuries; and

(5) to restrict the availability of weapons that pose an unreasonable risk of death or injury.

**SEC. 3. DEFINITIONS.**

(a) SPECIFIC TERMS.—In this Act:

(1) FIREARMS DEALER.—The term ''firearms dealer'' means—

(A) any person engaged in the business (as defined in section 921(a)(21)(C) of title 18, United States Code) of dealing in firearms at wholesale or retail;

(B) any person engaged in the business (as defined in section 921(a)(21)(D) of title 18, United States Code) of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; and

(C) any person who is a pawnbroker.

(2) FIREARM PART.—The term ''firearm part'' means—

(A) any part or component of a firearm as originally manufactured;

(B) any good manufactured or sold—

(i) for replacement or improvement of a firearm; or

(ii) as any accessory or addition to the firearm; and

(C) any good that is not a part or component of a firearm and is manufactured, sold, delivered, offered, or intended for use exclusively to safeguard individuals from injury by a firearm.

(3) FIREARM PRODUCT.—The term ''firearm product'' means a firearm, firearm part, nonpowder firearm, and ammunition.

(4) FIREARM SAFETY REGULATION.—The term ''firearm safety regulation'' means a regulation prescribed under this Act.

(5) FIREARM SAFETY STANDARD.—The term ''firearm safety standard'' means a standard promulgated under this Act.

(6) NONPOWDER FIREARM.—The term ''nonpowder firearm'' means a device specifically designed to discharge BBs, pellets, darts, or similar projectiles by the release of stored energy.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the designee of the Secretary.

(b) OTHER TERMS.—Each term used in this Act that is not defined in subsection (a) shall have the meaning (if any) given that term in section 921(a) of title 18, United States Code.

**TITLE I—REGULATION OF FIREARM PRODUCTS**

**SEC. 101. REGULATORY AUTHORITY.**

(a) IN GENERAL.—The Secretary shall prescribe such regulations governing the design, manufacture, and performance of, and commerce in, firearm products, consistent with this Act, as are reasonably necessary to reduce or prevent unreasonable risk of injury resulting from the use of those products.

(b) MAXIMUM INTERVAL BETWEEN ISSUANCE OF PROPOSED AND FINAL REGULATION.—Not later than 120 days after the date on which the Secretary issues a proposed regulation under subsection (a) with respect to a matter, the Secretary shall issue a regulation in final form with respect to the matter.

(c) PETITIONS.—

(1) IN GENERAL.—Any person may petition the Secretary to—

(A) issue, amend, or repeal a regulation prescribed under subsection (a) of this section; or

(B) require the recall, repair, or replacement of a firearm product, or the issuance of refunds with respect to a firearm product.

(2) DEADLINE FOR ACTION ON PETITION.—Not later than 120 days after the date on which the Secretary receives a petition referred to in paragraph (1), the Secretary shall—

(A) grant, in whole or in part, or deny the petition; and

(B) provide the petitioner with the reasons for granting or denying the petition.

**SEC. 102. ORDERS; INSPECTIONS.**

(a) AUTHORITY TO PROHIBIT MANUFACTURE, SALE, OR TRANSFER OF FIREARM PRODUCTS MADE, IMPORTED, TRANSFERRED, OR DISTRIBUTED IN VIOLATION OF REGULATION.—The Secretary may issue an order prohibiting the manufacture, sale, or transfer of a firearm product which the Secretary finds has been manufactured, or has been or is intended to be imported, transferred, or distributed in violation of a regulation prescribed under this Act.

(b) AUTHORITY TO REQUIRE THE RECALL, REPAIR, OR REPLACEMENT OF, OR THE PROVISION OF REFUNDS WITH RESPECT TO FIREARM PRODUCTS.—The Secretary may issue an order requiring the manufacturer of, and any dealer

in, a firearm product which the Secretary determines poses an unreasonable risk of injury to the public, is not in compliance with a regulation prescribed under this Act, or is defective, to—

(1) provide notice of the risks associated with the product, and of how to avoid or reduce the risks, to—

(A) the public;

(B) in the case of the manufacturer of the product, each dealer in the product; and

(C) in the case of a dealer in the product, the manufacturer of the product and the other persons known to the dealer as dealers in the product;

(2) bring the product into conformity with the regulations prescribed under this Act;

(3) repair the product;

(4) replace the product with a like or equivalent product which is in compliance with those regulations;

(5) refund the purchase price of the product, or, if the product is more than 1 year old, a lesser amount based on the value of the product after reasonable use;

(6) recall the product from the stream of commerce; or

(7) submit to the Secretary a satisfactory plan for implementation of any action required under this subsection.

(c) AUTHORITY TO PROHIBIT MANUFACTURE, IMPORTATION, TRANSFER, DISTRIBUTION, OR EXPORT OF UNREASONABLY RISKY FIREARM PRODUCTS.—The Secretary may issue an order prohibiting the manufacture, importation, transfer, distribution, or export of a firearm product if the Secretary determines that the exercise of other authority under this Act would not be sufficient to prevent the product from posing an unreasonable risk of injury to the public.

(d) INSPECTIONS.—When the Secretary has reason to believe that a violation of this Act or of a regulation or order issued under this Act is being or has been committed, the Secretary may, at reasonable times—

(1) enter any place in which firearm products are manufactured, stored, or held, for distribution in commerce, and inspect those areas where the products are manufactured, stored, or held; and

(2) enter and inspect any conveyance being used to transport a firearm product.

## TITLE II—PROHIBITIONS

**SEC. 201. PROHIBITIONS.**

(a) FAILURE OF MANUFACTURER TO TEST AND CERTIFY FIREARM PRODUCTS.—It shall be unlawful for the manufacturer of a firearm product to transfer, distribute, or export a firearm product unless—

(1) the manufacturer has tested the product in order to ascertain whether the product is in conformity with the regulations prescribed under section 101;

(2) the product is in conformity with those regulations; and

(3) the manufacturer has included in the packaging of the product, and furnished to each person to whom the product is distributed, a certificate stating that the product is in conformity with those regulations.

(b) FAILURE OF MANUFACTURER TO PROVIDE NOTICE OF NEW TYPES OF FIREARM PRODUCTS.—It shall be unlawful for the manufacturer of a new type of firearm product to manufacture the product, unless the manufacturer has provided the Secretary with—

(1) notice of the intent of the manufacturer to manufacture the product; and

(2) a description of the product.

(c) FAILURE OF MANUFACTURER OR DEALER TO LABEL FIREARM PRODUCTS.—It shall be unlawful for a manufacturer of or dealer in firearms to transfer, distribute, or export a firearm product unless the product is accompanied by a label that—

(1) contains—

(A) the name and address of the manufacturer of the product;

(B) the name and address of any importer of the product;

(C) the model number of the product and the date the product was manufactured;

(D) a specification of the regulations prescribed under this Act that apply to the product; and

(E) the certificate required by subsection (a)(3) with respect to the product; and

(2) is located prominently in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

(d) FAILURE TO MAINTAIN OR PERMIT INSPECTION OF RECORDS.—It shall be unlawful for an importer of, manufacturer of, or dealer in a firearm product to fail to—

(1) maintain such records, and supply such information, as the Secretary may require in order to ascertain compliance with this Act and the regulations and orders issued under this Act; and

(2) permit the Secretary to inspect and copy those records at reasonable times.

(e) IMPORTATION AND EXPORTATION OF UNCERTIFIED FIREARM PRODUCTS.—It shall be unlawful for any person to import into the United States or export a firearm product that is not accompanied by the certificate required by subsection (a)(3).

(f) COMMERCE IN FIREARM PRODUCTS IN VIOLATION OF ORDER ISSUED OR REGULATION PRESCRIBED UNDER THIS ACT.—It shall be unlawful for any person to manufacture, offer for sale, distribute in commerce, import into the United States, or export a firearm product—

(1) that is not in conformity with the regulations prescribed under this Act; or

(2) in violation of an order issued under this Act.

(g) STOCKPILING.—It shall be unlawful for any person to manufacture, purchase, or import a firearm product, after the date a regulation is prescribed under this Act with respect to the product and before the date the regulation takes effect, at a rate that is significantly greater than the rate at which the person manufactured, purchased, or imported the product during a base period (prescribed by the Secretary in regulations) ending before the date the regulation is so prescribed.

**SEC. 202. INAPPLICABILITY TO GOVERNMENTAL AUTHORITIES.**

Section 201 does not apply to any department or agency of the United States, of a State, or of a political subdivision of a State, or to any official conduct of any officer or employee of such a department or agency.

## TITLE III—ENFORCEMENT

### Subtitle A—Civil Enforcement

**SEC. 301. CIVIL PENALTIES.**

(a) AUTHORITY TO IMPOSE FINES.—

(1) IN GENERAL.—The Secretary shall impose upon any person who violates section 201 a civil fine in an amount that does not exceed the applicable amount described in subsection (b).

(2) SCOPE OF OFFENSE.—Each violation of section 201 (other than of subsection (a)(3) or (d) of that section) shall constitute a separate offense with respect to each firearm product involved.

(b) APPLICABLE AMOUNT.—

(1) FIRST 5-YEAR PERIOD.—The applicable amount for the 5-year period immediately following the date of enactment of this Act is $5,000, or $10,000 if the violation is willful.

(2) THEREAFTER.—The applicable amount during any time after the 5-year period described in paragraph (1) is $10,000, or $20,000 if the violation is willful.

**SEC. 302. INJUNCTIVE ENFORCEMENT AND SEIZURE.**

(a) INJUNCTIVE ENFORCEMENT.—Upon request of the Secretary, the Attorney General of the United States may bring an action to restrain any violation of section 201 in the United States district court for any district in which the violation has occurred, or in which the defendant is found or transacts business.

(b) CONDEMNATION.—

(1) IN GENERAL.—Upon request of the Secretary, the Attorney General of the United States may bring an action in rem for condemnation of a qualified firearm product in the United States district court for any district in which the Secretary has found and seized for confiscation the product.

(2) QUALIFIED FIREARM PRODUCT DEFINED.—In paragraph (1), the term ''qualified firearm product'' means a firearm product—

(A) that is being transported or having been transported remains unsold, is sold or offered for sale, is imported, or is to be exported; and

(B)(i) that is not in compliance with a regulation prescribed or an order issued under this Act; or

(ii) with respect to which relief has been granted under section 303.

**SEC. 303. IMMINENTLY HAZARDOUS FIREARMS.**

(a) IN GENERAL.—Notwithstanding the pendency of any other proceeding in a court of the United States, the Secretary may bring an action in a United States district court to restrain any person who is a manufacturer of, or dealer in, an imminently hazardous firearm product from manufacturing, distributing, transferring, importing, or exporting the product.

(b) IMMINENTLY HAZARDOUS FIREARM PRODUCT.—In subsection (a), the term ''imminently hazardous firearm product'' means any firearm product with respect to which the Secretary determines that—

(1) the product poses an unreasonable risk of injury to the public; and

(2) time is of the essence in protecting the public from the risks posed by the product.

(c) RELIEF.—In an action brought under subsection (a), the court may grant such temporary or permanent relief as may be necessary to protect the public from the risks posed by the firearm product, including—

(1) seizure of the product; and

(2) an order requiring—

(A) the purchasers of the product to be notified of the risks posed by the product;

(B) the public to be notified of the risks posed by the product; or

(C) the defendant to recall, repair, or replace the product, or refund the purchase price of the product (or, if the product is more than 1 year old, a lesser amount based on the value of the product after reasonable use).

(d) VENUE.—An action under subsection (a)(2) may be brought in the United States district court for the District of Columbia or for any district in which any defendant is found or transacts business.

**SEC. 304. PRIVATE CAUSE OF ACTION.**

(a) IN GENERAL.—Any person aggrieved by any violation of this Act or of any regulation prescribed or order issued under this Act by another person may bring an action against such other person in any United States district court for damages, including consequential damages. In any action under this section, the court, in its discretion, may award to a prevailing plaintiff a reasonable attorney's fee as part of the costs.

(b) RULE OF INTERPRETATION.—The remedy provided for in subsection (a) shall be in addition to any other remedy provided by common law or under Federal or State law.

**SEC. 305. PRIVATE ENFORCEMENT OF THIS ACT.**

Any interested person may bring an action in any United States district court to enforce this Act, or restrain any violation of

this Act or of any regulation prescribed or order issued under this Act. In any action under this section, the court, in its discretion, may award to a prevailing plaintiff a reasonable attorney's fee as part of the costs.

**SEC. 306. EFFECT ON PRIVATE REMEDIES.**

(a) IRRELEVANCY OF COMPLIANCE WITH THIS ACT.—Compliance with this Act or any order issued or regulation prescribed under this Act shall not relieve any person from liability to any person under common law or State statutory law.

(b) IRRELEVANCY OF FAILURE TO TAKE ACTION UNDER THIS ACT.—The failure of the Secretary to take any action authorized under this Act shall not be admissible in litigation relating to the product under common law or State statutory law.

**Subtitle B—Criminal Enforcement**

**SEC. 351. CRIMINAL PENALTIES.**

Any person who has received from the Secretary a notice that the person has violated a provision of this Act or of a regulation prescribed under this Act with respect to a firearm product and knowingly violates that provision with respect to the product shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

**TITLE IV—ADMINISTRATIVE PROVISIONS**

**SEC. 401. FIREARM INJURY INFORMATION AND RESEARCH.**

(a) IN GENERAL.—The Secretary shall—

(1) collect, investigate, analyze, and share with other appropriate government agencies circumstances of death and injury associated with firearms; and

(2) conduct continuing studies and investigations of economic costs and losses resulting from firearm-related deaths and injuries.

(b) OTHER DATA.—The Secretary shall—

(1) collect and maintain current production and sales figures for each licensed manufacturer, broken down by the model, caliber, and type of firearms produced and sold by the licensee, including a list of the serial numbers of such firearms;

(2) conduct research on, studies of, and investigation into the safety of firearm products and improving the safety of firearm products; and

(3) develop firearm safety testing methods and testing devices.

(c) AVAILABILITY OF INFORMATION.—On a regular basis, but not less frequently than annually, the Secretary shall make available to the public the results of the activities of the Secretary under subsections (a) and (b).

**SEC. 402. ANNUAL REPORT TO CONGRESS.**

(a) IN GENERAL.—The Secretary shall prepare and submit to the President and Congress at the beginning of each regular session of Congress, a comprehensive report on the administration of this Act for the most recently completed fiscal year.

(b) CONTENTS.—Each report submitted under subsection (a) shall include—

(1) a thorough description, developed in coordination with the Secretary of Health and Human Services, of the incidence of injury and death and effects on the population resulting from firearm products, including statistical analyses and projections, and a breakdown, as practicable, among the various types of such products associated with the injuries and deaths;

(2) a list of firearm safety regulations prescribed that year;

(3) an evaluation of the degree of compliance with firearm safety regulations, including a list of enforcement actions, court decisions, and settlements of alleged violations, by name and location of the violator or alleged violator, as the case may be;

(4) a summary of the outstanding problems hindering enforcement of this Act, in the order of priority; and

(5) a log and summary of meetings between the Secretary or employees of the Secretary and representatives of industry, interested groups, or other interested parties.

**TITLE V—RELATIONSHIP TO OTHER LAW**

**SEC. 501. SUBORDINATION TO ARMS EXPORT CONTROL ACT.**

In the event of any conflict between any provision of this Act and any provision of the Arms Export Control Act, the provision of the Arms Export Control Act shall control.

**SEC. 502. EFFECT ON STATE LAW.**

(a) IN GENERAL.—This Act shall not be construed to preempt any provision of the law of any State or political subdivision thereof, or prevent a State or political subdivision thereof from enacting any provision of law regulating or prohibiting conduct with respect to a firearm product, except to the extent that such provision of law is inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

(b) RULE OF CONSTRUCTION.—A provision of State law is not inconsistent with this Act if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than any prohibition or penalty imposed by this Act.

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By Mr. LUGAR (for himself, Mr. ROBERTS, Mr. MCCONNELL, and Mr. BURNS):

S. 333. A bill to provide tax and regulatory relief for farmers and to improve the competitiveness of American agricultural commodities and products in global markets; to the Committee on Finance.

Mr. LUGAR. Mr. President, I rise today to introduce the Rural America Prosperity Act of 2001. I am pleased that Senator ROBERTS, Senator MCCONNELL, and Senator BURNS joined as cosponsors of this bill.

A Republican controlled Congress in 1996 produced a sweeping reform of farm programs. Farmers were no longer told by the government what crops they had to plant. Farmers were no longer forced by the government to idle part of their land in exchange for program payments. That farm bill disentangled farmers from government controls and enabled them to make production decisions based on market signals.

Freeing farmers from excessive, and often counterproductive, government controls is an important step, but we still need to do more to give farmers the tools they need to succeed. Specifically, we need to work to open foreign markets for our agricultural commodities and products, ease the tax and regulatory burden, and provide new risk management tools for farmers. The Rural America Prosperity Act of 2001, which we are introducing today, will help us meet these unfulfilled promises to rural America.

There are three tax provisions in this legislation that I have long advocated as crucial to the financial health of farmers. First is the repeal of the estate tax. A repeal of this tax, which has prevented some farms from being passed from one generation to the next, is essential. We are proposing the same 10-year phase-out of the estate tax which Congress passed last year but President Clinton vetoed. Excluding capital gains from the sale of farmland would put production agriculture on the same footing as homeowners who benefit from a capital gains exclusion for their home. The deduction of health care insurance premiums is needed for farmers and others who are self-employed.

Last year Congress provided over $8 billion to improve the federal crop insurance program. While crop insurance is an important risk management tool, today we offer two other risk management tools for farmers—income averaging and FARRM accounts. Three years ago Congress made income averaging a permanent risk management tool for farmers when calculating taxes. Unfortunately, the interaction between income averaging and the alternative minimum tax has prevented many farmers from receiving the benefit of income averaging. This bill fixes that problem. Under this bill, farmers will be able to contribute up to 20 percent of annual farm income into a FARRM account and deduct this amount from their taxes. This is an important tool for managing financial volatility associated with farming.

We also address regulatory reform in our bill. We are seeking a review of existing and proposed regulations to determine the cost of compliance for farmers, ranchers and foresters. We want to determine if there are more cost-effective ways for farmers, ranchers and foresters to achieve the objectives of these regulations.

Finally, we must do more to help develop new markets abroad for our farm commodities and agricultural products. Opportunity lies in developing countries where growing wealth allows for increased demand for meat and processed commodities. Authorizing fast-track authority for the President to negotiate international trade agreements may be the single most important thing we can do to facilitate exports.

We also need to address sanctions. Sanctions that prohibit the export of U.S. agricultural products into the sanctioned country are often morally indefensible because they deny necessities to people, not the offending government. Such sanctions also deny markets for U.S. agricultural products which are then captured by our competitors. This legislation only affects commercial sales (excluding all Government subsidized trade programs) involving United States agricultural commodities, livestock, and value-added products.

This legislation represents what I believe is necessary to further the historic reforms initiated in the farm bill almost five years ago. I urge my colleagues to cosponsor this bill. I will encourage my colleagues and the new Bush administration to work to enact these proposals.

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

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

S. 333

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Rural America Prosperity Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:



## TITLE I—TAX RELIEF FOR FARMERS

### Subtitle A—General Tax Provisions

**SEC. 101. DEDUCTION FOR 100 PERCENT OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.''.

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

**SEC. 102. EXCLUSION OF GAIN FROM SALE OF FARMLAND.**

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following:

**''SEC. 121A. EXCLUSION OF GAIN FROM SALE OF QUALIFIED FARM PROPERTY.**

''(a) EXCLUSION.—In the case of a natural person, gross income shall not include gain from the sale or exchange of qualified farm property.

''(b) LIMITATION.—

''(1) IN GENERAL.—The amount of gain excluded from gross income under subsection (a) with respect to any taxable year shall not exceed $500,000 ($250,000 in the case of a married individual filing a separate return), reduced by the aggregate amount of gain excluded under subsection (a) for all preceding taxable years.

''(2) SPECIAL RULE FOR JOINT RETURNS.—The amount of the exclusion under subsection (a) on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under paragraph (1) for any succeeding taxable year.

''(c) QUALIFIED FARM PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified farm property' means real property located in the United States if, during periods aggregating 3 years or more of the 5-year period ending on the date of the sale or exchange of such real property—

''(A) such real property was used by the taxpayer or a member of the family of the taxpayer as a farm for farming purposes, and

''(B) there was material participation by the taxpayer (or such a member) in the operation of the farm.

''(2) OTHER DEFINITIONS.—The terms 'member of the family', 'farm', and 'farming purposes' have the respective meanings given such terms by paragraphs (2), (4), and (5) of section 2032A(e).

''(3) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 2032A(b) and paragraphs (3) and (6) of section 2032A(e) shall apply.

''(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsection (e) and subsection (f) of section 121 shall apply.''.

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 121 the following:

''Sec. 121A. Exclusion of gain from sale of qualified farm property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale or exchange after the date of enactment of this Act in taxable years ending after such date.

**SEC. 103. INCOME AVERAGING FOR FARMERS NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.**

(a) IN GENERAL.—Section 55(c) of the Internal Revenue Code of 1986 (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS.—Solely for purposes of this section, section 1301 (relating to averaging of farm income) shall not apply in computing the regular tax.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

**SEC. 104. FARM AND RANCH RISK MANAGEMENT ACCOUNTS.**

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to taxable year for which deductions taken) is amended by inserting after section 468B the following:

**''SEC. 468C. FARM AND RANCH RISK MANAGEMENT ACCOUNTS.**

''(a) DEDUCTION ALLOWED.—In the case of an individual engaged in an eligible farming business, there shall be allowed as a deduction for any taxable year the amount paid in cash by the taxpayer during the taxable year to a Farm and Ranch Risk Management Account (hereinafter referred to as the 'FARRM Account').

''(b) LIMITATION.—The amount which a taxpayer may pay into the FARRM Account for any taxable year shall not exceed 20 percent of so much of the taxable income of the taxpayer (determined without regard to this section) which is attributable (determined in the manner applicable under section 1301) to any eligible farming business.

''(c) ELIGIBLE FARMING BUSINESS.—For purposes of this section, the term 'eligible farming business' means any farming business (as defined in section 263A(e)(4)) which is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

''(d) FARRM ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'FARRM Account' means a trust created or organized in the United States for the exclusive benefit of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deduction under subsection (a) for such year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

''(D) All income of the trust is distributed currently to the grantor.

''(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a FARRM Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), there shall be includible in the gross income of the taxpayer for any taxable year—

''(A) any amount distributed from a FARRM Account of the taxpayer during such taxable year, and

''(B) any deemed distribution under—

''(i) subsection (f)(1) (relating to deposits not distributed within 5 years),

''(ii) subsection (f)(2) (relating to cessation in eligible farming business), and

''(iii) subparagraph (A) or (B) of subsection (f)(3) (relating to prohibited transactions and pledging account as security).

''(2) EXCEPTIONS.—Paragraph (1)(A) shall not apply to—

''(A) any distribution to the extent attributable to income of the Account, and

''(B) the distribution of any contribution paid during a taxable year to a FARRM Account to the extent that such contribution exceeds the limitation applicable under subsection (b) if requirements similar to the requirements of section 408(d)(4) are met.

For purposes of subparagraph (A), distributions shall be treated as first attributable to income and then to other amounts.

''(f) SPECIAL RULES.—

''(1) TAX ON DEPOSITS IN ACCOUNT WHICH ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

''(A) IN GENERAL.—If, at the close of any taxable year, there is a nonqualified balance in any FARRM Account—

''(i) there shall be deemed distributed from such Account during such taxable year an amount equal to such balance, and

''(ii) the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

The preceding sentence shall not apply if an amount equal to such nonqualified balance is distributed from such Account to the taxpayer before the due date (including extensions) for filing the return of tax imposed by this chapter for such year (or, if earlier, the date the taxpayer files such return for such year).

''(B) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term 'nonqualified balance' means any balance in the Account on the last day of the taxable year which is attributable to amounts deposited in such Account before the 4th preceding taxable year.

''(C) ORDERING RULE.—For purposes of this paragraph, distributions from a FARRM Account (other than distributions of current income) shall be treated as made from deposits in the order in which such deposits were made, beginning with the earliest deposits.

''(2) CESSATION IN ELIGIBLE BUSINESS.—At the close of the first disqualification period after a period for which the taxpayer was engaged in an eligible farming business, there shall be deemed distributed from the FARRM Account of the taxpayer an amount equal to the balance in such Account (if any) at the close of such disqualification period. For purposes of the preceding sentence, the term 'disqualification period' means any period of 2 consecutive taxable years for which the taxpayer is not engaged in an eligible farming business.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

''(A) Section 220(f)(8) (relating to treatment on death).

''(B) Section 408(e)(2) (relating to loss of exemption of account where individual engages in prohibited transaction).

''(C) Section 408(e)(4) (relating to effect of pledging account as security).

''(D) Section 408(g) (relating to community property laws).

''(E) Section 408(h) (relating to custodial accounts).

''(4) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a FARRM Account on the last day of a taxable year if such payment is made on account of such taxable year and is made on or before the due date (without regard to extensions) for filing the return of tax for such taxable year.

''(5) INDIVIDUAL.—For purposes of this section, the term 'individual' shall not include an estate or trust.

''(6) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX.—The deduction allowable by reason of subsection (a) shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

''(g) REPORTS.—The trustee of a FARRM Account shall make such reports regarding such Account to the Secretary and to the person for whose benefit the Account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such persons at such time and in such manner as may be required by such regulations.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) Subsection (a) of section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking ''or'' at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

''(4) a FARRM Account (within the meaning of section 468C(d)), or''.

(2) Section 4973 of such Code, is amended by adding at the end the following:

''(g) EXCESS CONTRIBUTIONS TO FARRM ACCOUNTS.—For purposes of this section, in the case of a FARRM Account (within the meaning of section 468C(d)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the Account exceeds the amount which may be contributed to the Account under section 468C(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the FARRM Account in a distribution to which section 468C(e)(2)(B) applies shall be treated as an amount not contributed.''.

(3) The section heading for section 4973 of such Code is amended to read as follows:

**''SEC. 4973. EXCESS CONTRIBUTIONS TO CERTAIN ACCOUNTS, ANNUITIES, ETC.''.**

(4) The table of sections for chapter 43 of such Code is amended by striking the item relating to section 4973 and inserting the following:

''Sec. 4973. Excess contributions to certain accounts, annuities, etc.''.

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Subsection (c) of section 4975 of the Internal Revenue Code of 1986 (relating to tax on prohibited transactions) is amended by adding at the end the following:

''(6) SPECIAL RULE FOR FARRM ACCOUNTS.—A person for whose benefit a FARRM Account (within the meaning of section 468C(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a FARRM Account by reason of the application of section 468C(f)(3)(A) to such account.''.

(2) Paragraph (1) of section 4975(e) of such Code is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following:

''(E) a FARRM Account described in section 468C(d),''.

(d) FAILURE TO PROVIDE REPORTS ON FARRM ACCOUNTS.—Paragraph (2) of section 6693(a) of the Internal Revenue Code of 1986 (relating to failure to provide reports on certain tax-favored accounts or annuities) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following:

''(C) section 468C(g) (relating to FARRM Accounts),''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 468B the following:

''Sec. 468C. Farm and Ranch Risk Management Accounts.''.

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

### Subtitle B—Estate and Gift Tax Relief

**SEC. 111. REPEAL OF ESTATE, GIFT, AND GENERATION-SKIPPING TAXES.**

(a) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2010.

**SEC. 112. TERMINATION OF STEP UP IN BASIS AT DEATH.**

(a) TERMINATION OF APPLICATION OF SECTION 1014.—Section 1014 of the Internal Revenue Code of 1986 (relating to basis of property acquired from a decedent) is amended by adding at the end the following:

''(f) TERMINATION.—In the case of a decedent dying after December 31, 2010, this section shall not apply to property for which basis is provided by section 1022.''.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 1016 of the Internal Revenue Code of 1986 (relating to adjustments to basis) is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by adding at the end the following:

''(28) to the extent provided in section 1022 (relating to basis for certain property acquired from a decedent dying after December 31, 2010).''.

**SEC. 113. CARRYOVER BASIS AT DEATH.**

(a) GENERAL RULE.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

**''SEC. 1022. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 2010.**

''(a) CARRYOVER BASIS.—Except as otherwise provided in this section, the basis of carryover basis property in the hands of a person acquiring such property from a decedent shall be determined under section 1015.

''(b) CARRYOVER BASIS PROPERTY DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'carryover basis property' means any property—

''(A) which is acquired from or passed from a decedent who died after December 31, 2010, and

''(B) which is not excluded pursuant to paragraph (2).

The property taken into account under subparagraph (A) shall be determined under section 1014(b) without regard to subparagraph (A) of the last sentence of paragraph (9) thereof.

''(2) CERTAIN PROPERTY NOT CARRYOVER BASIS PROPERTY.—The term 'carryover basis property' does not include—

''(A) any item of gross income in respect of a decedent described in section 691,

''(B) property of the decedent to the extent that the aggregate adjusted fair market value of such property does not exceed $1,300,000, and

''(C) property which was acquired from the decedent by the surviving spouse of the decedent (and which would be carryover basis property without regard to this subparagraph) but only if the value of such property would have been deductible from the value of the taxable estate of the decedent under section 2056, as in effect on the day before the date of enactment of the Rural America Prosperity Act of 2001.

For purposes of this subsection, the term 'adjusted fair market value' means, with respect to any property, fair market value reduced by any indebtedness secured by such property.

''(3) LIMITATION ON EXCEPTION FOR PROPERTY ACQUIRED BY SURVIVING SPOUSE.—The adjusted fair market value of property which is not carryover basis property by reason of paragraph (2)(C) shall not exceed $3,000,000.

''(4) ALLOCATION OF EXCEPTED AMOUNTS.—The executor shall allocate the limitations under paragraphs (2)(B) and (3).

''(5) INFLATION ADJUSTMENT OF EXCEPTED AMOUNTS.—In the case of decedents dying in a calendar year after 2011, the dollar amounts in paragraphs (2)(B) and (3) shall each be increased by an amount equal to the product of—

''(A) such dollar amount, and

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2010' for '1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $10,000, such increase shall be rounded to the nearest multiple of $10,000.

''(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) MISCELLANEOUS AMENDMENTS RELATED TO CARRYOVER BASIS.—

(1) CAPITAL GAIN TREATMENT FOR INHERITED ART WORK OR SIMILAR PROPERTY.—

(A) IN GENERAL.—Subparagraph (C) of section 1221(a)(3) of the Internal Revenue Code of 1986 (defining capital asset) is amended by inserting ''(other than by reason of section 1022)'' after ''is determined''.

(B) COORDINATION WITH SECTION 170.—Paragraph (1) of section 170(e) of such Code (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following: ''For purposes of this paragraph, the determination of whether property is a capital asset shall be made without regard to the exception contained in section 1221(a)(3)(C) for basis determined under section 1022.''.

(2) DEFINITION OF EXECUTOR.—Section 7701(a) of such Code (relating to definitions) is amended by adding at the end the following:

''(47) EXECUTOR.—The term 'executor' means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within the United States, then any person in actual or constructive possession of any property of the decedent.''.

(3) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1022. Carryover basis for certain property acquired from a decedent dying after December 31, 2010.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 2010.

**SEC. 114. ADDITIONAL REDUCTIONS OF ESTATE AND GIFT TAX RATES.**

(a) MAXIMUM RATE OF TAX REDUCED TO 50 PERCENT.—

(1) IN GENERAL.—The table contained in section 2001(c)(1) of the Internal Revenue Code of 1986 is amended by striking the two highest brackets and inserting the following:

| | |
|---|---|
| ''Over $2,500,000 ..... | $1,025,800, plus 50% of the excess over $2,500,000.''. |

(2) PHASE-IN OF REDUCED RATE.—Subsection (c) of section 2001 of such Code is amended by adding at the end the following new paragraph:

''(3) PHASE-IN OF REDUCED RATE.—In the case of decedents dying, and gifts made, during 2002, the last item in the table contained in paragraph (1) shall be applied by substituting '53%' for '50%'.''.

(b) REPEAL OF PHASEOUT OF GRADUATED RATES.—Subsection (c) of section 2001 of the Internal Revenue Code of 1986 is amended by striking paragraph (2) and redesignating paragraph (3), as added by subsection (a), as paragraph (2).

(c) ADDITIONAL REDUCTIONS OF RATES OF TAX.—Subsection (c) of section 2001 of the Internal Revenue Code of 1986, as so amended, is amended by adding at the end the following new paragraph:

''(3) PHASEDOWN OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 2003 and before 2011—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

''(i) each of the rates of tax shall be reduced by the number of percentage points determined under subparagraph (B), and

''(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

''(B) PERCENTAGE POINTS OF REDUCTION.—

| ''For calendar year: | The number of percentage points is: |
|---|---|
| 2004 ..... | 1.0 |
| 2005 ..... | 2.0 |
| 2006 ..... | 3.0 |
| 2007 ..... | 4.0 |
| 2008 ..... | 5.5 |
| 2009 ..... | 7.5 |
| 2010 ..... | 9.5. |

''(C) COORDINATION WITH INCOME TAX RATES.—The reductions under subparagraph (A)—

''(i) shall not reduce any rate under paragraph (1) below the lowest rate in section 1(c), and

''(ii) shall not reduce the highest rate under paragraph (1) below the highest rate in section 1(c).

''(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the Secretary shall prescribe percentage point reductions which maintain the proportionate relationship (as in effect before any reduction under this paragraph) between the credit under section 2011 and the tax rates under subsection (c).''.

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to estates of decedents dying, and gifts made, after December 31, 2001.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to estates of decedents dying, and gifts made, after December 31, 2003.

**SEC. 115. UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES REPLACED WITH UNIFIED EXEMPTION AMOUNT.**

(a) IN GENERAL.—

(1) ESTATE TAX.—Subsection (b) of section 2001 of the Internal Revenue Code of 1986 (relating to computation of tax) is amended to read as follows:

''(b) COMPUTATION OF TAX.—

''(1) IN GENERAL.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

''(A) the tentative tax determined under paragraph (2), over

''(B) the aggregate amount of tax which would have been payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976, if the provisions of subsection (c) (as in effect at the decedent's death) had been applicable at the time of such gifts.

''(2) TENTATIVE TAX.—For purposes of paragraph (1), the tentative tax determined under this paragraph is a tax computed under subsection (c) on the excess of—

''(A) the sum of—

''(i) the amount of the taxable estate, and

''(ii) the amount of the adjusted taxable gifts, over

''(B) the exemption amount for the calendar year in which the decedent died.

''(3) EXEMPTION AMOUNT.—For purposes of paragraph (2), the term 'exemption amount' means the amount determined in accordance with the following table:

| ''In the case of calendar year: | The exemption amount is: |
|---|---|
| 2001 ..... | $675,000 |
| 2002 and 2003 ..... | $700,000 |
| 2003 ..... | $850,000 |
| 2005 ..... | $950,000 |
| 2006 or thereafter ..... | $1,000,000. |

''(4) ADJUSTED TAXABLE GIFTS.—For purposes of paragraph (2), the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.''.

(2) GIFT TAX.—Subsection (a) of section 2502 of such Code (relating to computation of tax) is amended to read as follows:

''(a) COMPUTATION OF TAX.—

''(1) IN GENERAL.—The tax imposed by section 2501 for each calendar year shall be the amount equal to the excess (if any) of—

''(A) the tentative tax determined under paragraph (2), over

''(B) the tax paid under this section for all prior calendar periods.

''(2) TENTATIVE TAX.—For purposes of paragraph (1), the tentative tax determined under this paragraph for a calendar year is a tax computed under section 2001(c) on the excess of—

''(A) the aggregate sum of the taxable gifts for such calendar year and for each of the preceding calendar periods, over

''(B) the exemption amount under section 2001(b)(3) for such calendar year.''.

(b) REPEAL OF UNIFIED CREDITS.—

(1) Section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is hereby repealed.

(2) Section 2505 of such Code (relating to unified credit against gift tax) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (b) of section 2011 of the Internal Revenue Code of 1986 is amended—

(i) by striking ''adjusted'' in the table; and

(ii) by striking the last sentence.

(B) Subsection (f) of section 2011 of such Code is amended by striking '', reduced by the amount of the unified credit provided by section 2010''.

(2) Subsection (a) of section 2012 of such Code is amended by striking ''and the unified credit provided by section 2010''.

(3) Subparagraph (A) of section 2013(c)(1) of such Code is amended by striking ''2010,''.

(4) Paragraph (2) of section 2014(b) of such Code is amended by striking ''2010, 2011,'' and inserting ''2011''.

(5) Clause (ii) of section 2056A(b)(12)(C) of such Code is amended to read as follows:

''(ii) to treat any reduction in the tax imposed by paragraph (1)(A) by reason of the credit allowable under section 2010 (as in effect on the day before the date of enactment of the Rural America Prosperity Act of 2001) or the exemption amount allowable under section 2001(b) with respect to the decedent as a credit under section 2505 (as so in effect) or exemption under section 2521 (as the case may be) allowable to such surviving spouse for purposes of determining the amount of the exemption allowable under section 2521 with respect to taxable gifts made by the surviving spouse during the year in which the spouse becomes a citizen or any subsequent year,''.

(6) Subsection (a) of section 2057 of such Code is amended by striking paragraphs (2) and (3) and inserting the following new paragraph:

''(2) MAXIMUM DEDUCTION.—The deduction allowed by this section shall not exceed the excess of $1,300,000 over the exemption amount (as defined in section 2001(b)(3)).''.

(7)(A) Subsection (b) of section 2101 of such Code is amended to read as follows:

''(b) COMPUTATION OF TAX.—

''(1) IN GENERAL.—The tax imposed by this section shall be the amount equal to the excess (if any) of—

''(A) the tentative tax determined under paragraph (2), over

''(B) a tentative tax computed under section 2001(c) on the amount of the adjusted taxable gifts.

''(2) TENTATIVE TAX.—For purposes of paragraph (1), the tentative tax determined under this paragraph is a tax computed under section 2001(c) on the excess of—

''(A) the sum of—

''(i) the amount of the taxable estate, and

''(ii) the amount of the adjusted taxable gifts, over

''(B) the exemption amount for the calendar year in which the decedent died.

''(3) EXEMPTION AMOUNT.—

''(A) IN GENERAL.—The term 'exemption amount' means $60,000.

''(B) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a nonresident not a citizen of the United States under section 2209, the exemption amount under this paragraph shall be the greater of—

''(i) $60,000, or

''(ii) that proportion of $175,000 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

''(C) SPECIAL RULES.—

''(i) COORDINATION WITH TREATIES.—To the extent required under any treaty obligation of the United States, the exemption amount allowed under this paragraph shall be equal to the amount which bears the same ratio to the exemption amount under section 2001(b)(3) (for the calendar year in which the decedent died) as the value of the part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated. For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.

''(ii) COORDINATION WITH GIFT TAX EXEMPTION AND UNIFIED CREDIT.—If an exemption has been allowed under section 2521 (or a credit has been allowed under section 2505 as in effect on the day before the date of enactment of the Rural America Prosperity Act of 2001) with respect to any gift made by the decedent, each dollar amount contained in subparagraph (A) or (B) or the exemption amount applicable under clause (i) of this subparagraph (whichever applies) shall be reduced by the exemption so allowed under section 2521 (or, in the case of such a credit, by the amount of the gift for which the credit was so allowed).''.

(8) Section 2102 of such Code is amended by striking subsection (c).

(9)(A) Subsection (a) of section 2107 of such Code is amended by adding at the end the following new paragraph:

''(3) LIMITATION ON EXEMPTION AMOUNT.—Subparagraphs (B) and (C) of section 2101(b)(3) shall not apply in applying section 2101 for purposes of this section.''.

(B) Subsection (c) of section 2107 of such Code is amended—

(i) by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(ii) by striking the second sentence of paragraph (2) (as so redesignated).

(10) Paragraph (1) of section 6018(a) of such Code is amended by striking ''the applicable exclusion amount in effect under section 2010(c)'' and inserting ''the exemption amount under section 2001(b)(3)''.

(11) Subparagraph (A) of section 6601(j)(2) of such Code is amended to read as follows:

''(A) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were $1,000,000, or''.

(12) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by striking the item relating to section 2010.

(13) The table of sections for subchapter A of chapter 12 of such Code is amended by striking the item relating to section 2505.

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) insofar as they relate to the tax imposed by chapter 11 of the Internal Revenue Code of 1986, shall apply to estates of decedents dying after December 31, 2001, and

(2) insofar as they relate to the tax imposed by chapter 12 of such Code, shall apply to gifts made after December 31, 2001.

**SEC. 116. DEEMED ALLOCATION OF GST EXEMPTION TO LIFETIME TRANSFERS TO TRUSTS; RETROACTIVE ALLOCATIONS.**

(a) IN GENERAL.—Section 2632 of the Internal Revenue Code of 1986 (relating to special rules for allocation of GST exemption) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

''(c) DEEMED ALLOCATION TO CERTAIN LIFETIME TRANSFERS TO GST TRUSTS.—

''(1) IN GENERAL.—If any individual makes an indirect skip during such individual's lifetime, any unused portion of such individual's GST exemption shall be allocated to the property transferred to the extent necessary to make the inclusion ratio for such property zero. If the amount of the indirect skip exceeds such unused portion, the entire unused portion shall be allocated to the property transferred.

''(2) UNUSED PORTION.—For purposes of paragraph (1), the unused portion of an individual's GST exemption is that portion of such exemption which has not previously been—

''(A) allocated by such individual,

''(B) treated as allocated under subsection (b) with respect to a direct skip occurring during or before the calendar year in which the indirect skip is made, or

''(C) treated as allocated under paragraph (1) with respect to a prior indirect skip.

''(3) DEFINITIONS.—

''(A) INDIRECT SKIP.—For purposes of this subsection, the term 'indirect skip' means any transfer of property (other than a direct skip) subject to the tax imposed by chapter 12 made to a GST trust.

''(B) GST TRUST.—The term 'GST trust' means a trust that could have a generation-skipping transfer with respect to the transferor unless—

''(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons—

''(I) before the date that the individual attains age 46,

''(II) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

''(III) upon the occurrence of an event that, in accordance with regulations prescribed by the Secretary, may reasonably be expected to occur before the date that such individual attains age 46;

''(ii) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons and who are living on the date of death of another person identified in the instrument (by name or by class) who is more than 10 years older than such individuals;

''(iii) the trust instrument provides that, if one or more individuals who are non-skip persons die on or before a date or event described in clause (i) or (ii), more than 25 percent of the trust corpus either must be distributed to the estate or estates of one or more of such individuals or is subject to a general power of appointment exercisable by one or more of such individuals;

''(iv) the trust is a trust any portion of which would be included in the gross estate of a non-skip person (other than the transferor) if such person died immediately after the transfer;

''(v) the trust is a charitable lead annuity trust (within the meaning of section 2642(e)(3)(A)) or a charitable remainder annuity trust or a charitable remainder unitrust (within the meaning of section 664(d)); or

''(vi) the trust is a trust with respect to which a deduction was allowed under section 2522 for the amount of an interest in the form of the right to receive annual payments of a fixed percentage of the net fair market value of the trust property (determined yearly) and which is required to pay principal to a non-skip person if such person is alive when the yearly payments for which the deduction was allowed terminate.

For purposes of this subparagraph, the value of transferred property shall not be considered to be includible in the gross estate of a non-skip person or subject to a right of withdrawal by reason of such person holding a right to withdraw so much of such property as does not exceed the amount referred to in section 2503(b) with respect to any transferor, and it shall be assumed that powers of appointment held by non-skip persons will not be exercised.

''(4) AUTOMATIC ALLOCATIONS TO CERTAIN GST TRUSTS.—For purposes of this subsection, an indirect skip to which section 2642(f) applies shall be deemed to have been made only at the close of the estate tax inclusion period. The fair market value of such transfer shall be the fair market value of the trust property at the close of the estate tax inclusion period.

''(5) APPLICABILITY AND EFFECT.—

''(A) IN GENERAL.—An individual—

''(i) may elect to have this subsection not apply to—

''(I) an indirect skip, or

''(II) any or all transfers made by such individual to a particular trust, and

''(ii) may elect to treat any trust as a GST trust for purposes of this subsection with respect to any or all transfers made by such individual to such trust.

''(B) ELECTIONS.—

''(i) ELECTIONS WITH RESPECT TO INDIRECT SKIPS.—An election under subparagraph (A)(i)(I) shall be deemed to be timely if filed on a timely filed gift tax return for the calendar year in which the transfer was made or deemed to have been made pursuant to paragraph (4) or on such later date or dates as may be prescribed by the Secretary.

''(ii) OTHER ELECTIONS.—An election under clause (i)(II) or (ii) of subparagraph (A) may be made on a timely filed gift tax return for the calendar year for which the election is to become effective.

''(d) RETROACTIVE ALLOCATIONS.—

''(1) IN GENERAL.—If—

''(A) a non-skip person has an interest or a future interest in a trust to which any transfer has been made,

''(B) such person—

''(i) is a lineal descendant of a grandparent of the transferor or of a grandparent of the transferor's spouse or former spouse, and

''(ii) is assigned to a generation below the generation assignment of the transferor, and

''(C) such person predeceases the transferor,

then the transferor may make an allocation of any of such transferor's unused GST exemption to any previous transfer or transfers to the trust on a chronological basis.

''(2) SPECIAL RULES.—If the allocation under paragraph (1) by the transferor is made on a gift tax return filed on or before the date prescribed by section 6075(b) for gifts made within the calendar year within which the non-skip person's death occurred—

''(A) the value of such transfer or transfers for purposes of section 2642(a) shall be determined as if such allocation had been made on a timely filed gift tax return for each calendar year within which each transfer was made,

''(B) such allocation shall be effective immediately before such death, and

''(C) the amount of the transferor's unused GST exemption available to be allocated shall be determined immediately before such death.

''(3) FUTURE INTEREST.—For purposes of this subsection, a person has a future interest in a trust if the trust may permit income or corpus to be paid to such person on a date or dates in the future.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 2632(b) of the Internal Revenue Code of 1986 is amended by striking ''with respect to a direct skip'' and inserting ''or subsection (c)(1)''.

(c) EFFECTIVE DATES.—

(1) DEEMED ALLOCATION.—Section 2632(c) of the Internal Revenue Code of 1986 (as added by subsection (a)), and the amendment made by subsection (b), shall apply to transfers subject to chapter 11 or 12 made after December 31, 2000, and to estate tax inclusion periods ending after December 31, 2000.

(2) RETROACTIVE ALLOCATIONS.—Section 2632(d) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to deaths of non-skip persons occurring after December 31, 2000.

**SEC. 117. SEVERING OF TRUSTS.**

(a) IN GENERAL.—Subsection (a) of section 2642 of the Internal Revenue Code of 1986 (relating to inclusion ratio) is amended by adding at the end the following new paragraph:

''(3) SEVERING OF TRUSTS.—

''(A) IN GENERAL.—If a trust is severed in a qualified severance, the trusts resulting from such severance shall be treated as separate trusts thereafter for purposes of this chapter.

''(B) QUALIFIED SEVERANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'qualified severance' means the division of a single trust and the creation (by any means available under the governing instrument or under local law) of two or more trusts if—

''(I) the single trust was divided on a fractional basis, and

''(II) the terms of the new trusts, in the aggregate, provide for the same succession of interests of beneficiaries as are provided in the original trust.

''(ii) TRUSTS WITH INCLUSION RATIO GREATER THAN ZERO.—If a trust has an inclusion ratio of greater than zero and less than 1, a severance is a qualified severance only if the single trust is divided into two trusts, one of which receives a fractional share of the total value of all trust assets equal to the applicable fraction of the single trust immediately before the severance. In such case, the trust receiving such fractional share shall have an inclusion ratio of zero and the other trust shall have an inclusion ratio of 1.

''(iii) REGULATIONS.—The term 'qualified severance' includes any other severance permitted under regulations prescribed by the Secretary.

''(C) TIMING AND MANNER OF SEVERANCES.—A severance pursuant to this paragraph may be made at any time. The Secretary shall prescribe by forms or regulations the manner in which the qualified severance shall be reported to the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to severances after December 31, 2000.

**SEC. 118. MODIFICATION OF CERTAIN VALUATION RULES.**

(a) GIFTS FOR WHICH GIFT TAX RETURN FILED OR DEEMED ALLOCATION MADE.—Paragraph (1) of section 2642(b) of the Internal Revenue Code of 1986 (relating to valuation rules, etc.) is amended to read as follows:

''(1) GIFTS FOR WHICH GIFT TAX RETURN FILED OR DEEMED ALLOCATION MADE.—If the allocation of the GST exemption to any transfers of property is made on a gift tax return filed on or before the date prescribed by section 6075(b) for such transfer or is deemed to be made under section 2632 (b)(1) or (c)(1)—

''(A) the value of such property for purposes of subsection (a) shall be its value as finally determined for purposes of chapter 12 (within the meaning of section 2001(f)(2)), or, in the case of an allocation deemed to have been made at the close of an estate tax inclusion period, its value at the time of the close of the estate tax inclusion period, and

''(B) such allocation shall be effective on and after the date of such transfer, or, in the case of an allocation deemed to have been made at the close of an estate tax inclusion period, on and after the close of such estate tax inclusion period.''.

(b) TRANSFERS AT DEATH.—Subparagraph (A) of section 2642(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(A) TRANSFERS AT DEATH.—If property is transferred as a result of the death of the transferor, the value of such property for purposes of subsection (a) shall be its value as finally determined for purposes of chapter 11; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the distribution concerned.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 2000.

**SEC. 119. RELIEF PROVISIONS.**

(a) IN GENERAL.—Section 2642 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) RELIEF PROVISIONS.—

''(1) RELIEF FROM LATE ELECTIONS.—

''(A) IN GENERAL.—The Secretary shall by regulation prescribe such circumstances and procedures under which extensions of time will be granted to make—

''(i) an allocation of GST exemption described in paragraph (1) or (2) of subsection (b), and

''(ii) an election under subsection (b)(3) or (c)(5) of section 2632.

Such regulations shall include procedures for requesting comparable relief with respect to transfers made before the date of enactment of this paragraph.

''(B) BASIS FOR DETERMINATIONS.—In determining whether to grant relief under this paragraph, the Secretary shall take into account all relevant circumstances, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Secretary deems relevant. For purposes of determining whether to grant relief under this paragraph, the time for making the allocation (or election) shall be treated as if not expressly prescribed by statute.

''(2) SUBSTANTIAL COMPLIANCE.—An allocation of GST exemption under section 2632 that demonstrates an intent to have the lowest possible inclusion ratio with respect to a transfer or a trust shall be deemed to be an allocation of so much of the transferor's unused GST exemption as produces the lowest possible inclusion ratio. In determining whether there has been substantial compliance, all relevant circumstances shall be taken into account, including evidence of intent contained in the trust instrument or instrument of transfer and such other factors as the Secretary deems relevant.''.

(b) EFFECTIVE DATES.—

(1) RELIEF FROM LATE ELECTIONS.—Section 2642(g)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to requests pending on, or filed after, December 31, 2000.

(2) SUBSTANTIAL COMPLIANCE.—Section 2642(g)(2) of such Code (as so added) shall apply to transfers subject to chapter 11 or 12 of the Internal Revenue Code of 1986 made after December 31, 2000. No implication is intended with respect to the availability of relief from late elections or the application of a rule of substantial compliance on or before such date.

**SEC. 120. EXPANSION OF ESTATE TAX RULE FOR CONSERVATION EASEMENTS.**

(a) WHERE LAND IS LOCATED.—

(1) IN GENERAL.—Clause (i) of section 2031(c)(8)(A) of the Internal Revenue Code of 1986 (defining land subject to a conservation easement) is amended—

(A) by striking ''25 miles'' both places it appears and inserting ''50 miles''; and

(B) striking ''10 miles'' and inserting ''25 miles''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2000.

(b) CLARIFICATION OF DATE FOR DETERMINING VALUE OF LAND AND EASEMENT.—

(1) IN GENERAL.—Section 2031(c)(2) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended by adding at the end the following new sentence: ''The values taken into account under the preceding sentence shall be such values as of the date of the contribution referred to in paragraph (8)(B).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to estates of decedents dying after December 31, 1997.

## TITLE II—STUDY OF COSTS OF REGULATIONS ON FARMERS, RANCHERS, AND FORESTERS

### SEC. 201. COMPTROLLER GENERAL STUDY OF REGULATIONS.

(a) DATA REVIEW AND COLLECTION.—The Comptroller General of the United States shall—

(1) conduct a review of existing Federal and non-Federal studies and data regarding the cost to farmers, ranchers, and foresters of complying with existing or proposed Federal regulations directly affecting farmers, ranchers, and foresters; and

(2) as necessary, obtain and analyze new data concerning the costs to farmers, ranchers, and foresters of complying with Federal regulations proposed as of February 1, 2001, directly affecting farmers, ranchers, and foresters.

(b) USE OF DATA.—Using the studies and data reviewed and collected under subsection (a), the Comptroller General shall—

(1) assess the overall costs to farmers, ranchers, and foresters of complying with existing and proposed Federal regulations directly affecting farmers, ranchers, and foresters; and

(2) identify and recommend reasonable alternatives to those regulations that will achieve the objectives of the regulations at less cost to farmers, ranchers, and foresters.

(c) SUBMISSION OF RESULTS.—Not later than February 1, 2002, the Comptroller General shall submit to the Secretary of Agriculture, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives the results of the assessment conducted under subsection (b)(1) and the recommendations prepared under subsection (b)(2).

### SEC. 202. RESPONSE OF SECRETARY OF AGRICULTURE.

Not later than April 1, 2002, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report responding to the recommendations of the Comptroller General under section 202 regarding reasonable alternatives that could achieve the objectives of Federal regulations at less cost to farmers, ranchers, and foresters.

## TITLE III—EXTENSION OF TRADE AUTHORITIES PROCEDURES FOR RECIPROCAL TRADE AGREEMENTS

### SEC. 301. SHORT TITLE.

This title may be cited as the ''Reciprocal Trade Agreement Authorities Act of 2001''.

### SEC. 302. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 303 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement; and

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—The principal negotiating objective of the United States regarding foreign investment is to reduce or eliminate artificial or trade-distorting barriers to trade related foreign investment by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice; and

(E) providing meaningful procedures for resolving investment disputes.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to United States industries whose products are subject to the lengthiest transition periods for full compliance by developing countries with that Agreement, and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement entered into by the United States provide protection at least as strong as the protection afforded by chapter 17 of the North American Free Trade Agreement and the annexes thereto;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights; and

(iv) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions; and

(B) increased openness of dispute settlement proceedings, including under the World Trade Organization.

(6) RECIPROCAL TRADE IN AGRICULTURE.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk and value-added commodities by—

(A) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(i) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(ii) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(B) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(C) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, including—

(i) unfair or trade-distorting activities of export state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of export state trading enterprises and such other mechanisms;

(ii) unjustified trade restrictions or commercial requirements affecting new technologies, including biotechnology;

(iii) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(iv) other unjustified technical barriers to trade; and

(v) restrictive rules in the administration of tariff-rate quotas;

(D) improving import relief mechanisms to recognize the unique characteristics of perishable agriculture;

(E) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(F) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements; and

(G) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture.

(7) LABOR, ENVIRONMENT, AND OTHER MATTERS.—The principal negotiating objective of the United States regarding labor, environment, and other matters is to address the

following aspects of foreign government policies and practices regarding labor, environment, and other matters that are directly related to trade:

(A) To ensure that foreign labor, environmental, health, or safety policies and practices do not arbitrarily or unjustifiably discriminate or serve as disguised barriers to trade.

(B) To ensure that foreign governments do not derogate from or waive existing domestic environmental, health, safety, or labor measures, including measures that deter exploitative child labor, as an encouragement to gain competitive advantage in international trade or investment. Nothing in this subparagraph is intended to address changes to a country's laws that are consistent with sound macroeconomic development.

(8) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in financial services are those set forth in section 135(a) of the Uruguay Round Agreements Act (19 U.S.C. 3555(a)), regarding trade in civil aircraft are those set forth in section 135(c) of that Act, and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) INTERNATIONAL ECONOMIC POLICY OBJECTIVES.—

(1) IN GENERAL.—The President should take into account the relationship between trade agreements and other important priorities of the United States and seek to ensure that the trade agreements entered into by the United States complement and reinforce other policy goals. The United States priorities in this area include—

(A) seeking to ensure that trade and environmental policies are mutually supportive;

(B) seeking to protect and preserve the environment and enhance the international means for doing so, while optimizing the use of the world's resources;

(C) promoting respect for worker rights and the rights of children and an understanding of the relationship between trade and worker rights, particularly by working with the International Labor Organization to encourage the observance and enforcement of core labor standards, including the prohibition on exploitative child labor; and

(D) supplementing and strengthening standards for protection of intellectual property under conventions administered by international organizations other than the World Trade Organization, expanding these conventions to cover new and emerging technologies, and eliminating discrimination and unreasonable exceptions or preconditions to such protection.

(2) APPLICABILITY OF TRADE AUTHORITIES PROCEDURES.—Nothing in this subsection shall be construed to authorize the use of the trade authorities procedures described in section 303 to modify United States law.

(d) GUIDANCE FOR NEGOTIATORS.—

(1) DOMESTIC OBJECTIVES.—In pursuing the negotiating objectives described in subsection (b), the negotiators on behalf of the United States shall take into account United States domestic objectives, including the protection of health and safety, essential security, environmental, consumer, and employment opportunity interests, and the law and regulations related thereto.

(2) CONSULTATIONS WITH CONGRESSIONAL ADVISERS AND ENFORCEMENT OF THE TRADE LAWS.—In the course of negotiations conducted under this title, the United States Trade Representative shall—

(A) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974; and

(B) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping and countervailing duty laws, and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

**SEC. 303. TRADE AGREEMENTS AUTHORITY.**

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this title will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) October 1, 2003, or

(ii) October 1, 2007, if trade authorities procedures are extended under subsection (c), and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement. The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate of duty that is less than 50 percent of the rate of the duty that applies on such date of enactment;

(B) reduces the rate of duty on an article to take effect on a date that is more than 10 years after the first reduction that is proclaimed to carry out a trade agreement with respect to such article; or

(C) increases any rate of duty above the rate that applied on January 1, 2001.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 305 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B) and (2) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization or as part of an interim agreement leading to the formation of a regional free-trade area.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect,

and that the purposes, policies, and objectives of this title will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) October 1, 2003, or

(ii) October 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 302 and the President satisfies the conditions set forth in section 304.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—The provisions of section 151 of the Trade Act of 1974 (in this title referred to as ''trade authorities procedures'')

apply to a bill of either House of Congress consisting only of—

(A) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement,

(B) provisions directly related to the principal trade negotiating objectives set forth in section 302(b) achieved in such trade agreement, if those provisions are necessary for the operation or implementation of United States rights or obligations under such trade agreement,

(C) provisions that define and clarify, or provisions that are related to, the operation or effect of the provisions of the trade agreement,

(D) provisions to provide adjustment assistance to workers and firms adversely affected by trade, and

(E) provisions necessary for purposes of complying with section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 in implementing the trade agreement,

to the same extent as such section 151 applies to implementing bills under that section. A bill to which this subparagraph applies shall hereafter in this title be referred to as an ''implementing bill''.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 305(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before October 1, 2003; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after September 30, 2003, and before October 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before October 1, 2003.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than July 1, 2003, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than August 1, 2003, a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this title; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) REPORTS MAY BE CLASSIFIED.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTION.—(A) For purposes of paragraph (1), the term ''extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: ''That the ____ disapproves the request of the President for the extension, under section 303(c)(1)(B)(i) of the Reciprocal Trade Agreement Authorities Act of 2001, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 303(b) of the Reciprocal Trade Agreement Authorities Act of 2001 after September 30, 2003.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) An extension disapproval resolution—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and to the Committee on Rules.

(C) The provisions of sections 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to an extension disapproval resolution.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after September 30, 2003.

**SEC. 304. CONSULTATIONS.**

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—

(1) IN GENERAL.—The President, with respect to any agreement that is subject to the provisions of section 303(b), shall—

(A) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and such other committees of the House and Senate as the President deems appropriate.

(2) CONSULTATIONS REGARDING NEGOTIATIONS ON CERTAIN OBJECTIVES.—

(A) CONSULTATION.—In addition to the requirements set forth in paragraph (1), before initiating negotiations with respect to a trade agreement subject to section 303(b) where the subject matter of such negotiations is directly related to the principal trade negotiating objectives set forth in section 302(b)(1) or section 302(b)(7), the President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and with the appropriate advisory groups established under section 135 of the Trade Act of 1974 with respect to such negotiations.

(B) SCOPE.—The consultations described in subparagraph (A) shall concern the manner in which the negotiation will address the objective of reducing or eliminating a specific tariff or nontariff barrier or foreign government policy or practice directly related to trade that decreases market opportunities for United States exports or otherwise distorts United States trade.

(3) NEGOTIATIONS REGARDING AGRICULTURE.—Before initiating negotiations the subject matter of which is directly related to the subject matter under section 302(b)(6)(A) with any country, the President shall assess whether United States tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(b) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 303(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) the implementation of the agreement under section 305, including the general effect of the agreement on existing laws.

(c) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 303(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 303(a)(1) or 305(a)(1)(A) of the President's intention to enter into the agreement.

**SEC. 305. IMPLEMENTATION OF TRADE AGREEMENTS.**

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 303(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to

existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 303(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of this title;

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce; and

(IV) how the implementing bill meets the standards set forth in section 303(b)(3).

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 303(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 303(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to that trade agreement, the other House separately agrees to a procedural disapproval resolution with respect to that agreement.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term ''procedural disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the President has failed or refused to notify or consult (as the case may be) with Congress in accordance with section 304 or 305 of the Reciprocal Trade Agreement Authorities Act of 2001 on negotiations with respect to, or entering into, a trade agreement to which section 303(b) of that Act applies and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to that trade agreement.''.

(2) PROCEDURES FOR CONSIDERING RESOLUTION.—(A) A procedural disapproval resolution—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules;

(II) shall be referred to the Committee on Ways and Means and to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be an original resolution of the Committee on Finance.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and by the Committee on Rules.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section and section 303(c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

**SEC. 306. TREATMENT OF CERTAIN TRADE AGREEMENTS.**

(a) CERTAIN AGREEMENTS.—Notwithstanding section 303(b)(2), if an agreement to which section 303(b) applies—

(1) is entered into under the auspices of the World Trade Organization regarding trade in information technology products,

(2) is entered into under the auspices of the World Trade Organization regarding extended negotiations on financial services as described in section 135(a) of the Uruguay Round Agreements Act (19 U.S.C. 3555(a)),

(3) is entered into under the auspices of the World Trade Organization regarding the rules of origin work program described in Article 9 of the Agreement on Rules of Origin referred to in section 101(d)(10) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(10)), or

(4) is entered into with Chile,

and results from negotiations that were commenced before the date of enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 304(a), and any procedural disapproval resolution under section 305(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 304(a); and

(2) the President shall consult regarding the negotiations described in subsection (a) with the committees described in section 304(a)(1)(B) as soon as feasible after the enactment of this Act.

**SEC. 307. CONFORMING AMENDMENTS.**

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking ''section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act'' and inserting ''section 282 of the Uruguay Round Agreements Act, or section 305(a)(1) of the Reciprocal Trade Agreement Authorities Act of 2001''.

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking ''or section 282 of the Uruguay Round Agreements Act'' and inserting '', section 282 of the Uruguay Round Agreements Act, or section 305(a)(1) of the Reciprocal Trade Agreement Authorities Act of 2001''.

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 123 of this Act or section 303(a) or (b) of the Reciprocal Trade Agreement Authorities Act of 2001,''; and

(ii) in paragraph (2), by striking ''section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 303(b) of the Reciprocal Trade Agreement Authorities Act of 2001'';

(B) in subsection (b), by striking ''section 1102(a)(3)(A)'' and inserting ''section 303(a)(3)(A) of the Reciprocal Trade Agreement Authorities Act of 2001'' before the end period; and

(C) in subsection (c), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 303 of the Reciprocal Trade Agreement Authorities Act of 2001,''.

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' each place it appears and inserting ''section 303 of the Reciprocal Trade Agreement Authorities Act of 2001,''.

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 303 of the Reciprocal Trade Agreement Authorities Act of 2001''.

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 303 of the Reciprocal Trade Agreement Authorities Act of 2001'';

(B) in subsection (e)(1)—

(i) by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' each place it appears and inserting ''section 303 of the Reciprocal Trade Agreement Authorities Act of 2001''; and

(ii) by striking ''section 1103(a)(1)(A) of such Act of 1988'' and inserting ''section 305(a)(1)(A) of the Reciprocal Trade Agreement Authorities Act of 2001''; and

(C) in subsection (e)(2), by striking ''section 1101 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 302 of the Reciprocal Trade Agreement Authorities Act of 2001''.

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking ''or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''or under section 303 of the Reciprocal Trade Agreement Authorities Act of 2001''.

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126,

and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 303 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 303 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

**SEC. 308. DEFINITIONS.**

In this title:

(1) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(2) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(3) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(4) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

## TITLE IV—AGRICULTURAL TRADE FREEDOM

**SEC. 401. SHORT TITLE.**

This title may be cited as the ''Agricultural Trade Freedom Act''.

**SEC. 402. DEFINITIONS.**

In this title, the terms ''agricultural commodity'' and ''United States agricultural commodity'' have the meanings given the terms in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

**SEC. 403. AGRICULTURAL COMMODITIES, LIVESTOCK, AND PRODUCTS EXEMPT FROM UNILATERAL AGRICULTURAL SANCTIONS.**

Subtitle B of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5661 et seq.) is amended by adding at the end the following:

**''SEC. 418. AGRICULTURAL COMMODITIES, LIVESTOCK, AND PRODUCTS EXEMPT FROM UNILATERAL AGRICULTURAL SANCTIONS.**

''(a) DEFINITIONS.—In this section:

''(1) CURRENT SANCTION.—The term 'current sanction' means a unilateral agricultural sanction that is in effect on the date of enactment of the Agricultural Trade Freedom Act.

''(2) NEW SANCTION.—The term 'new sanction' means a unilateral agricultural sanction that becomes effective after the date of enactment of that Act.

''(3) UNILATERAL AGRICULTURAL SANCTION.—The term 'unilateral agricultural sanction' means any prohibition, restriction, or condition that is imposed on the export of an agricultural commodity to a foreign country or foreign entity and that is imposed by the United States for reasons of the national interest, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other members of that regime have agreed to impose substantially equivalent measures.

''(b) EXEMPTION.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3) and notwithstanding any other provision of law, agricultural commodities made available as a result of commercial sales shall be exempt from a unilateral agricultural sanction imposed by the United States on another country.

''(2) EXCLUSIONS.—Paragraph (1) shall not apply to agricultural commodities made available as a result of programs carried out under—

''(A) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

''(B) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

''(C) the Food for Progress Act of 1985 (7 U.S.C. 1736o);

''(D) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.); or

''(E) section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

''(3) DETERMINATION BY PRESIDENT.—The President may include agricultural commodities made available as a result of the activities described in paragraph (1) in the unilateral agricultural sanction imposed on a foreign country or foreign entity if—

''(A) a declaration of war by Congress is in effect with respect to the foreign country or foreign entity; or

''(B)(i) the President determines that inclusion of the agricultural commodities is in the national interest;

''(ii) the President submits the report required under subsection (d); and

''(iii) Congress has not approved a joint resolution stating the disapproval of Congress of the report submitted under subsection (d).

''(4) EFFECT ON AGRICULTURAL TRADE.—Nothing in this subsection requires the imposition of a unilateral agricultural sanction with respect to an agricultural commodity, whether exported in connection with a commercial sale or a program described in paragraph (2).

''(c) CURRENT SANCTIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), the exemption under subsection (b)(1) shall apply to a current sanction.

''(2) PRESIDENTIAL REVIEW.—Not later than 90 days after the date of enactment of the Agricultural Trade Freedom Act, the President shall review each current sanction to determine whether the exemption under subsection (b)(1) should apply to the current sanction.

''(3) APPLICATION.—The exemption under subsection (b)(1) shall apply to a current sanction beginning on the date that is 180 days after the date of enactment of the Agricultural Trade Freedom Act unless the President determines that the exemption should not apply to the current sanction for reasons of the national interest.

''(d) REPORT.—

''(1) IN GENERAL.—If the President determines under subsection (b)(3)(B)(i) or (c)(3) that the exemption should not apply to a unilateral agricultural sanction, the President shall submit a report to Congress not later than 15 days after the date of the determination.

''(2) CONTENTS OF REPORT.—The report shall contain—

''(A) an explanation of—

''(i) the economic activity that is proposed to be prohibited, restricted, or conditioned by the unilateral agricultural sanction; and

''(ii) the national interest for which the exemption should not apply to the unilateral agricultural sanction; and

''(B) an assessment by the Secretary—

''(i) regarding export sales—

''(I) in the case of a current sanction, whether markets in the sanctioned country or countries present a substantial trade opportunity for export sales of a United States agricultural commodity; or

''(II) in the case of a new sanction, the extent to which any country or countries to be sanctioned or likely to be sanctioned are markets that accounted for, during the preceding calendar year, more than 3 percent of export sales of a United States agricultural commodity;

''(ii) regarding the effect on United States agricultural commodities—

''(I) in the case of a current sanction, the potential for export sales of United States agricultural commodities in the sanctioned country or countries; and

''(II) in the case of a new sanction, the likelihood that exports of United States agricultural commodities will be affected by the new sanction or by retaliation by any country to be sanctioned or likely to be sanctioned, including a description of specific United States agricultural commodities that are most likely to be affected;

''(iii) regarding the income of agricultural producers—

''(I) in the case of a current sanction, the potential for increasing the income of producers of the United States agricultural commodities involved; and

''(II) in the case of a new sanction, the likely effect on incomes of producers of the agricultural commodities involved;

''(iv) regarding displacement of United States suppliers—

''(I) in the case of a current sanction, the potential for increased competition for United States suppliers of the agricultural commodity in countries that are not subject to the current sanction because of uncertainty about the reliability of the United States suppliers; and

''(II) in the case of a new sanction, the extent to which the new sanction would permit foreign suppliers to replace United States suppliers; and

''(v) regarding the reputation of United States agricultural producers as reliable suppliers—

''(I) in the case of a current sanction, whether removing the sanction would improve the reputation of United States producers as reliable suppliers of agricultural commodities in general, and of specific agricultural commodities identified by the Secretary; and

''(II) in the case of a new sanction, the likely effect of the proposed sanction on the reputation of United States producers as reliable suppliers of agricultural commodities in general, and of specific agricultural commodities identified by the Secretary.

''(e) CONGRESSIONAL PRIORITY PROCEDURES.—

''(1) JOINT RESOLUTION.—In this subsection, the term 'joint resolution' means only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (d) is received by Congress, the matter after the resolving clause of which is as follows: 'That Congress disapproves the report of the President pursuant to section 418(d) of the Agricultural Trade Act of 1978, transmitted on _____.', with the blank completed with the appropriate date.

''(2) REFERRAL OF REPORT.—The report described in subsection (d) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

''(3) REFERRAL OF JOINT RESOLUTION.—

''(A) IN GENERAL.—A joint resolution shall be referred to the committees in each House of Congress with jurisdiction.

''(B) REPORTING DATE.—A joint resolution referred to in subparagraph (A) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

''(4) DISCHARGE OF COMMITTEE.—If the committee to which is referred a joint resolution has not reported the joint resolution (or an identical joint resolution) at the end of 30 session days of Congress after the date of introduction of the joint resolution—

''(A) the committee shall be discharged from further consideration of the joint resolution; and

''(B) the joint resolution shall be placed on the appropriate calendar of the House concerned.

''(5) FLOOR CONSIDERATION.—

''(A) MOTION TO PROCEED.—

''(i) IN GENERAL.—When the committee to which a joint resolution is referred has reported, or when a committee is discharged under paragraph (4) from further consideration of, a joint resolution—

''(I) it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House concerned to move to proceed to the consideration of the joint resolution; and

''(II) all points of order against the joint resolution (and against consideration of the joint resolution) are waived.

''(ii) PRIVILEGE.—The motion to proceed to the consideration of the joint resolution—

''(I) shall be highly privileged in the House of Representatives and privileged in the Senate; and

''(II) shall not be debatable.

''(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—The motion to proceed to the consideration of the joint resolution shall not be subject to—

''(I) amendment;

''(II) a motion to postpone; or

''(III) a motion to proceed to the consideration of other business.

''(iv) MOTION TO RECONSIDER NOT IN ORDER.—A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

''(v) BUSINESS UNTIL DISPOSITION.—If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House concerned until disposed of.

''(B) LIMITATIONS ON DEBATE.—

''(i) IN GENERAL.—Debate on the joint resolution, and on all debatable motions and appeals in connection with the joint resolution, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution.

''(ii) FURTHER DEBATE LIMITATIONS.—A motion to limit debate shall be in order and shall not be debatable.

''(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—An amendment to, a motion to postpone, a motion to proceed to the consideration of other business, a motion to recommit the joint resolution, or a motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

''(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House concerned, the vote on final passage of the joint resolution shall occur.

''(D) RULINGS OF THE CHAIR ON PROCEDURE.—An appeal from a decision of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

''(6) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, the following procedures shall apply:

''(A) NO COMMITTEE REFERRAL.—The joint resolution of the other House shall not be referred to a committee.

''(B) FLOOR PROCEDURE.—With respect to a joint resolution of the House receiving the joint resolution—

''(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(ii) the vote on final passage shall be on the joint resolution of the other House.

''(C) DISPOSITION OF JOINT RESOLUTIONS OF RECEIVING HOUSE.—On disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

''(7) PROCEDURES AFTER ACTION BY BOTH THE HOUSE AND SENATE.—If a House receives a joint resolution from the other House after the receiving House has disposed of a joint resolution originated in that House, the action of the receiving House with regard to the disposition of the joint resolution originated in that House shall be deemed to be the action of the receiving House with regard to the joint resolution originated in the other House.

''(8) RULEMAKING POWER.—This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this subsection—

''(i) is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution; and

''(ii) supersedes other rules only to the extent that this subsection is inconsistent with those rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.''.

**SEC. 404. SALE OR BARTER OF FOOD ASSISTANCE.**

It is the sense of Congress that the amendments to section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) made by section 208 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 954) were intended to allow the sale or barter of United States agricultural commodities in connection with United States food assistance only within the recipient country or countries adjacent to the recipient country, unless—

(1) the sale or barter within the recipient country or adjacent countries is not practicable; and

(2) the sale or barter within countries other than the recipient country or adjacent countries will not disrupt commercial markets for the agricultural commodity involved.

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By Mr. MCCONNELL (for himself, Mr. GRAHAM, Mr. BUNNING, Mr. DEWINE, Mr. WARNER, and Mr. LUGAR):

S. 335. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from gross income for distributions from qualified State tuition programs which are used to pay education expenses, and for other purposes; to the Committee on Finance.

Mr. MCCONNELL. Mr. President, today I am once again honored to introduce a bill which focuses on an important issue facing American families today—paying for the education of their children. I have long believed that we need to make college education more affordable, and my legislation, the Setting Aside for a Valuable Education, or SAVE, Act, will do that by making savings in qualified tuition savings plans entirely tax-free. I am pleased to be joined in this endeavor by the bill's original co-sponsors, Senators GRAHAM, BUNNING, DEWINE, WARNER, and LUGAR.

I have worked for the past six years to make saving for college easier for American families by providing ways to help them keep pace with the rising cost of a college education through tax incentives. In 1994, I introduced the first bill to make education savings in state tuition plans exempt from taxation. Since that time, Congress has made significant progress toward achieving this important goal.

In 1996, I was able to include a provision in the Small Business Job Protection Act that clarified the tax treatment of state-sponsored savings plans and the participants' investment. This measure established that account earnings on the savings plans are to be included in gross income when distributions to attend school are made. This was an important change because it removed the tax uncertainty that was hindering the plans' effectiveness and helped families who are trying to save for their children's future education needs. Before this clarification, it appeared that account earnings may be taxed annually, which would have deterred saving for education expenses. Also, my language shifted the tax burden upon distribution of the funds from the parent to the student, who is generally taxed at a lower rate.

The following year, the Taxpayer Relief Act of 1997 included several important legislative initiatives that maximized flexibility to families with investments in long-term education savings plans. Through this vehicle, I was pleased to be able to expand the definition of ''eligible education expenses'' to include room and board costs so that these expenses—often as much as one-half the entire cost of college—also received the deferred tax treatment. Secondly, I was able to include a provision which expanded the definition of ''eligible institutions'' to include all schools, including certain proprietary schools, which are eligible under the Department of Education's student aid program. Finally, I was pleased that the Taxpayer Relief Act included a more detailed definition of the term ''member of family'' to allow tax-free transfers of credits or account balances in a qualified tuition program to additional family members in the event that the named beneficiary does not attend college.

However, while I am proud of these initial success stories, I will continue to press to make education savings entirely tax free. While the end is in

sight, we cannot claim victory until we achieve this goal. In fact, the need for education savings tax relief is more acute then ever as recent studies demonstrate that we must continue to encourage parents to adopt a long-term savings approach for their children's future education.

According to the College Board, during the 2000–2001 academic school year, the average tuition at four-year public colleges rose between 4.4 and 5.2 percent. It is important to note that this increase was higher than the 1999 tuition increase of 3.4 percent. In addition, the College Board estimates that room and board charges will increase between 4 and 5 percent for next year. What is most frustrating is that despite the recent economic boom, the cost of a college education continues to rise at a rate faster than many families can afford. According to the College Board, since 1980 the price of a college education has been rising between two and three times the Consumer Price Index. In fact, tuition and fees for a four year college education has risen 115 percent over inflation since the 1980–81 school year, while median household income has risen only 20 percent. Over the past decade, tuition has increased between 32 and 49 percent, while family income over the same period has increased just 4 percent.

As a result, more and more families are forced to rely on financial aid to meet tuition costs. In fact, a majority of all college students utilize some amount of financial assistance. The amount of financial aid available to students and their families for the 1999–2000 school year topped $68 billion, more than 4% above than the previous year. However, there has been a marked trend from grant-based assistance programs to loan-based assistance programs, and today many students are forced to borrow in order to attend college. This shift toward loans increases the financial burden of attending college because students and families must then assume interest costs that can add thousands to the total cost of tuition.

We must not forget that compounded interest cuts both ways. For those students who must borrow, compounded interest is a burden, for those students and families who save, it is a blessing. By saving, participants can keep pace, or even ahead of, tuition increases. By borrowing, students bear additional interest costs that add thousands to the total cost of tuition. Savings have a positive impact by reducing the need for students to borrow tens of thousands of dollars in student loans. This will help make need-based grants, which target low-income families, better meet the demands of those who are in most need.

Mr. President, the need for rewarding long-term saving for college is clear. My legislation will recognize and award savings while allowing students and families that are participating in these state-sponsored plans to be exempt from federal income tax when the funds are used for qualified educational purposes. This bill will finish what I started in 1994.

Mr. President, as a result of our actions over the last several years, a majority of the states have implemented tuition savings plans for their residents. In the mid-1980s, states first began to recognize the difficulty that families faced in keeping pace with the rising cost of education. States like Kentucky, Florida, Ohio, and Michigan were among the first to start programs aimed at helping families save for their children's college education. Other states have since followed suit, and currently 48 states have some form of tuition savings plans.

Today, there are nearly one million savers who have contributed over $2 billion in education savings. In the Commonwealth of Kentucky alone, 3,250 beneficiaries have active accounts and have accumulated $13 million in savings. With average monthly contributions as low as $110, and nearly 60% of the participating families earning a household income of under $60,000 annually, state-sponsored tuition plans clearly benefit middle-class families—the exact Americans who deserve and need such relief.

In addition to accomplishing my long-sought goal of making savings in tuition savings plans entirely tax-free, the SAVE Act, includes several other new provisions. It allows private institutions to establish their own qualified prepaid tuition programs, and at the same time includes important consumer protections to ensure that these new plans operate in a fiscally responsible manner. The SAVE Act also modifies the cap on room and board expenses to more accurately reflect the cost of attending an institution of higher learning. The final important change made in the SAVE Act is a provision allowing for one annual rollover between Section 529 plans to meet the needs of our increasingly mobile society.

I have worked closely with state plan administrators over the years seeking both their advice and support. When I introduce the SAVE Act this afternoon, I will be honored once again to have the endorsement of the National Association of State Treasurers and the College Savings Plans Network (CSPN). I ask unanimous consent that CSPN's letter of support be included in the record. They have worked tirelessly in support of this legislation because they know it is in the best interests of plan participants—families who care about their children's education. In addition, state-sponsored tuition savings plans have recently been touted as one of the best ways to save for a college education by such influential magazines as Money, Fortune, and Business Week.

This overwhelming support for these programs underscores my belief that we have a real opportunity to go even further toward making college affordable for American families. It is in our national interest to maintain a quality and affordable education system for all families—not merely those fortunate to have the resources. My legislation rewards parents who are serious about their children's future and who are committed over the long-term to the education of their children by providing a significant tax break for all savers nationwide. This will reduce the cost of education and will not unnecessarily burden future generations with thousands of dollars in loans.

College is a lifelong investment. We must take steps to ensure that higher education is within the reach of every child so that they are prepared to meet the challenges they will face in our increasingly competitive world. We must make it easier for families to save for college, and we can do so this year by providing total tax freedom for education savings. My bill will make these tuition savings plans entirely tax-free when the money is drawn out to pay for college, and I believe that my legislation is the best approach to ensuring that our children can obtain a higher education without mortgaging their futures.

Mr. President, I appreciate the opportunity to speak to the Senate on this legislation and I look forward to working with the bill's co-sponsors and the Bush Administration to enact it into law.

I ask unanimous consent that the bill and a letter be printed in the RECORD.

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

S. 335

*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 ''Setting Aside for a Valuable Education (SAVE) Act''.

**SEC. 2. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.**

(a) IN GENERAL.—Subparagraph (B) of section 529(c)(3) of the Internal Revenue Code of 1986 (relating to distributions) is amended to read as follows:

''(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this paragraph—

''(i) IN-KIND DISTRIBUTIONS.—No amount shall be includible in gross income under subparagraph (A) by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense.

''(ii) CASH DISTRIBUTIONS.—In the case of distributions not described in clause (i), if—

''(I) such distributions do not exceed the qualified higher education expenses (reduced by expenses described in clause (i)), no amount shall be includible in gross income, and

''(II) in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

''(iii) EXCEPTION FOR INSTITUTIONAL PROGRAMS.—In the case of any taxable year beginning before January 1, 2004, clauses (i)

and (ii) shall not apply with respect to any distribution during such taxable year under a qualified State tuition program established and maintained by 1 or more eligible educational institutions.

''(iv) TREATMENT AS DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

''(v) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS.—The total amount of qualified higher education expenses with respect to an individual for the taxable year shall be reduced—

''(I) as provided in section 25A(g)(2), and

''(II) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A.

''(vi) COORDINATION WITH EDUCATION SAVINGS ACCOUNTS.—If, with respect to an individual for any taxable year—

''(I) the aggregate distributions to which clauses (i) and (ii) and section 530(d)(2)(A) apply, exceed

''(II) the total amount of qualified higher education expenses otherwise taken into account under clauses (i) and (ii) (after the application of clause (iv)) for such year,

the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under clauses (i) and (ii) and section 530(d)(2)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 135(d)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''section 530(d)(2)'' and inserting ''sections 529(c)(3)(B)(i) and 530(d)(2)''.

(2) Section 221(e)(2)(A) of such Code is amended by inserting ''529,'' after ''135,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. 3. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.**

(a) IN GENERAL.—Section 529(b)(1) of the Internal Revenue Code of 1986 (defining qualified State tuition program) is amended by inserting ''or by 1 or more eligible educational institutions'' after ''maintained by a State or agency or instrumentality thereof''.

(b) PRIVATE QUALIFIED TUITION PROGRAMS LIMITED TO BENEFIT PLANS.—Clause (ii) of section 529(b)(1)(A) of the Internal Revenue Code of 1986 is amended by inserting ''in the case of a program established and maintained by a State or agency or instrumentality thereof,'' before ''may make''.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN PRIVATE QUALIFIED TUITION PROGRAMS.—Section 529(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(8) ADDITIONAL REQUIREMENTS FOR CERTAIN PRIVATE QUALIFIED TUITION PROGRAMS.—A program established and maintained by 1 or more eligible educational institutions and described in paragraph (1)(A)(ii) shall not be treated as a qualified tuition program unless—

''(A) under such program a trust is created or organized for the sole purpose of paying the qualified higher education expenses of the designated beneficiary of the account,

''(B) the written governing instrument creating the trust of which the account is a part provides safeguards to ensure that contributions made on behalf of a designated beneficiary remain available to provide for the qualified higher education expenses of the designated beneficiary, and

''(C) the trust meets the following requirements:

''(i) Any trustee or person who may under contract operate or manage the trust demonstrates to the satisfaction of the Secretary that the manner in which that trustee or person will administer the trust will be consistent with the requirements of this section.

''(ii) The assets of the trust are not commingled with other property except in a common trust fund or common investment fund.

''(iii) The trust annually prepares and makes available the reports and accountings required by this section. The annual report, at a minimum, includes information on the financial condition of the trust and the investment policy of the trust.

''(iv) Before entering into contracts or otherwise accepting contributions on behalf of a designated beneficiary, the trust obtains an appropriate actuarial report to establish, maintain, and certify that the trust shall have sufficient assets to defray the obligations of the trust and annually makes the actuarial report available to account contributors and designated beneficiaries.

''(v) The trust secures a favorable ruling or opinion issued by the Internal Revenue Service that the trust is in compliance with the requirements of this section.

''(vi) Before entering into contracts or otherwise accepting contributions on behalf of a designated beneficiary, the trust solicits answers to appropriate ruling requests from the Securities and Exchange Commission regarding the application of Federal securities laws to the trust.''.

(d) APPLICATION OF FEDERAL SECURITIES LAWS TO PRIVATE QUALIFIED TUITION PROGRAMS.—Section 529(e) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(6) APPLICATION OF FEDERAL SECURITIES LAWS TO PRIVATE QUALIFIED TUITION PROGRAMS.—Nothing in this section shall be construed to exempt any qualified tuition program that is not established and maintained by a State or agency or instrumentality thereof from any of the requirements of the Securities Act of 1933 (15 U.S.C 77a et seq.) or the Investment Company Act of 1940 (15 U.S.C 80a-1 et seq.).''.

(e) CONFORMING AMENDMENTS.—

(1) Sections 72(e)(9), 135(c)(2)(C), 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and 6693(a)(2)(C) of the Internal Revenue Code of 1986 are each amended by striking ''qualified State tuition'' each place it appears and inserting ''qualified tuition''.

(2) The headings for sections 72(e)(9) and 135(c)(2)(C) of such Code are each amended by striking ''QUALIFIED STATE TUITION'' and inserting ''QUALIFIED TUITION''.

(3) The headings for sections 529(b) and 530(b)(2)(B) of such Code are each amended by striking ''QUALIFIED STATE TUITION'' and inserting ''QUALIFIED TUITION''.

(4) The heading for section 529 of such Code is amended by striking ''state''.

(5) The item relating to section 529 of such Code in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking ''State''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

**SEC. 4. OTHER MODIFICATIONS TO QUALIFIED TUITION PROGRAMS.**

(a) ROLLOVER TO DIFFERENT PROGRAM FOR BENEFIT OF SAME DESIGNATED BENEFICIARY.—Section 529(c)(3)(C) of the Internal Revenue Code of 1986 (relating to change in beneficiaries) is amended—

(1) by striking ''transferred to the credit'' in clause (i) and inserting ''transferred—

''(I) to another qualified tuition program for the benefit of the designated beneficiary, or

''(II) to the credit'',

(2) by adding at the end the following new clause:

''(iii) LIMITATION ON CERTAIN ROLLOVERS.—Clause (i)(I) shall only apply to 1 transfer with respect to a designated beneficiary in any year.'', and

(3) by inserting ''OR PROGRAMS'' after ''BENEFICIARIES'' in the heading.

(b) MEMBER OF FAMILY INCLUDES FIRST COUSIN.—Section 529(e)(2) of the Internal Revenue Code of 1986 (defining member of family) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and by inserting ''; and'', and by adding at the end the following new subparagraph:

''(D) any first cousin of such beneficiary.''.

(c) ADJUSTMENT OF LIMITATION ON ROOM AND BOARD DISTRIBUTIONS.—Section 529(e)(3)(B)(ii) of the Internal Revenue Code of 1986 is amended to read as follows:

''(ii) LIMITATION.—The amount treated as qualified higher education expenses by reason of clause (i) shall not exceed the greater of—

''(I) the amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll), as in effect on the date of the enactment of the Setting Aside for a Valuable Education (SAVE) Act) for the eligible educational institution for such period, or

''(II) the actual invoice amount the student residing in housing owned or operated by the eligible educational institution is charged by such institution for room and board costs for such period.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

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COLLEGE SAVINGS PLANS NETWORK,
*Lexington, KY, February 13, 2001.*

Re College Savings Plans Network's Support of the SAVE Act

Hon. MITCH MCCONNELL,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR MCCONNELL: Thank you for your continued support of legislation to encourage college savings through state-sponsored college savings programs. Your leadership in helping families plan for their children's college education is truly commendable; your foresight and knowledge have enhanced the ability of all families to save. Section 529 programs now represent over 1.4 million families who have invested more than $8 billion for their children's future higher education. The College Savings Plans Network represents all 50 states that are currently operating or developing §529 college savings programs.

In our continuing efforts to make a college education more accessible and affordable for American families, we are very appreciative of your sponsorship of the ''Setting Aside for a Valuable Education (SAVE) Act,'' which would provide an exclusion from gross income for earnings on §529 accounts, as well as several technical amendments that would make these college savings programs more user-friendly.

The college Savings Plans Network strongly supports an exclusion from gross income for earnings on §529 accounts. This tax treatment would be less burdensome to administer than current tax provisions, and would result in better compliance and less cost to college savings programs and their participants. More importantly, an exclusion from gross income would provide a powerful additional incentive for families to save early for college expenses. Section 529 of the Internal Revenue Code already contains restrictions and penalties to prevent any potential abuse of these programs.

Please do not hesitate to contact me should you need any additional information or have any questions. Thank you again for your continued interest in and support of §529 programs and the hundreds of thousands of children for whom college is now an affordable reality.

Sincerely,

GEORGE THOMAS,
*Chair, College Savings Plans Network and New Hampshire State Treasurer.*

Mr. GRAHAM. Mr. President, I am proud to join Senator MCCONNELL and my other Senate colleagues in launching an initiative to increase Americans' access to college education. Today, we are introducing the Setting Aside for a Valuable Education Act. This bill extends tax-free treatment to all state sponsored prepaid tuition plans and state savings plans. This legislation also gives prepaid tuition plans established by private colleges and universities tax-exempt status.

Prepaid college tuition and savings programs have flourished at the state level in the face of spiraling college costs. According to the College Board, between 1980 and 2000, the cost of going to a four-year college has increased 115 percent above the rate of inflation. The cause of this dramatic increase in tuition is the subject of significant debate. But whether these increases are attributable to increased costs to the universities, reductions in state funding for public universities, or the increased value of a college degree, the fact remains that financing a college education has become increasingly difficult.

In response to higher college costs the states have engineered innovative ways to help its families afford college. Michigan implemented the first prepaid tuition plan in 1986. Florida followed in 1988. Today 49 states have either implemented or are in the process of implementing prepaid tuition plans or state education savings plans.

Prepaid college tuition plans allow parents to pay prospectively for their children's higher education at participating universities. States pool these funds and invest them in a manner that will match or exceed the pace of educational inflation. This ''locks in'' current tuition and guarantees financial access to a future college education. In 1996, Congress acted to ensure that the tax on the earnings in these state-sponsored programs is tax-deferred.

Senator MCCONNELL and I believe the 107th Congress must move to make these programs completely tax free. Students should be able to enroll in college without the fear of incurring a significant tax liability just because they went to school. The legislation extends this same tax treatment to private college prepaid programs.

We believe that these programs should be tax free for numerous reasons. First, prepaid tuition and savings programs help middle income families afford a college education. Florida's experience shows that it is not higher income families who take most advantage of these plans. It is middle income families who want the discipline of monthly payments. They know that they would have a difficult time coming up with funds necessary to pay for college if they waited until their child enrolled. In Florida, more than 70 percent of participants in the state tuition program have family income of less than $50,000. Second, Congress should make these programs tax free in order to encourage savings and college attendance. Finally, for most families, these plans simply represent the purchase of a service to be provided in the future. The accounts are not liquid, and the funds are transferred from the state directly to the college or university. The imposition of a tax liability on earnings represents a substantial burden, because the student is required to find other means of generating the funds to pay the tax.

I am pleased to have this opportunity to join my colleagues in introducing this bill which makes a college education easier to obtain.

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By Mr. BOND:

S. 336. A bill to amend the Internal Revenue Code of 1986 to allow use of cash accounting method for certain small businesses; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce a bill that addresses an issue of growing concern to small businesses across the nation—tax accounting methods. I am pleased to be working with our colleague in the other body, Congressman WALLY HERGER, who is introducing the companion to this legislation.

While this topic may lack the notoriety of some other tax issues currently in the spotlight like tax-rate reductions, estate-tax repeal, or elimination of the alternative minimum tax, it goes to the heart of a business' daily operations—reflecting its income and expenses. And because it is such a fundamental issue, one may ask: ''What's the big deal? Hasn't this been settled long ago?'' Regrettably, efforts by the Treasury Department and Internal Revenue Service (IRS) over the past couple of years have muddied what many small business owners have long seen as a settled issue.

To many small business owners, tax accounting simply means that they record gross receipts when they receive cash and expenses when they write a check for the various costs associated with operating a business. The difference is income, which is subject to taxes. In its simplest form, this is known as the ''cash receipts and disbursements'' method of accounting—or the ''cash method'' for short. It is easy to understand, it is simple to undertake in daily business operations, and for the vast majority of small enterprises, it matches their income with the related expenses in a given year. Coincidentally, it's also the method of accounting used by the Federal government to keep track of the nearly $2 trillion in tax revenues it collects each year as well as all of its expenditures for salaries and expenses, procurement, and the cost of various government programs.

Unfortunately, what's good for the Federal government apparently is not good enough for small businesses. In recent years, the IRS has taken a different view with respect to small businesses on the cash method. In too many cases, the IRS has asserted that a small business should report its income when all events have occurred to establish the business' right to receipt and the amount can reasonably be determined. Similar principles are applied to determine when a business may recognize an expense. This method of accounting is known as ''accrual accounting.'' The reality of accrual accounting for a small business is that it may be deemed to have income well before the cash is actually received and an expense long after the cash is actually paid. As a result, accrual accounting can create taxable income for a small business that has yet to receive the cash necessary to pay the taxes.

While the IRS argues that the accrual method of accounting produces a more accurate reflection of ''economic income,'' it also produces a major headache for small enterprise. Few entrepreneurs have the time or experience to undertake accrual accounting, which forces them to hire costly accountants and tax preparers. By some estimates, accounting fees can increase as much as 50 percent when accrual accounting is required, excluding the cost of high-tech computerized accounting systems that some businesses must install. For the brave few that try to handle the accounting on their own, the accrual method often leads to major mistakes, resulting in tax audits and additional costs for professional help to sort the whole mess out—not to mention the interest and penalties that the IRS may impose as a result of the mistake.

To make matters even worse, the IRS focused on small service providers who use some merchandise in the performance of their service. In an e-mail sent to practitioners in my State of Missouri and in Kansas on March 22, 1999, the IRS'' local district office took special aim at the construction industry asserting that ''[t]axpayers in the construction industry who are on the cash method of accounting may be using an improper method. The cash method is permissible only if materials are not an income producing factor.'' For those lucky service providers, the IRS has asserted that the use of merchandise requires the business to undertake an additional and even more onerous form of bookkeeping—inventory accounting.

Let's be clear about the kind of taxpayer at issue here. It's the home builder who by necessity must purchase wood, nails, dry wall, and host of other items to provide the service of constructing a house. Similarly, it's a painting contractor who will often purchase the paint when he renders the

service of painting the interior of a house. These service providers generally purchase materials to undertake a specific project and at its end, little or no merchandise remains. They may even arrange for the products to be delivered directly to their client.

Mr. President, if we thought that accrual accounting is complicated and burdensome, imaging having to keep track of all the boards, nails, and paint used in the home builder's and painter's jobs each year. And it doesn't always stop at inventory accounting for these service providers. Instead, the IRS has used it as the first step to imposing overall accrual accounting—a one-two punch for the small service provider when it comes to compliance burdens.

Even more troubling is the cost of an audit for these unsuspecting service providers who have never known they were required to use inventories or accrual accounting. According to a survey of practitioners by the Padgett Business Services Foundation, audits of businesses on the issue of merchandise used in the performance of services resulted in tax deficiencies from $2,000 to $14,000, with an average of $7,200. That's a steep price to pay for an accounting method error that the IRS for years has never enforced.

The bill I'm introducing today—the Cash Accounting for Small Business Act of 2001—addresses both of these issues and builds on the legislation that I introduced in the 106th Congress. First, the bill establishes a clear threshold for when small businesses may use the cash method of accounting. Simply put, if a business has an average of $5 million in annual gross receipts or less during the preceding three years, it may use the cash method. Plain and simple—no complicated formula; no guessing if you made the right assumptions and arrived at the right answer. If the business exceeds the threshold, it may still seek to establish, as under current law, that the cash method clearly reflects its income.

Some may argue that this provision is unnecessary because section 448(b) and (c) of the Internal Revenue Code already provide a $5 million gross receipts test with respect to accrual accounting. That's a reasonable position since many in Congress back in 1986 intended section 448 to provide relief for small business taxpayers using the cash method. Unfortunately, the IRS has twisted this section to support its quest to force as many small businesses as possible into costly accrual accounting. The IRS has construed section 448 to be merely a $5 million ceiling above which a business can never use the cash method. My bill corrects this misinterpretation once and for all—if a business has average gross receipts of $5 million or less, it is free to use cash accounting.

Additionally, the bill indexes the $5 million threshold for inflation so it will keep pace with price increases. As a result, small businesses will not be forced into the accrual method merely because their gross receipts increased due to inflation.

Second, for small service providers, the Cash Accounting for Small Business Act exempts these taxpayers from inventory accounting if they meet the general $5 million threshold. These businesses will be able to deduct the expenses for such inventory that are actually consumed and used in the operation of the business during that particular taxable year. While the small service provider will still have to keep some minimal records as to the merchandise used during the year, it will be vastly more simple than having to comply with the onerous inventory accounting rules currently in place in the tax code.

The $5 million threshold set forth in my bill is a common-sense solution to an increasing burden for small businesses in this country, which was recently highlighted by the IRS National Taxpayer Advocate. In his 2001 Report to Congress, the Advocate noted that ''Small business taxpayers may be burdened by having to maintain an accrual method of accounting for no other purpose than tax reporting. Because these taxpayers can be relatively unsophisticated about tax and inventory accounting issues, they are likely to hire advisors to help them comply with their tax obligations.'' Unfortunately, these higher costs of recordkeeping and tax preparation take valuable capital away from the business and hinder its ability to grow and produce jobs. The Cash Accounting for Small Business Act takes a big step toward easing those burdens and allowing small business owners to dedicate their time and money to running successful enterprises—instead of filling out government paperwork.

In addition, it sends a clear signal to the IRS: stop wasting scarce resources forcing small businesses to adopt complex and costly accounting methods when the benefit to the Treasury is simply a matter of timing. Whether a small business uses the cash or accrual method or inventory accounting or not, in the end, the government will still collect the same amount of taxes—maybe not all this year, but very likely early in the next year. What small business can go very long without collecting what it is owed or paying its bills?

Last year, the Treasury Department's answer was to propose a $1 million threshold under which a small business could escape accrual accounting and presumably inventories. While it is a step in the right direction, it simply doesn't go far enough. Even ignoring inflation, if a million dollar threshold were sufficient, why would Congress have tried to enact a $5 million threshold 14 years ago? My bill completes the job that the Clinton Treasury Department was unable or unwilling to do.

More recently, the IRS issued a notice announcing that the agency has temporarily changed its litigation position concerning the requirement that certain taxpayers must use inventory and accrual accounting. Based on losses in several court cases, the IRS has decided to back off on taxpayers in construction businesses similar to those addressed by the courts. For those taxpayers, the agency has turned down the fire, and I applaud the IRS for its decision. The new litigation position, however, does not solve the underlying statutory issues that led the IRS to pursue these taxpayers in the first place, nor is it any assurance that the litigation position will not be changed again once the IRS'' Chief Counsel has completed its study of these issues. The Cash Accounting for Small Businesses resolves this matter once and for all small businesses giving them clear rules and certainty as they struggle to keep their businesses running.

The legislation I introduce today is the companion to the bill that Congressman HERGER is introducing in the other body. Together with Congressman HERGER and the small business community, I expect to continue the momentum that we started last year and achieve some much needed relief from unnecessary compliance burdens and costs for America's small businesses.

The call for tax simplification has been growing increasingly loud in recent years, and this bill provides an excellent opportunity for us to advance the ball well down the field. This is not a partisan issue; it's a small business issue. And I urge my colleagues on both sides of the aisle to join me in this common-sense legislation for the benefit of America's small enterprises, which contribute so greatly to this country's economic engine.

Mr. President, I ask unanimous consent to have printed in the RECORD, the text of the bill and a description of its provisions.

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

S. 336

*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 ''Cash Accounting for Small Business Act of 2001''.

**SEC. 2. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.**

(a) CASH ACCOUNTING PERMITTED.—Section 446 of the Internal Revenue Code of 1986 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

''(g) SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, an eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

''(A) IN GENERAL.—A taxpayer is an eligible taxpayer with respect to any taxable year if—

''(i) for all prior taxable years beginning after December 31, 1999, the taxpayer (or any predecessor) met the gross receipts test of subparagraph (B), and

''(ii) the taxpayer is not a tax shelter (as defined in section 448(d)(3)).

''(B) GROSS RECEIPTS TEST.—A taxpayer meets the gross receipts test of this subparagraph for any prior taxable year if the average annual gross receipts of the taxpayer (or any predecessor) for the 3-taxable-year period ending with such prior taxable year does not exceed $5,000,000. The rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of the preceding sentence.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, the dollar amount contained in subparagraph (B) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ''calendar year 2000'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—Section 471 of the Internal Revenue Code of 1986 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use inventories under this section for a taxable year.

''(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If an eligible taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2000, such property shall be treated as a material or supply which is not incidental.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' has the meaning given such term by section 446(g)(2).''.

(c) INDEXING OF GROSS RECEIPTS TEST.—Section 448(c) of the Internal Revenue Code of 1986 (relating to $5,000,000 gross receipts test) is amended by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ''calendar year 2000'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any amount as adjusted under this paragraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(d) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

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CASH ACCOUNTING FOR SMALL BUSINESS ACT OF 2001—DESCRIPTION OF PROVISIONS

The bill amends section 446 of the Internal revenue Code to provide a clear threshold for small businesses to use the cash receipts and disbursements method of accounting, instead of accrual accounting. To qualify, the business must have $5 million or less in average annual gross receipts based on the preceding three years. Thus, even if the production, purchase, or sale of merchandise is an income-producing factor in the taxpayer's business, the taxpayer will not be required to use an accrual method of accounting if the taxpayer meets the average annual gross receipts test.

In addition, the bill provides that a taxpayer meeting the average annual gross receipts test is not required to account for inventories under section 471. The taxpayer will be required to treat such inventory in the same manner as materials or supplies that are not incidental. Accordingly, the taxpayer may deduct the expenses for such inventory that are actually consumed and used in the operation of the business during that particular taxable year.

The bill indexes the $5 million average annual gross receipts threshold for inflation. The cash-accounting safe harbor will be effective for taxable years beginning after December 31, 2000.

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By Mr. DOMENICI:

S. 337. A bill to amend the Elementary and Secondary Education act of 1965 to assist State and local educational agencies in establishing teacher recruitment centers, teacher internship programs, and mobile professional development teams, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DOMENICI. Mr. President, I rise today with great pleasure to introduce the Teacher Recruitment, Development, and Retention Act of 2001.

I want to begin with a quotation I recently came across that captures the essence of teaching:

The mediocre teacher tells. The good teacher explains. the superior teacher demonstrates. The great teacher inspires.

The point is simple, for our children to succeed we must ensure they are taught by well-educated, competent, and qualified teachers.

I say this because it is a simple fact that in the future the individuals who will succeed will be those who can read, write, and do math. I firmly believe that a good education will help ensure a ticket to the economic security of the middle class because almost no one doubts the link between education and an individual's prospects.

However, one of the fundamental keys to providing our children with the tools to succeed is the presence of qualified teachers. Nothing can have a more positive impact on a child's learning than a knowledgeable and skillful teacher. Thus, we must ensure there are not only enough teachers, but enough teachers that possess the tools required to make that positive impact on our children.

Teachers must not only be prepared when they are hired, but they must remain armed with the latest technology and teaching tools for the duration of their careers. Just think of the constant training and testing doctors, police officers, and lawyers must endure throughout their careers.

Before I touch upon the Teacher Recruitment, Development, and Retention Act of 2001 in greater detail I would like to make a few brief comments about K–12 education in New Mexico. New Mexico is a very large and rural state with almost 20,000 teachers and nearly 330,000 public school students.

New Mexico's 89 school districts come in all shapes and sizes, for instance, Albuquerque has over 85,000 students and Corona has only 92 students. However, each of these districts, large and small must all have qualified teachers.

The Teacher Recruitment, Development, and Retention Act of 2001 seeks to create several optional programs for states to facilitate teacher recruitment development, and retention through grants awarded by the Secretary of Education.

The first option would be the creation of Teacher Recruitment Centers. These centers would serve as job banks/statewide clearinghouses for the recruitment and placement of K–12 teachers. The centers would also be responsible for creating programs to further teacher recruitment and retention within the state.

The second option would encourage states to implement teacher internships where newly hired teachers would participate in a teacher internship in addition to any state or district student teaching requirement. The internship would last one year and during that time the teacher would be assigned a mentor/senior teacher for guidance and support.

Finally, states would have the option of creating mobile professional development teams. These teams would alleviate the need for teachers and administrators that often have to travel great distances to attend professional development programs by bringing these activities directly to the local district or a centrally located regional site through mobile professional development teams.

I believe the primary beneficiaries of mobile professional development teams would be rural areas and the programs offered would focus on any state or local requirements for licensure of teachers and administrators, including certification and recertification.

Under the Teacher Recruitment, Development, and Retention Act of 2001 each program would be authorized at $50 million for fiscal year 2002 and such sums as may be necessary for each of the four succeeding fiscal years.

In conclusion, I want to again say how pleased I am to introduce the

Teacher Recruitment, Development, and Retention Act of 2001 and I look forward to working with my colleagues as we reauthorize the Elementary and Secondary Education Act.

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

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

S. 337

*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 ''Teacher Recruitment, Development, and Retention Act of 2001''.

**SEC. 2. TEACHER RECRUITMENT CENTERS.**

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

(1) by redesignating part E as part H;

(2) by redesignating sections 2401 and 2402 as sections 2701 and 2702, respectively; and

(3) by inserting after part D the following:

**''PART E—TEACHER RECRUITMENT CENTERS**

**''SEC. 2401. GRANTS.**

''(a) IN GENERAL.—The Secretary may make grants to State educational agencies to establish and operate State teacher recruitment centers.

''(b) USE OF FUNDS.—An agency that receives a grant under subsection (a) shall use the funds made available through the grant to establish and operate a center that—

''(1) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and

''(2) establishes and carries out programs to improve teacher recruitment and retention within the State.

''(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

**SEC. 3. TEACHER INTERNSHIPS.**

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.), as amended by section 2, is further amended by inserting after part E the following:

**''PART F—TEACHER INTERNSHIPS**

**''SEC. 2501. GRANTS.**

''(a) IN GENERAL.—The Secretary may make grants to State educational agencies and local educational agencies to establish teacher internship programs.

''(b) USE OF FUNDS.—An agency that receives a grant under subsection (a) shall use the funds made available through the grant to establish teacher internship programs in which a new teacher employed in the State or district involved—

''(1) is hired on a probationary basis for a 1–year period; and

''(2) is required to participate in an internship during that year, under the supervision of a mentor teacher, in addition to meeting any State or local requirement concerning student teaching.

''(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

**SEC. 4. MOBILE PROFESSIONAL DEVELOPMENT TEAMS.**

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.), as amended by section 3, is further amended by inserting after part F the following:

**''PART G—MOBILE PROFESSIONAL DEVELOPMENT TEAMS**

**''SEC. 2601. GRANTS.**

''(a) IN GENERAL.—The Secretary may make grants to State educational agencies to carry out professional development activities through mobile professional development teams.

''(b) USE OF FUNDS.—An agency that receives a grant under subsection (a) shall use the funds made available through the grant to carry out, directly or by grant or contract with entities approved by the agency, activities that—

''(1) at a minimum, provide professional development with respect to State licensing and certification (including recertification) requirements of teachers and administrators; and

''(2) are provided by mobile professional development teams, in the school district in which the teachers and administrators are employed, or at a centrally located regional site.

''(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(d) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to agencies proposing to carry out professional development activities through mobile professional development teams that will primarily operate in rural areas.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

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By Mr. ENSIGN (for himself and Mr. REID):

S. 338. A bill to protect amateur athletics and combat illegal sports gambling; to the Committee on the Judiciary.

Mr. REID. Mr. President, today I join my colleague from Nevada, Senator ENSIGN, in introducing bipartisan legislation aimed at curtailing illegal gambling in college sports. The bill we are introducing will have a direct and immediate impact on the growing national problem of illegal gambling in college sports.

Illegal gambling in college sports is a growing phenomenon. It is a problem not only in our college campuses and dorm rooms but is spreading throughout the country. While we have laws on our books prohibiting this activity, they seem to be having little impact.

Last year there were several legislative efforts aimed at addressing this problem. I was fortunate last year to work on a similar bill which had the support of Senators TORRICELLI, BAUCUS, and LINCOLN and former Senators Bryan and Robb. Some suggested enacting a prohibition on all forms of sports wagering—even in States where it is legal and regulated. Such a proposal is an affront to States' rights and more importantly, does not address the real problem—illegal gambling.

Indeed, it is like shutting down the Bank of America in order to eliminate loan sharking. I have a pretty good understanding of the many issues involving gaming. Prior to my service in the Senate I chaired the Nevada Gaming Commission. The Commission was responsible for regulating all forms of Nevada's legal gaming industry. Gaming succeeds in Nevada not despite regulation but because of regulation.

It is an all-cash industry. Absent regulation, it invites mischief and criminal wrongdoing. The National gambling Impact Study Commission estimates that as much as $380 billion is wagered illegally every year. By contrast, all sports wagers in Nevada were less than 1 percent of illegal wagers, with college wagers only one-third of the State total.

While there has been disagreement over the appropriate policy response to illegal gambling on college sports, there is agreement that something must be done. The Ensign-Reid bill we are introducing today takes affirmative steps to immediately address illegal gambling on college sports. It establishes a task force on illegal wagering on collegiate sporting events at the Department of Justice.

The task force is directed to enforce Federal laws prohibiting gambling related to college sports and to report to Congress annually on the number of prosecutions and convictions obtained. It doubles the penalties for illegal sports gambling. Our bill also addresses the growing trend of gambling by minors by directing the National Institute of Justice to conduct a study on this disturbing trend.

It requires the Attorney General to conduct a study of illegal college sports gambling. Our legislation answers a concern raised by the NCAA regarding illegal gambling on college campuses. The National Gambling Impact Study Commission's final report found widespread illegal gambling by student athletes despite NCAA regulations prohibiting such activities. The commission urged the NCAA to do more. The NCAA has failed to take any action so our bill does.

Just as schools now report on incidents of drug and alcohol abuse on their campuses they will now provide similar data on illegal wagering. Schools will be required to coordinate their anti-gambling programs and submit an annual report to the Secretary of Education. In addition to reporting on incidents of illegal gambling activity on their campuses, schools will be required to provide a statement of policy regarding illegal gambling.

Finally, our bill includes a section on personal responsibility. Students receiving athletic-related aid shall be deemed ineligible for such aid if it is

determined that that student engaged in illegal gambling activity. While this is a taught measure, if the NCAA is serious about addressing this problem, we would hope they could join us in supporting a real solution. Schools will be required to coordinate their efforts to reduce illegal gambling on campuses.

I believe the problems of illegal gambling on college sporting events is very real. I believe it is growing. No one knows the real extent of this problem. No one knows what is being done to combat this at the Federal level or by our Nation's institutions of higher learning. The NCAA has chosen not to address this problem. To date, their combined strategy of finger pointing, use of red herring and outright denial has left us with little to show in terms of addressing this problem. Our nation's students and schools are being ill-served by this beleaguered association that at times seems more interested in signing billion dollar broadcasting contracts than ensuring the integrity of the sporting events they sanction.

Our bipartisan legislation takes significant and meaningful steps toward cleaning up the state of affairs with collegiate sports. I urge my colleagues join us in committing to address the problem of illegal gambling in college sports.

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By Mr. WYDEN (for himself, Mr. FRIST, Mr. SESSIONS, Mr. BREAUX, Ms. LANDRIEU, and Mr. BAYH):

S. 339. A bill to provide for improved educational opportunities in rural schools and districts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. WYDEN. Mr. President, if you are one of the millions of rural school children who ride buses 2.9 billion miles every year, if you attend school in one of the thousands of rural schools that have no school library or no classroom computers, if one of the buildings at your school is in serious disrepair, or if you are sharing a few 30 year-old textbooks with the other students in your class, then you probably feel like you are going to school in an education sacrifice zone.

Our country spends less than a quarter of our Nation's education dollars to educate approximately half of our nation's students. You don't have to be a math whiz to know that the numbers just don't add up. The students who are short-changed often live in rural areas.

Thousands of rural and small schools across our nation face the daunting mission of educating almost half of America's children. Increasingly, these schools are underfunded, overwhelmed, and overlooked. While half of the nation's students are educated in rural and small public schools, they only receive 23 percent of Federal education dollars; 25 percent of State education dollars; and 19 percent of local education dollars.

We all grew up thinking that the ''three R's'' were Reading, Writing, and Arithmetic. Unfortunately for our rural school children, the ''three R's'' are too often run-down classrooms, insufficient resources, and really overworked teachers.

The bill I am introducing with Senators FRIST and SESSIONS, the Rural Education Development Initiative, REDI, would provide funding to 5,400 rural school districts that serve 6.5 million students—a short-term infusion of funds that will allow rural schools and their students to make substantial strides forward.

Local education agencies would be eligible for REDI funding if they are either ''rural'', school locale code of 6, 7, or 8, and have a school-age population, ages 5–17, with 15 percent or more of the kids are from families with incomes below the poverty line; or ''small''—student population of 800 or less and a student population, ages 5–17, with 15 percent or more of the kids are from families with incomes below the poverty line. In Oregon, among the schools eligible for REDI funding would be Jewell High School in Seaside, Burnt River Elementary in Unity, Gaston High School in Gaston, and Mari-Lynn Elementary School in Lyons, Oregon.

Like the Education Flexibility Act of 1999, Ed-Flex, I authored with Senator FRIST last Congress, REDI is voluntary—states and school districts could choose to participate in the program. Both Ed-Flex and REDI are designed to provide states and districts with flexibility they need so they can target their local priorities.

Rural school districts and schools also find it more difficult to attract and retain qualified teachers, especially in Special Education, Math, and Science. Consequently, teachers in rural schools are almost twice as likely to provide instruction in two or more subjects than their urban counterparts. The History teacher may be teaching Math and Science without any formal training or experience. Rural teachers also tend to be younger, less experienced, and receive less pay than their urban and suburban counterparts. Worse yet, rural school teachers are less likely to have the high quality professional development opportunities that current research strongly suggests all teachers desperately need.

Limited resources also mean fewer course offerings for students in rural and small schools. Consequently, courses are designed for the kids in the middle. So, students at either end of the academic spectrum miss out. Additionally, fewer rural students who dropout ever return to complete high school, and fewer rural higher school graduates go on to college.

On another note, recent research on brain development clearly shows the critical nature of early childhood education, yet rural schools are less likely to offer even kindergarten classes, let alone earlier educational opportunities.

To make matters worse, many of our rural areas are also plagued by persistent poverty, and, as we know, high-poverty schools have a much tougher time preparing their students to reach high standards of performance on state and national assessments. Data from the National Assessment of Educational Progress consistently show large gaps between the achievement of students in high-poverty schools and students in low-poverty schools.

Our legislation will provide rural students with greater learning opportunities by putting more computers in classrooms, expanding distance learning opportunities, providing academic help to students who have fallen behind, and making sure that every class is taught by a highly qualified teacher. I've heard it said that this will be the Education Congress, but we have much to do before we earn that title. It's time to show that we when it comes to education, we won't leave anyone behind, and REDI will give children from rural and small communities more of the educational opportunities they deserve.

I ask unanimous consent that my bill be printed in the RECORD.

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

S. 339

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Rural Education Development Initiative for the 21st Century Act.''

**SEC. 2. PURPOSE.**

The purpose of this Act is to provide rural school students in the United States with increased learning opportunities.

**SEC. 3. FINDINGS.**

Congress makes the following findings:

(1) While there are rural education initiatives identified at the State and local level, no Federal education policy focuses on the specific needs of rural school districts and schools, especially those that serve poor students.

(2) The National Center for Educational Statistics (NCES) reports that while 46 percent of our Nation's public schools serve rural areas, they only receive 22 percent of the nation's education funds annually.

(3) A critical problem for rural school districts involves the hiring and retention of qualified administrators and certified teachers (especially in Special Education, Science, and Mathematics). Consequently, teachers in rural schools are almost twice as likely to provide instruction in two or more subjects than teachers in urban schools. Rural schools also face other tough challenges, such as shrinking local tax bases, high transportation costs, aging buildings, limited course offerings, and limited resources.

(4) Data from the National Assessment of Educational Progress (NAEP) consistently shows large gaps between the achievement of students in high-poverty schools and those in other schools. High-poverty schools will face special challenges in preparing their students to reach high standards of performance on State and national assessments.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) 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 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that serves—

(A) a school age population 15 percent or more of whom are from families with incomes below the poverty line; and

(B)(i) a school locale code of 6, 7, 8; or

(ii) a school age population of 800 or fewer students.

(3) RURAL AREA.—The term ''rural area'' includes the area defined by the Department of Education using school local codes 6, 7, and 8.

(4) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(5) SCHOOL LOCALE CODE.—The term ''school locale code'' has the meaning as defined by the Department of Education.

(6) SCHOOL AGE POPULATION.—The term ''School age population'' means the number of students aged 5 through 17.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

**SEC. 5. PROGRAM AUTHORIZED.**

(a) RESERVATION.—From amounts appropriated under section 9 for a fiscal year the Secretary shall reserve 0.5 percent to make awards to elementary or secondary schools operated or supported by the Bureau of Indian Affairs to carry out the purpose of this Act.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—From amounts appropriated under section 9 that are not reserved under subsection (a) for a fiscal year, the Secretary shall award grants to State educational agencies that have applications approved under section 7 to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in subsection (c).

(2) FORMULA.—

(A) IN GENERAL.—Each State educational agency shall receive a grant under this section in an amount that bears the same relation to the amount of funds appropriated under section 9 that are not reserved under subsection (a) for a fiscal year as the school age population served by eligible local educational agencies in the State bears to the school age population served by eligible local educational agencies in all States.

(B) DATA.—In determining the school age population under subparagraph (A) the Secretary shall use the most recent date available from the Bureau of the Census.

(3) DIRECT AWARDS TO LOCAL EDUCATIONAL AGENCIES.—If a State educational agency elects not to participate in the program under this Act or does not have an application approved under section 7, the Secretary may award, on a competitive basis, the amount the State educational agency is eligible to receive under paragraph (2) directly to eligible local educational agencies in the State.

(4) MATCHING REQUIREMENT.—Each eligible local educational agency that receives a grant under this Act shall contribute resources with respect to the local authorized activities to be assisted, in cash or in kind, from non-Federal sources, in an amount equal to the Federal funds awarded under the grant.

(c) LOCAL AUTHORIZED ACTIVITIES.—Grant funds awarded to local educational agencies under this Act shall be used for—

(1) for local educational technology efforts as established under section 6844 of Title 20, United States Code;

(2) for professional development activities designed to prepare those teachers teaching out of their primary subject area;

(3) for academic enrichment programs established under section 10204 of Title 20 in United States Code;

(4) innovative academic enrichment programs related to the educational needs of students at-risk of academic failure, including remedial instruction in one or more of the core subject areas of English, Mathematics, Science, and History; or

(4) activities to recruit and retain qualified teachers in Special Education, Math, and Science.

(d) RELATION TO OTHER FEDERAL FUNDING.—Funds received under this Act by a State educational agency or an eligible local educational agency shall not be taken into consideration in determining the eligibility for, or amount of, any other Federal funding awarded to the agency.

**SEC. 6. STATE DISTRIBUTION OF FUNDS.**

(a) AWARD BASIS.—A State educational agency shall award grants to eligible local educational agencies according to a formula or competitive grant program developed by the State educational agency and approved by the Secretary.

(b) FIRST YEAR.—For the first year that a State educational agency receives a grant under this Act, the State educational agency—

(1) shall use not less than 99 percent of the grant funds to award grants to eligible local educational agencies in the State; and

(2) may use not more than 1 percent for State activities and administrative costs and technical assistance related to the program.

(c) SUCCEEDING YEARS.—For the second and each succeeding year that a State educational agency receives a grant under this Act, the State educational agency—

(1) shall use not less than 99.5 percent of the grant funds to award grants to eligible local educational agencies in the State; and

(2) may use not more than 0.5 percent of the grant funds for State activities and administrative costs related to the program.

**SEC. 7. APPLICATIONS.**

Each State educational agency, or local educational agency eligible for a grant under section 5(b)(3), that desires a grant under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

**SEC. 8. REPORTS; ACCOUNTABILITY; STUDY.**

(a) STATE REPORTS.—

(1) CONTENTS.—Each State educational agency that receives a grant under this Act shall provide an annual report to the Secretary. The report shall describe—

(A) the method the State education agency used to award grants to eligible local educational agencies under this Act;

(B) how eligible local educational agencies used funds provided under this Act;

(C) how the State educational agency provided technical assistance for an eligible local educational agency that did not meet the goals and objectives described in subsection (c)(3); and

(D) how the State educational agency took action against an eligible local educational agency if the local educational agency failed, for 2 consecutive years, to meet the goals and objectives described in subsection (c)(3).

(2) AVAILABILITY.—The Secretary shall make the annual State reports received under paragraph (1) available for dissemination to Congress, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

(b) LOCAL EDUCATIONAL AGENCY REPORTS.—Each eligible local educational agency that receives a grant under section 5(b)93) shall provide an annual report to the Secretary. The report shall describe how the local educational agency used funds provided under this Act and how the local educational agency coordinated funds received under this Act with other Federal, State, and local funds.

(c) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress an annual report. The report shall describe—

(1) the methods the State educational agencies used to award grants to eligible local educational agencies under this Act;

(2) how eligible local educational agencies used funds provided under this Act; and

(3) the progress made by State educational agencies and eligible local educational agencies receiving assistance under this Act in meeting specific, annual, measurable performance goals and objectives established by such agencies for activities assisted under this Act.

(d) ACCOUNTABILITY.—The Secretary, at the end of the third year that a State educational agency participates in the program assisted under this Act, shall permit only those State educational agencies that met their performance goals and objectives, for two consecutive years, to continue to participate in the program.

(e) STUDY.—The Comptroller General of the United States shall conduct a study regarding the impact of assistance provided under this Act on student achievement. The Controller General shall report the results of the study to Congress.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this Act $300,000,000 for each of the fiscal years 2002 through 2005.

## ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 99

At the request of Mr. KOHL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 99, a bill to amend the Internal Revenue Code of 1986 to provide a credit

against tax for employers who provide child care assistance for dependents of their employees, and for other purposes.

S. 143

At the request of Mr. GRAMM, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 143, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

S. 149

At the request of Mr. ENZI, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Nevada (Mr. REID) were added as a cosponsors of S. 149, a bill to provide authority to control exports, and for other purposes.

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 275

At the request of Mr. KYL, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Wyoming (Mr. THOMAS) were added as a cosponsors of S. 275, a bill to amend the Internal Revenue Code of 1986 to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers, to preserve a step up in basis of certain property acquired from a decedent, and for other purposes.

S. 277

At the request of Mr. KENNEDY, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Indiana (Mr. BAYH) were added as a cosponsor of S. 277, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 307

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 307, a bill to provide grants to State educational agencies and local educational agencies for the provision of classroom-related technology training for elementary and secondary school teachers.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Georgia (Mr. LELAND) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 7

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the United States should establish an international education policy to enhance national security and significantly further United States foreign policy and global competitiveness.

## SENATE CONCURRENT RESOLUTION 11—EXPRESSING THE SENSE OF CONGRESS TO FULLY USE THE POWERS OF THE FEDERAL GOVERNMENT TO ENHANCE THE SCIENCE BASE REQUIRED TO MORE FULLY DEVELOP THE FIELD OF HEALTH PROMOTION AND DISEASE PREVENTION, AND TO EXPLORE HOW STRATEGIES CAN BE DEVELOPED TO INTEGRATE LIFESTYLE IMPROVEMENT PROGRAMS INTO NATIONAL POLICY, OUR HEALTH CARE SYSTEM, SCHOOLS, WORKPLACES, FAMILIES AND COMMUNITIES.

Mrs. FEINSTEIN (for herself, Mr. CRAIG, Mr. BINGAMAN, and Mr. CRAPO) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions.

S. CON. RES. 11

Whereas the New England Journal of Medicine has reported that modifiable lifestyle factors such as smoking, sedentary lifestyle, poor nutrition, unmanaged stress, and obesity account for approximately 50 percent of the premature deaths in the United States;

Whereas the New England Journal of Medicine has reported that spending on chronic diseases related to lifestyle and other preventable diseases accounts for an estimated 70 percent of total health care spending;

Whereas preventing disease and disability can extend life and reduce the need for health care services;

Whereas the Department of Health and Human Services has concluded that the health burden of these behaviors falls in greatest proportion on older adults, young children, racial and ethnic minority groups and citizens who have the least resources;

Whereas business leaders of America have asserted that spending for health care can divert private sector resources from investments that could produce greater financial returns and higher wages paid to employees;

Whereas the Office of Management and Budget reports that the medicaid and medicare expenditures continue to grow;

Whereas the American Journal of Public Health reports that expenditures for the medicare program will increase substantially as the population ages and increasing numbers of people are covered by medicare;

Whereas the American Journal of Health Promotion reports that a growing research base demonstrates that lifestyle factors can be modified to improve health, improve the quality of life, reduce medical care costs, and enhance workplace productivity through health promotion programs;

Whereas the Health Care Financing Administration has determined that less than 5 percent of health care spending is devoted to the whole area of public health, and a very small portion of that 5 percent is devoted to health promotion and disease prevention;

Whereas research in the basic and applied science of health promotion can yield a better understanding of health and disease prevention;

Whereas additional research can clarify the impact of health promotion programs on long term health behaviors, health conditions, morbidity and mortality, medical care utilization and cost, as well as quality of life and productivity;

Whereas the Institute of Medicine of the National Academy of Science has concluded that additional research is required to determine the most effective strategies to create lasting health behavior changes, reduce health care utilization, and enhanced productivity;

Whereas the private sector and academia cannot sponsor broad public health promotion, disease prevention, and research programs;

Whereas the full benefits of health promotion cannot be realized—

(1) unless strategies are developed to reach all groups including older adults, young children, and minority groups;

(2) until a more professional consensus on the management of health and clinical protocols is developed;

(3) until protocols are more broadly disseminated to scientists and practitioners in health care, workplace, school, and other community settings; and

(4) until the merits of health promotion programs are disseminated to policy makers;

Whereas investments in health promotion can contribute to reducing health disparities; and

Whereas Research America reports that most American citizens strongly support increased Federal investment in health promotion and disease prevention: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),*

**SECTION 1. SHORT TITLE.**

This resolution may be cited as the ''Building Health Promotion and Disease Prevention into the National Agenda Resolution of 2001''.

**SEC. 2. SENSE OF CONGRESS.**

It is the sense of Congress that the Federal Government should—

(1) increase resources to enhance the science base required to further develop the field of health promotion and disease prevention; and

(2) explore strategies to integrate life-style improvement programs into national policy, health care, schools, workplaces, families, and communities in order to promote health and prevent disease.

Mrs. FEINSTEIN. Mr. President, today Senator CRAIG and I are introducing the ''Building Health Promotion and Disease Prevention into the National Agenda Resolution of 2001.''

This resolution expresses the sense of Congress that the federal government should do two things: (1) Support scientific research on health promotion and (2) explore ways in which the government can develop a national policy to integrate lifestyle improvement programs into our health care, schools, families and communities.

This resolution is supported by a coalition of 47 organizations, including the Wellness Council of America, the American Journal of Health Promotion, the American Preventive Medical Association, the National Alliance for Hispanic Health, the National Center for Health Education, Partnership for Prevention, and the Society for Prevention Research.

According to the American Journal of Health Promotion, health promotion

is ''the science and art of helping people change their lifestyle to move toward a state of optimal health.'' Optimal health is defined as ''a balance of physical, emotional, social, spiritual and intellectual health.''

In this day and age of scientific breakthroughs and increased knowledge of medical science and health, American health care tends to emphasize curative treatments, rather than preventive measures and health promotion.

Several compelling statistics make the case for this resolution:

''Fifty percent of premature deaths in the United States are related to modifiable lifestyle factors,'' according to the Journal of the American Medical Association.

People with good health habits survive longer, and they can postpone disability by five years and compress it into fewer years at the end of life, says the New England Journal of Medicine.

While the exact amount spent on preventive health is disputed, experts estimate that only two to five percent of the annual $1.5 trillion spent on national health care is on health promotion and disease prevention. In an April 1999 speech, Dr. David Satcher, the U.S. Surgeon General, stated that ''only one percent of that amount goes to population-based prevention.'' According to the Centers for Disease Control and Prevention, CDC, the government spends $1,390 per person per year to treat disease and only $1.21 per person per year to prevent disease. This is simply not enough.

We must do a better job of supporting health promotion and disease prevention, as well as research to find cures for diseases and helping those who suffer from all illnesses. By doing so, we will see an increase in the number of Americans who are living longer and healthier lives and this could mean a decrease in overall national health costs. Simply put, it is much cheaper to prevent a disease than to treat it.

Diseases that are modifiable, if not checked, can become very expensive in treatment and cures. For instance:

The direct and indirect costs of smoking is $130 billion per year.

Diabetes costs $98 billion per year.

Physical inactivity costs $24 billion per year.

Cardiovascular diseases cost $327 billion per year.

Cancer costs $107 billion per year.

Here is another example. Obesity costs our nation $70 billion per year. In a recent report titled ''Promoting Health for Young People through Physical Activity and Sports,'' the CDC states that it is increasingly important that children from pre-kindergarten to 12th grade receive physical education every day, as well as after-school sports programs. According to Dr. Jeffrey Koplan, the director of the CDC, ''We are facing a serious public health program . . . we have an epidemic of obesity among youth, and we are seeing a troubling rise in cardiovascular risk factors, including type 2 diabetes among young people.''

With increased physical education, our children will be less likely to suffer from obesity, and in turn lower the risk type 2 diabetes.

Increased awareness about disease prevention and health promotion will never totally prevent illness, but it can reduce the cost of treating preventable diseases. It can save millions of dollars.

For instance, sun-block is proven to prevent some skin cancers. If every person who spent prolonged periods of time outside, protected themselves adequately from the sun's harmful rays, many incidents of skin cancer could be prevented. It is that easy.

Early detection helps to lower costs of diseases in the long run. If everyone had regular physicals and screenings, many diseases could be detected early and treated long before they advance to serious, incurable, and terminal stages.

Clearly, we must make health promotion a national priority.

The sad part is, our government invests very little to help educate people and promote healthier living.

As I stated earlier, it is estimated that out of the $1.5 trillion spent annually on health care, only two to five percent goes to health promotion and disease prevention. Government public health activities receive 3.2 percent of national health expenditures, according to the Health Care Financing Administration. The National Institutes of Health (NIH) spent $4.4 billion on prevention research in Fiscal Year 2000.

Surgeon General Dr. David Satcher believes that the government should pursue ''a balanced community health system, a system which balances health promotion, disease prevention, early detection and universal access to care.'' I couldn't agree more. While it is imperative that our nation's research in diseases and medicine continue, we must increase our attention to disease prevention.

Passing this concurrent resolution will make a strong statement that the health of all Americans is a national priority.

As the generation of baby boomers quickly approaches retirement, the education and promotion of health and the lengthening of life-spans becomes even more important.

Keeping people healthy should be our number one goal.

I urge my colleagues to support this important resolution.

## SENATE CONCURRENT RESOLUTION 12—EXPRESSING THE SENSE OF CONGRESS REGARDING THE IMPORTANCE OF ORGAN, TISSUE, BONE MARROW, AND BLOOD DONATION, AND SUPPORTING NATIONAL DONOR DAY

Mr. DURBIN (for himself, Mr. FRIST, Mr. KENNEDY, Mr. SANTORUM, Mr. SPECTER, Mr. DORGAN, Ms. MIKULSKI, Mr. DEWINE, Mr. HAGEL, Mr. KERRY, Ms. COLLINS, Mrs. FEINSTEIN, Mr. WELLSTONE, Mr. LEVIN, Mr. BIDEN, Mr. CLELAND, Mr. FEINGOLD, Mr. ENZI, Ms. LANDRIEU, Mr. ROCKEFELLER, Mr. INOUYE, Mr. TORRICELLI, Mr. GRAHAM, Mr. REID, Mrs. CLINTON, Mr. DODD, Mr. BREAUX, Mr. KOHL, and Mrs. LINCOLN) submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 12

Whereas more than 70,000 individuals await organ transplants at any given moment;

Whereas another man, woman, or child is added to the national organ transplant waiting list every 20 minutes;

Whereas despite the progress in the last 15 years, more than 15 people per day die because of a shortage of donor organs;

Whereas almost everyone is a potential organ, tissue, and blood donor;

Whereas transplantation has become an element of mainstream medicine that prolongs and enhances life;

Whereas for the fourth consecutive year, a coalition of health organizations is joining forces for National Donor Day;

Whereas the first three National Donor Days raised a total of nearly 25,000 units of blood, added over 4,000 potential donors to the National Marrow Donor Program Registry, and distributed tens of thousands of organ and tissue pledge cards;

Whereas National Donor Day is America's largest one-day organ, tissue, bone marrow, and blood donation event; and

Whereas a number of businesses, foundations, health organizations, and the Department of Health and Human Services have designated February 10, 2001, as National Donor Day: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) supports the goals and ideas of National Donor Day;

(2) encourages all Americans to learn about the importance of organ, tissue, bone marrow, and blood donation and to discuss such donation with their families and friends; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for organ, tissue, bone marrow, and blood donation.

Ms. LANDRIEU. Mr. President, I rise today to say just a few words about Senator DURBIN's measure honoring National Donor Day on February 10, 2001. I am proud to join Senator DURBIN as a cosponsor of this measure.

As Americans, one of the many things that we can be thankful for is the high quality of medical care. American technology, physicians, and pharmaceutical companies are often leaders in the development of new and improved healthcare equipment and techniques. But even the most cutting-edge technologies, the best doctors and nurses, and the finest facilities cannot save the life of a person in need of a transplant or transfusion. A grandfather with failing kidneys, a child with cancer, a mother who was in a car accident—any of these individuals could be saved by a gift of blood or an organ. Without these vital gifts, all of which are in great demand, many of our patients would not survive.

Let me just take a moment to mention a few very telling facts. Only five percent of people who are able to donate blood do so on a regular basis. And, although donated blood can be stored for up to six weeks, is rarely is for more than ten days, because the demand is so great. And that is just for the donation of blood. There are more than 70,000 individuals awaiting organ transplants at any given time, and ten people die every day because of the shortage of these organs. Ten people a day—over the past year, 3,650 of our citizens have died, simply because there are not enough organs out there to meet the need.

On a most personal level, there was a young child from my state—Caleb Godso—who was recently admitted to St. Judge Hospital with Leukemia. Caleb, who is just over a year old now, was only five months old when he was diagnosed. He was given only a ten percent chance of surviving. But thanks to chemotherapy, a new kind of treatment, and a bone marrow transplant from his father, Caleb is in remission now, and doing well. He is only one of the thousands of individuals whose lives are saved by transplants every year, and the many more who require blood transfusions. But there are so many more who do not receive the help they need.

This is why it is so vital that we make people aware of the importance of donating blood, tissue, marrow, or organs. Today, on this very special day, we focus on the impact love can have on a person's life. We shower our loved ones with gifts and flowers to show how much we truly care for them. We exchange cards and kind words with coworkers, friends, and even strangers. But what better way to show our love for others than through the simple gift of a pint of blood, or checking the box on our driver's license to become an organ donor?

The majority of people are eligible to be donors, and the past three National Donor Days have made many people aware of our great need. I urge my colleagues to work and help continue to make National Donor Day a success.

## SEANTE CONCURRENT RESOLUTION 13—EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO THE UPCOMING TRIP OF PRESIDENT GEORGE W. BUSH TO MEXICO TO MEET WITH THE NEWLY ELECTED PRESIDENT VICENTE FOX, AND WITH RESPECT TO FUTURE COOPERATIVE EFFORTS BETWEEN THE UNITED STATES AND MEXICO

Mr. DEWINE (for himself, Mr. HELMS, Mr. DODD, Mr. MCCAIN, Mr. LOTT, Ms. LANDRIEU, Mr. GRASSLEY, Mr. BREAUX, Mr. L. CHAFEE, Mr. VOINOVICH, and Mr. LEAHY) submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 13

Whereas Vicente Fox Quesada of the Alliance for Change (consisting of the National Action Party and the Mexican Green Party) was sworn in as President of the United Mexican States on December 1, 2000, the first opposition candidate to be elected president in Mexico in seven decades;

Whereas the United States, as Mexico's neighbor, ally, and partner in the Hemisphere, has a strong interest in seeing President Fox advance prosperity and democracy during his term of office;

Whereas President George W. Bush and President Vicente Fox have demonstrated their mutual willingness to forge a deeper alliance between the United States and Mexico by making President Bush's first foreign trip as President of the United States to Mexico on February 16, 2001;

Whereas both presidents recognize that a strong, steady Mexican economy can be the foundation to help solve many of the challenges shared by the two countries, such as immigration, environmental quality, organized crime, corruption and trafficking in illicit narcotics;

Whereas the economic cooperation spearheaded by the North American Free Trade Agreement (NAFTA) has established Mexico as the second largest trading partner of the United States, with a two-way trade of $174,000,000,000 each year;

Whereas the North American Development Bank and its sister institution, the Border Environment Cooperation Commission, were established to promote environmental infrastructure development that meets the needs of border communities;

Whereas the Overseas Private Investment Corporation, an independent self-sustaining United States Government agency responsible for facilitating the investment of United States private sector capital in emerging markets, has recently developed a small business-financing program to support United States investment in Mexico;

Whereas under the North American Free Trade Agreement the United States currently has an annual limit on the number of visas that may be issued to Mexican business executives for entry into the United States but there is no such limit with respect to the Canadian business executives;

Whereas United States-Mexico border tensions have continued to escalate, with the number of illegal migrant deaths increasing 400 percent since the mid 1990s; and

Whereas the Government of Mexico, through the establishment of a special cabinet commission, has made a renewed commitment, with increased resources, to combat drug trafficking and corruption: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that the President should work with the Government of Mexico to advance bilateral cooperation and should, among other initiatives, seek to—

(1) encourage economic growth and development to benefit both the United States and Mexico, including developing a common strategy to improve the flow of credit and United States investment opportunities in Mexico, as well as increasing funding of entrepreneurial programs of all sizes, from micro- to large-scale enterprises;

(2) strengthen cooperation between the United States and Mexican military and law enforcement entities for the purpose of addressing common threats to the security of the two countries, including illegal drug trafficking, illegal immigration, and money laundering;

(3) upon the request of President Fox—

(A) provide assistance to Mexico in support of President Fox's plan to reform Mexico's entire judicial system and combat inherent corruption within Mexico's law enforcement system; and

(B) provide assistance to the Government of Mexico to strengthen the institutions that are integral to democracy;

(4) develop a common strategy to address undocumented and documented immigration between the United States and Mexico through increased cooperation, coordination, and economic development programs;

(5) develop a common strategy for fighting the illicit drug trade by reducing the demand for illicit drugs through intensification of anti-drug information and education, improvement of intelligence sharing and the coordination of counterdrug activities, and increasing maritime and logistics cooperation to improve the respective capacities of the two countries to disrupt drug shipments by land, air, and sea;

(6) encourage bilateral and multilateral environmental protection activities with Mexico, including strengthening the North American Development Bank (NADbank) so as to facilitate expansion of the Bank;

(7) obtain the support of the Government of Mexico to assist the Government of Colombia in achieving a peaceful political resolution to the conflict in Colombia; and

(8) review the current illicit drug certification process, and should seek to be open to consideration of other evaluation mechanisms that would promote increased cooperation and effectiveness in combating the illicit drug trade.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

## SENATE CONCURRENT RESOLUTION 14—RECOGNIZING THE SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT, AND SUPPORTING EFFORTS TO ENHANCE PUBLIC AWARENESS OF IT

Mr. CAMPBELL (for himself and Mr. KOHL) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions, as follows:

S. CON. RES. 14

Whereas more than 3,000,000 American children are reported as suspected victims of child abuse and neglect annually;

Whereas more than 500,000 American children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that more than 1,000 children, 78 percent under the age of 5 and 38 percent under the age of 1, lose their lives as a direct result of abuse and neglect every year in America;

Whereas this tragic social problem results in human and economic costs due to its relationship to crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a ''Day of Hope'' to be observed on the first Wednesday in April, during Child Abuse Prevention Month, to focus public awareness on this social ill: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That—

(1) it is the sense of the Congress that—

(A) all Americans should keep these victimized children in their thoughts and prayers;

(B) all Americans should seek to break this cycle of abuse and neglect and to give these children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist these children; and

(2) the Congress—

(A) supports the goals and ideas of the ''Day of Hope''; and

(B) commends Childhelp USA for its efforts on behalf of abused and neglected children everywhere.

Mr. CAMPBELL. Mr. President, for far too long, our nation has been almost silent about the needs of some of its most vulnerable families and children—those caught in the vicious cycle of child abuse. That is why, today, I am introducing a Senate concurrent resolution recognizing the first Wednesday of April as a National Day of Hope dedicated to remembering the victims of child abuse and neglect and recognizing Childhelp USA for initiating such a day. I am pleased to be joined in this effort by my friend and colleague from Wisconsin, Senator KOHL, with whom I have worked for many years on issues affecting youth at risk.

This resolution expresses the sense of the Congress that we must break the cycle of child abuse and neglect by mobilizing all our resources including the faith community, nonprofit organizations and volunteers. Childhelp USA is one of our oldest national organizations dedicated to meeting the needs of abused and neglected children. By focusing its efforts on prevention and research as well as on treatment, this organization has provided help to thousands of children since it was founded in 1959. Childhelp USA and many other non-profits or faith-based organizations nationwide are performing a vital service to abused and neglected children that they would not have otherwise, and they are to be commended.

I know first-hand the importance of having help when it is needed. The National Day of Hope Resolution calls on each of us to renew our duty and responsibility to the vulnerable children and families caught in the cycle of child abuse and neglect.

To further observe the National Day of Hope, a cross-country ride has been organized by a group of Harley-Davidson owners in Northern Arizona. This ''Cycle of Hope'' will help turn the eyes of our entire nation to the suffering of the victims of child abuse. As a motorcycle enthusiast myself, I look forward to being a part of that effort.

More than 3 million American children are reported as suspected victims of child abuse and neglect each year. That is 3 million children too many. And, it is estimated that more than 1,000 children, 78 percent under the age of 5 and 38 percent under one year of age, lose their lives as a direct result of abuse and neglect every year. That is not acceptable. We must do something to change these statistics.

While I am encouraged by the efforts of many organizations nationwide, more needs to be done. That is why I urge my colleagues to act quickly on this resolution so we can move one step closer to erasing the horror of child abuse from our nation's history.

## SENATE RESOLUTION 20—DESIGNATING MARCH 25, 2001, AS ''GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY''

Mr. SPECTER (for himself, Mrs. BOXER, Mr. SANTORUM, Mr. MURKOWSKI, Mr. COCHRAN, Mr. JOHNSON, Mrs. MURRAY, Mr. FITZGERALD, Mr. SCHUMER, Mr. HARKIN, Mr. REED, Mr. SARBANES, Mr. THOMAS, Mr. LUGAR, Mr. LIEBERMAN, Ms. SNOWE, Mr. BIDEN, Mr. BYRD, Mr. SHELBY, Mr. INOUYE, Mr. DURBIN, Mr. JEFFORDS, Mr. GREGG, Ms. MIKULSKI, Mr. SMITH of New Hampshire, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. CLELAND, Mr. KERRY, Mr. DODD, Mr. GRAHAM, Mr. TORRICELLI, Mr. INHOFE, Mr. ROCKEFELLER, Mr. WARNER, Mr. LEVIN, Mr. DEWINE, Mr. BINGAMAN, Mr. BENNETT, Mr. KOHL, Mr. STEVENS, Mr. DOMENICI, Mr. THOMPSON, Mr. GRASSLEY, Mr. SMITH of Oregon, Mr. SESSIONS, Mr. HAGEL, Mr. ENZI, Mr. BREAUX, Mr. EDWARDS, Mr. CORZINE, Mrs. HUTCHISON, and Mr. REID) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 20

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, ''it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you'';

Whereas Greece is 1 of only 3 nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict in the twentieth century;

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete and in Greece presenting the Axis land war with its first major setback, which set off a chain of events that significantly affected the outcome of World War II;

Whereas former President Clinton, during his visit to Greece on November 20, 1999, referred to modern-day Greece as ''a beacon of democracy, a regional leader for stability, prosperity and freedom'', and President George W. Bush, in a letter to the Prime Minister of Greece, Constantinos Simitis, in January 2001, referred to the ''stable foundations and common values'' that are the basis of relations between Greece and the United States;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 2001, marks the 180th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

*Resolved,* That the Senate—

(1) designates March 25, 2001, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, today I am pleased to submit a resolution along with fifty-one of my colleagues to designate March 25, 2001, as ''Greek Independence Day: A Celebration of Greek and American Democracy.''

One hundred and eighty years ago, the Greeks began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. Thomas Jefferson proclaimed that, ''to the ancient Greeks . . . we are all indebted for the light which led ourselves out of Gothic darkness.'' It is fitting, then, that we should recognize the anniversary of the beginning of their efforts to return to that democratic tradition.

The democratic form of government is only one of the most obvious of the many benefits we have gained from the Greek people. The ancient Greeks contributed a great deal to the modern world, particularly to the United States of America, in the areas of art, philosophy, science and law. Today, Greek-Americans continue to enrich our culture and make valuable contributions to American society, business, and government.

It is my hope that strong support for this resolution in the Senate will serve as a clear goodwill gesture to the people of Greece with whom we have enjoyed such a close bond throughout history. Similar resolutions have been passed by the Senate since 1984 with overwhelming support. Accordingly, I urge my Senate colleagues to join me in supporting this important resolution.

## SENATE RESOLUTION 21—DIRECTING THE SERGEANT-AT-ARMS TO PROVIDE INTERNET ACCESS TO CERTAIN CONGRESSIONAL DOCUMENTS, INCLUDING CERTAIN CONGRESSIONAL RESEARCH SERVICE PUBLICATIONS, SENATE LOBBYING AND GIFT REPORT FILINGS, AND SENATE AND JOINT COMMITTEE DOCUMENTS

Mr. MCCAIN (for himself, Mr. LEAHY, Mr. LOTT, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Rules and Administration.

S. RES. 21

Whereas it is the sense of the Senate that—

(1) it is often burdensome, difficult, and time-consuming for citizens to obtain access to public records of the United States Congress;

(2) congressional documents that are placed in the Congressional Record are made available to the public electronically by the Superintendent of Documents under the direction of the Public Printer;

(3) other congressional documents are also made available electronically on websites maintained by Members of Congress and Committees of the Senate and the House of Representatives;

(4) a wide range of public records of the Congress remain inaccessible to the public;

(5) the public should have easy and timely access, including electronic access, to public records of the Congress;

(6) the Congress should use new technologies to enhance public access to public records of the Congress; and

(7) an informed electorate is the most precious asset of any democracy; and

Whereas it is the sense of the Senate that it will foster democracy—

(1) to ensure public access to public records of the Congress;

(2) to improve public access to public records of the Congress; and

(3) to enhance the electronic public access, including access via the Internet, to public records of the Congress: Now, therefore, be it

*Resolved,* That the Sergeant-at-Arms of the Senate shall make information available to the public in accordance with the provisions of this resolution.

**SEC. 2. AVAILABILITY OF CERTAIN CRS INFORMATION.**

(a) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—The Sergeant-at-Arms of the Senate, in consultation with the Director of the Congressional Research Service, shall make available through a centralized electronic database, for purposes of access and retrieval by the public under section 4 of this resolution, all information described in paragraph (2) that is available through the Congressional Research Service website.

(2) INFORMATION TO BE MADE AVAILABLE.—The information to be made available under paragraph (1) is:

(A) Congressional Research Service Issue Briefs.

(B) Congressional Research Service Reports that are available to Members of Congress through the Congressional Research Service website.

(C) Congressional Research Service Authorization of Appropriations Products and Appropriations Products.

(b) LIMITATIONS.—

(1) CONFIDENTIAL INFORMATION.—Subsection (a) does not apply to—

(A) any information that is confidential, as determined by—

(i) the Director; or

(ii) the head of a Federal department or agency that provided the information to the Congressional Research Service; or

(B) any documents that are the product of an individual, office, or committee research request (other than a document described in subsection (a)(2)).

(2) REDACTION AND REVISION.—In carrying out this section, the Sergeant-at-Arms of the Senate, in consultation with the Director of the Congressional Research Service, may—

(A) remove from the information required to be made available under subsection (a) the name and phone number of, and any other information regarding, an employee of the Congressional Research Service;

(B) remove from the information required to be made available under subsection (a) any material for which the Director determines that making it available under subsection (a) may infringe the copyright of a work protected under title 17, United States Code; and

(C) make any changes in the information required to be made available under subsection (a) that the Director determines necessary to ensure that the information is accurate and current.

(c) MANNER.—The Sergeant-at-Arms of the Senate, in consultation with the Director of the Congressional Research Service, shall make information required to be made available under this section in a manner that—

(1) is practical and reasonable; and

(2) does not permit the submission of comments from the public.

**SEC. 3. PUBLIC RECORDS OF THE CONGRESS.**

(a) SENATE.—The Secretary of the Senate, through the Office of Public Records and in accordance with such standards as the Secretary may prescribe, shall make available on the Internet for purposes of access and retrieval by the public:

(1) LOBBYIST DISCLOSURE REPORTS.—Lobbyist disclosure reports required by the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) within 90 days (Saturdays, Sundays, and holidays excepted) after they are received.

(2) GIFT RULE DISCLOSURE REPORTS.—Senate gift rule disclosure reports required under paragraph 2 and paragraph 4(b) of rule XXXV of the Standing Rules of the Senate within 5 days (Saturdays, Sundays, and holidays excepted) after they are received.

(b) DIRECTORY.—The Superintendent of Documents, under the Direction of the Public Printer in the Government Printing Office, shall include information about the documents made available on the Internet under this section in the electronic directory of Federal electronic information required by section 4101(a)(1) of title 44, United States Code.

**SEC. 4. METHOD OF ACCESS.**

(a) IN GENERAL.—The information required to be made available to the public on the Internet under this resolution shall be made available as follows:

(1) CRS INFORMATION.—Public access to information made available under section 2 shall be provided through the websites maintained by Members and Committees of the Senate.

(2) PUBLIC RECORDS.—Public access to information made available under section 3 by the Secretary of the Senate's Office of Public Records shall be provided through the United States Senate website.

(b) EDITORIAL RESPONSIBILITY FOR CRS REPORTS ONLINE.—The Sergeant-at-Arms of the Senate is responsible for maintaining and updating the information made available on the Internet under section 2.

**SEC. 5. CONGRESSIONAL COMMITTEE MATERIALS.**

It is the sense of the Senate that each standing and special Committee of the Senate and each Joint Committee of the Congress, in accordance with such rules as the committee may adopt, should provide access via the Internet to publicly-available committee information, documents, and proceedings, including bills, reports, and transcripts of committee meetings that are open to the public.

**SEC. 6. IMPLEMENTATION.**

The Sergeant-at-Arms of the Senate shall establish the database described in section 2(a) within 6 months after the date of adoption of this resolution.

**SEC. 7. GAO STUDY.**

(a) IN GENERAL.—Beginning 1 year after the date on which the database described in section 2(a) is established, the Sergeant-at-Arms shall request the Comptroller General to examine the cost of implementing this resolution, other than this section, with particular attention to the cost of establishing and maintaining the database and submit a report within 6 months thereafter. The Sergeant-at-Arms shall ask the Comptroller General to include in the report recommendations on how to make operations under this resolution more cost-effective, and such other recommendations for administrative changes or changes in law, as the Comptroller General may determine to be appropriate.

(b) DELIVERY.—The Sergeant-at-Arms shall transmit a copy of the Comptroller General's report under subsection (a) to:

(1) The Senate Committee on Rules and Administration.

(2) The Senate Committee on Commerce, Science, and Transportation.

(3) The Senate Committee on the Judiciary.

(4) The Joint Committee of the Congress on the Library of Congress.

Mr. MCCAIN. Mr. President, I would like to introduce a resolution to make selected Congressional Research Service products, lobbyist disclosure reports, and Senate gift disclosure forms available over the Internet for the American people. This bipartisan legislation is sponsored by Senators LEAHY, LOTT and LIEBERMAN.

The Congressional Research Service (CRS) is well known for producing high-quality reports and issue briefs that are concise, factual, and unbiased—a rarity in Washington. Many of us have used these products to make decisions on a wide variety of legislative proposals considering issues as diverse as Amtrak reform, the future of the Internet, health care reform, and tax policy. Also, we routinely send these products to our constituents in order to help them understand the important issues of our time.

My colleagues and I believe that it is important that the public should have access to this CRS information. The American public will pay $73.4 million to fund CRS' operations for the fiscal year 2001. The material covered in this resolution is not confidential or classified, and the public should be able to see that their money is well spent.

The Senate will serve two crucial functions by allowing the public to access this information over the Internet. First, it will help to fight a growing public cynicism about our government. According to a January 10–14, 2001, Gallup poll, the American public listed dissatisfaction with the Congress, government leadership, and the government in general as one of the ''most important problems facing the country today.'' By making these unbiased documents available online, the Senate will allow the public to see the factors that influence our decisions and votes. These documents will provide the public a more accurate view of the Congressional decision-making, and dispel some of the notions about Congress that create this cynicism.

In addition, the Senate will serve the important function of informing their constituents by making these CRS products available online. Members of the public will be able to read these

CRS products and receive a concise, accurate summary of issues that concern them. As their elected representatives, we should strive to promote a better informed and educated public. Educated voters are best able to make decisions and petition their legislators on how to accurately represent them.

I would like to point out that these products are already available on the Internet. ''Black market'' private vendors are charging up to $49 for a single report. Other web sites have outdated CRS products on them. It is not fair for the American people to have to pay a third party for out-of-date products for which they have already footed the bill.

This resolution is different from legislation that I authored last Congress. The House of Representatives has started a pilot program to make CRS products electronically available to the public. This resolution is drafted to set up a system identical to the House program. The Senate Sergeant-at-Arms will establish and maintain the database of CRS documents through the Senate Computer Center. The public will only be able to access these documents through Senators or Senate Committee's web pages. This system will allow Senators and Committee Chairmen to be able to choose which documents are made available to the public through their web page.

This change will ensure that only the Senate is directly involved in making CRS products available to the public. This change to the bill will ensure that the CRS' mission is not altered in any way, and that it cannot be open to liability suits. I ask unanimous consent to include a letter from Mr. Stanley M. Brand, a former General Counsel to the House of Representatives, who states that ''nothing in the resolution will alter or modify applicability of the Speech or Debate Clause protections to CRS products.'' In addition, Senators will be able to inform their constituents about how we are helping them here in Washington.

This resolution also includes other safeguards to ensure that CRS is protected from public interference. Confidential information and reports done for confidential research requests will not be made available to the public. The Senate Sergeant-at-Arms may remove the names of CRS employees from these products to prevent the public from distracting CRS employees. In addition, the Senate Sergeant-at-Arms may remove copyrighted information from the publicly-available reports. In the past, we have been informed that CRS may not have permission to release copyrighted information over the Internet. Currently, reports with copyrighted information may be posted over the House system. However, the Senate Sergeant-at-Arms may remove this information if it is necessary in the future.

Finally, we are aware that cost concerns have been raised about versions of this legislation introduced in earlier Congresses. Our understanding is that the House system of distribution has been achieved at a relatively low cost. This resolution will eliminate the cost burden to CRS by shifting the operation and maintenance of the database over to the Senate Sergeant-at-Arms. In addition, the Senate Sergeant-at-Arms is directed to ask the General Accounting Office to evaluate the program after one year to examine how to make the operations more cost-effective.

The resolution also requires the Senate Office of Public Records to place lobbyist disclosure forms and Senate gift disclosure forms on the Internet. We have already voted to make this information available to the public. Unfortunately, the public can only get access to this information through an office in the Hart building. These provisions will allow our constituents throughout the country to access this information. It is important to recognize the Senate Office of Public Records for setting up a system of online lobbying registration. The Senate can aid this office in its groundbreaking work by enacting this resolution.

This legislation has been endorsed by many groups including AOL Time Warner, the Congressional Accountability Project, Intel, the Center for Democracy and Technology, the American Library Association, Real Networks, Inc. and the National Federation of Press Women. Mr. President, I ask unanimous consent that these letters of support be printed in the RECORD.

The PRESIDING OFFICER. Without objective it is so ordered.

(See Exhibit 1.)

Mr. MCCAIN. In conclusion, we would like to urge our colleagues to join us in supporting this legislation. The Internet offers us a unique opportunity to allow the American people to have everyday access to important information about their government. We are sure you agree that a well-informed electorate can best govern our great country.

EXHIBIT 1

BRAND & FRULLA,
*Washington, DC, February 6, 2001.*

Hon. JOHN MCCAIN,
*Chairman, U.S. Senate Committee on Commerce, Science and Transportation, Washington, DC.*

DEAR SENATOR MCCAIN: I am writing to address the provisions of a draft Senate Resolution which I understand you intend to introduce directing the Senate Sergeant-at-Arms to provide Internet access to certain public congressional and Congressional Research Service documents. This resolution is substantially the same as a bill you introduced in 1998 to make certain of the same documents available on the Internet.

By letter dated January 27, 1998, I commented extensively on the impact of this substantially identical legislation upon applicability of the Speech or Debate Clause, U.S. Const., art. I §6, cl. 1, to CRS products.

I concluded then, and reaffirm that nothing in the resolution will alter or modify applicability of the Speech or Debate Clause protections to CRS products.

There is one sense in which your revised resolution may actually strengthen the protections of the Clause for CRS products. By lodging responsibility in the Sergeant-at-Arms for providing access, you have retained in a legislative officer, as opposed to the CRS, the power to make determinations concerning accessibility. The Sergeant-at-Arms, is a ''[r]anking nonmember'' of the Senate and one of the statutory ''officers of the Congress,'' *Buckley* v. *Valeo*, 424 U.S. 1, 128 (1975) and 2 U.S.C. §60–1(b) and there can be, therefore, no doubt about the Senate's intent to repose in one of its officers the power to control its privileges.

In doing so, you have, as a practical matter as well, given the Senate more direct control over access to CRS matters. *See United States* v. *Hoffa*, 205 F. Supp. 710, 723 (S.D. Fla. 1962) (*cert. denied sub nom Hoffa* v. *Lieb*, 371 U.S. 892 (invocation of legislative privilege by the United States Senate conclusive upon judicial branch). Given that any putative litigant seeking to obtain privileged CRS documents would have to actually serve process upon the Seregeant-at-Arms to obtain documents under the revised resolution, it is even less likely under the revised resolution that a party could obtain disclosure of such documents.

Sincerely,

STANLEY M. BRAND.

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AOL TIME WARNER,
*Washington, DC, February 5, 2001.*

Hon. JOHN MCCAIN,
*Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.*

Hon. PATRICK J. LEAHY,
*Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN MCCAIN AND SENATOR LEAHY: On behalf of AOL Time Warner, we write to express our support for your Senate Resolution directing the Sergeant-at-Arms to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and Joint Committee documents.

The Internet is one of our society's most powerful tools for education and communication, and its tremendous growth continues. We, like you, believe that this medium offers an unprecedented opportunity to connect individuals to the political process—by helping people become more informed citizens, by helping our government be more responsive to them, and by engaging more people in public policy discussions and debate.

Your resolution recognizes that the ability of citizens to access public records and to obtain research materials on public policy issues is crucial to a robust and successful democratic system, and that the Internet can serve as a powerful resource for information about our government and our political process. We believe that your legislation will help to further democracy by ensuring online access to Congressional documents and records.

We appreciate your leadership on this important issue and your continued leadership on technology-related matters. We look forward to working with you closely in the 107th Congress.

Sincerely,

JILL LESSER,
*Senior Vice President, Domestic Public Policy.*

ELIZABETH FRAZEE,
*Vice President, Domestic Policy & Congressional Relations.*

THE NATIONAL FEDERATION
OF PRESS WOMEN, INC.,
*Arlington, VA, February 2, 2001.*

Hon. JOHN MCCAIN,
*Chairman, Senate Committee on Commerce, Science and Transportation, Washington, DC.*

DEAR SENATOR MCCAIN: The National Federation of Press Women would like to express its support for legislation to establish a centralized, public database for Congressional Research Service reports.

NFPW, which represents more than 2,000 journalists, educators and professional communicators in the United States, last year supported S. 393, introduced by Sen. Patrick Leahy and yourself. Our members have sent notes of interest and concern to many senators to explain why this effort is important.

CRS reports are an invaluable resource to journalists. They provide the nation's best backgrounders on legislation. They help journalists to illuminate that wonderful sense of ''history on the run,'' as former Washington Post publisher Philip Graham once described the products of our craft.

But a CRS report's value to the public through the news media today is only as good as the luck of the reporter. Since the reports are not easily found, nor reliably catalogued in any public forum, a journalist often stumbles upon them in the course of other research, or learns of them only when a source reveals their existence. While the Members of Congress are forthcoming with assistance with these reports when asked, often the rush of deadlines outstrips the mail—and even the fax machine. A report undiscovered, or discovered too late for the story, offers nothing to the reader or viewer.

As publisher emeritus of a small daily newspaper in Kansas, I can assure you that this legislation would serve the interests of the public by providing our local reporters with the same access that well-funded Washington news bureaus have. And that will go a long way toward enhancing the credibility of the legislative process. Polls do tend to show that local press are better trusted by the citizenry than the national media. We bring the national news home. Your legislation can help us to do that.

New technologies now offer an ideal avenue for improved access. Not only journalists, but authors, historians, researchers, teachers and students will find a mother lode of useful information when CRS reports become electronically accessible. If the reports can be accessed through the websites of the Members, they likely will drive traffic to those sites, and that will further enhance the value of the Members' websites to the public.

NFPW urges you to continue to push forward with legislation to bring CRS reports to the Internet and to allow the public and press to share in the full value of this publicly-supported information service.

Sincerely,

VIVIEN SADOWSKI.

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INTEL GOVERNMENT AFFAIRS,
*Washington, DC, February 6, 2001.*

Hon. JOHN MCCAIN,
*Chairman, Senate Committee on Commerce, Science, & Transportation, Washington, DC.*

DEAR CHAIRMAN MCCAIN: I write to affirm the support of Intel Corporation for your proposed Senate resolution regarding the maintenance of an electronic database through which the public would be able to access CRS reports to Congress, issue brief, and other products over the Internet. I note that your current initiative follows up on legislation that you introduced last Congress (S. 393) that would have mandated such action.

We have supported your efforts to achieve such public access in the past, and we are pleased that you have once again taken the initiative on this matter.

We believe that convenient electronic access to public documents upon which the Congress relies in performing its legislative and oversight functions serves to strengthen accountability of government to the people as well as the public's faith in the legislative process. We hope to see early action on your resolution in this session of the 107th Congress.

Sincerely,

DOUGLAS B. COMER,
*Director, Legal Affairs.*

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CONGRESSIONAL ACCOUNTABILITY
PROJECT,
*Washington, DC, February 6, 2001.*

Senator JOHN MCCAIN,
*U.S. Senate,*
*Washington, DC.*

Senator PATRICK LEAHY,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATORS MCCAIN AND LEAHY: We heartily endorse your Congressional Openness Resolution, which would require the U.S. Senate to put key congressional documents on the Internet, including Congressional Research Service (CRS) Reports and Issue Briefs, CRS Authorization and Appropriations products, lobbyist disclosure reports and Senate gift disclosure reports. Your resolution is a cheap and simple way to improve our democracy.

Citizens need access to these congressional documents to discharge their civic duties. CRS reports are some of the best research conducted by the federal government. Your resolution would put about 2700–2800 of these useful reports on the Internet. Placing lobbyist disclosure reports on the Internet would help citizens to track patterns of influence in Congress, and to discover who is paying whom how much to lobby on what issues.

Taxpayers will be cheered that you have included a Sense of the Senate resolution that Senate and Joint Committees should ''provide access via the Internet to publicly-available committee information, documents and proceedings, including bills, reports and transcripts of committee meetings that are open to the public.'' We taxpayers pay dearly to produce these documents; we ought to be able to read them, for free, on the Internet.

In 1822, James Madison explained why citizens must have government information: ''A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.''

The Congressional Openess Resolution honors the spirit of Madison's words. Thank you for your efforts to place congressional documents available on the Internet.

Sincerely,

Alliance for Democracy, American Association of Law Libraries, American Conservative Union, American Federation of Government Employees, American Society of Newspaper Editors, Better Government Association, Center for Democracy and Technology, Center for Media Education, Center for Responsive Politics, Common Cause, Computer Professional for Social Responsibility, Congressional Accountability Project, Consumer Federation of America, Electronic Frontier Foundation, Electronic Privacy Information Center, Federation of American Scientists, Friends of the Earth, Government Accountability Project, National Newspaper Association, National Security Archive, National Taxpayers Union, OMB Watch, Progressive Asset Management Inc., Project on Government Oversight, Public Citizen, RealNetworks, Inc., Reform Party of the USA, Regional Reporters Association, Reporters Committee for Freedom of the Press, Society of Professional Journalists, Taxpayers for Common Sense, U.S. Public Interest Research Group (USPIRG).

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AMERICAN LIBRARY ASSOCIATION,
*Washington, DC, February 6, 2001.*

Senator JOHN MCCAIN,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR MCCAIN: We support your proposal to make reports from the Congressional Research Service (CRS) publicly available. We want to endorse your efforts to assure public access to a broad range of government information. The CRS reports are well researched and balanced products addressing a wide variety of current issues.

We believe that these unique and valued resources should be available to scholars and researchers as well as the general public through the Federal Depository Library Program (FDLP). The FDLP already provides a network of libraries throughout the country that serve the public by providing access to Federal government information. Utilizing the FDLP as well as Internet resources provides great public benefit through access to the CRS reports.

ALA has long standing policies about these issues of broad access to government information. We have attached a resolution supporting your earlier efforts pressing for access to this publicly supported research. We will also encourage our members to support your proposal.

As you know, the American Library Association is a nonprofit educational organization of over 60,000 librarians, library educators, information specialists, library trustees, and friends of libraries representing public, school, academic, state, and specialized libraries. ALA is dedicated to the improvement of library and information services, to the public's right to a free and open information society—intellectual participation—and to the idea of intellectual freedom.

ALA's previous resolution encouraged the appropriate Congressional committees to ''take immediate action to assure that the publicly released Congressional Research Service reports and information products are distributed in a timely manner to the general public through Federal Depository libraries and on the Internet.''

Attached is a copy of the complete resolution. We thank you for your efforts on this issue and look forward to working with you and your staff as this proposal moves forward.

Sincerely,

LYNNE BRADLEY,
*Director, ALA Office of Government Relations.*

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AMERICAN LIBRARY ASSOCIATION,
*Washington, DC, Jan. 14, 1998.*

RESOLUTION ON CONGRESSIONAL RESEARCH SERVICE PUBLICATIONS

Whereas, equitable and timely access to information created by the government is an important tenet of a free and democratic society; and

Whereas, Title 44 of the U.S. Code mandates provision of publications to Federal Depository Libraries; and

Whereas, the 104th and 105th Congresses have a made a concerted effort to increase public access to Congressional information through the Internet; and

Whereas, the Congressional Research Service (CRS) produces reports and information

products at the request of Members of Congress; and

Whereas, CRS reports are well researched and balanced products addressing a wide variety of current issues; and

Whereas, the CRS produces and Congress releases reports that are not made available to the Government Printing Office for distribution to Federal Depository Libraries nor made available to the public on the Internet; and

Whereas, many of these reports are released to various individuals or groups by Members of Congress but not made available to the public; now, therefore, be it

*Resolved,* That the American Library Association urge that the Joint Committee on the Library, the Senate Rules and Administration Committee, and the House Oversight Committee take immediate action to assure that publicly released Congressional Research Service reports and information products are distributed in a timely manner to the general public through Federal Depository Libraries and on the Internet.

Adopted by the Council of the American Library Association, New Orleans, LA, January 14, 1998.

Mr. LEAHY. Mr. President, I am pleased to join today with Senator MCCAIN to introduce a Senate resolution to provide Internet Access to important Congressional documents.

Our bipartisan resolution makes certain Congressional Research Service products, lobbyist disclosure reports and Senate gift disclosure reports available over the Internet to the American people.

The Congressional Research Service, CRS, has a well-known reputation for producing high-quality reports and information briefs that are unbiased, concise, and accurate. The taxpayers of this country, who pay $67 million a year to fund the CRS, deserve speedy access to these public resources and have a right to see that their money is being spent well.

The goal of our legislation is to allow every citizen the same access to the wealth of CRS information as a Member of Congress enjoys today. CRS performs invaluable research and produces first-rate reports on hundreds of topics. American taxpayers have every right to direct access to these wonderful resources.

Online CRS reports will serve an important role in informing the public. Members of the public will be able to read these CRS products and receive a concise, accurate summary of the issues before the Congress. As elected representatives, we should do what we can to promote an informed, educated public. The educated voter is best able to make decisions and petition us to do the right things here in Congress.

Our legislation follows the model online CRS program in the House of Representatives and ensures that private CRS products will remain protected by giving the CRS Director the authority to hold back any products that are deemed confidential. Moreover, the Director may protect the identity of CRS researchers and any copyrighted material. We can do both—protect confidential material and empower our citizens through electronic access to invaluable CRS products.

In addition, the bipartisan resolution would provide public online access to lobbyist reports and gift disclosure forms. At present, these public records are available in the Senate Office of Public Records in Room 232 of the Hart Building. As a practical matter, these public records are accessible only to those inside the Beltway.

I applaud the Office of Public Records for recently making technological history in the Senate by providing for lobbying registrations through the Internet. The next step is to provide the completed lobbyist disclosure reports on the Internet for all Americans to see.

The Internet offers us a unique opportunity to allow the American people to have everyday access to this public information. Our bipartisan legislation would harness the power of the Information Age to allow average citizens to see these public records of the Senate in their official form, in context and without editorial comment. All Americans should have timely access to the information that we already have voted to give them.

And all of these reports are indeed ''public'' for those who can afford to hire a lawyer or lobbyist or who can afford to travel to Washington to come to the Office of Public Records in the Hart Building and read them. That is not very public. That does not do very much for the average voter in Vermont or the rest of this country outside of easy reach of Washington. That does not meet the spirit in which we voted to make these materials public, when we voted ''disclosure'' laws.

We can do better, and this resolution does better. Any citizen in any corner of this country with access to a computer at home or the office or at the public library will be able to get on the Internet and get these important Congressional documents under our resolution. It allows individual citizens to check the facts, to make comparisons, and to make up their own minds.

I commend the Senior Senator from Arizona for his leadership on opening public access to Congressional documents. I share his desire for the American people to have electronic access to many more Congressional resources. I look forward to working with him in the days to let the information age open up the halls of Congress to all our citizens.

As Thomas Jefferson wrote, ''Information is the currency of democracy.'' Our democracy is stronger if all citizens have equal access to at least that type of currency, and that is something which Members on both sides of the aisle can celebrate and join in.

This bipartisan resolution is an important step in informing and empowering American citizens. I urge my colleagues to join us in supporting this legislation to make available useful Congressional information to the American people.

## SENATE RESOLUTION 22—URGING THE APPROPRIATE REPRESENTATIVE OF THE UNITED STATES TO THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS TO INTRODUCE AT THE ANNUAL MEETING OF THE COMMISSION A RESOLUTION CALLING UPON THE PEOPLE'S REPUBLIC OF CHINA TO END ITS HUMAN RIGHTS VIOLATIONS IN CHINA AND TIBET, AND FOR OTHER PURPOSES.

Mr. HUTCHINSON (for himself, Mr. WELLSTONE, Mr. HELMS, Mr. TORRICELLI, Ms. COLLINS, Mr. DAYTON, Mr. SMITH of New Hampshire, Mr. KYL, Mr. SPECTER, Mr. FEINGOLD, Mr. HARKIN, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 22

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, provides a forum for discussing human rights and expressing international support for improved human rights performance;

Whereas, according to the Department of State and international human rights organizations, the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses in China and Tibet;

Whereas the People's Republic of China has yet to demonstrate its willingness to abide by internationally accepted norms of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms;

Whereas the Government of the People's Republic of China continues to ban and criminalize groups it labels as cults or heretical organizations;

Whereas the Government of the People's Republic of China has repressed unregistered religious congregations and spiritual movements, including Falun Gong, and persists in persecuting persons on the basis of unauthorized religious activities using such measures as harassment, prolonged detention, physical abuse, incarceration, and closure or destruction of places of worship;

Whereas authorities in the People's Republic of China have continued their efforts to extinguish expressions of protest or criticism, have detained scores of citizens associated with attempts to organize a peaceful opposition, to expose corruption, to preserve their ethnic minority identity, or to use the Internet for the free exchange of ideas, and have sentenced many citizens so detained to harsh prison terms;

Whereas Chinese authorities continue to exert control over religious and cultural institutions in Tibet, abusing human rights through instances of torture, arbitrary arrest, and detention of Tibetans without public trial for peacefully expressing their political or religious views;

Whereas bilateral human rights dialogues between several nations and the People's Republic of China have yet to produce substantial adherence to international norms; and

Whereas the People's Republic of China has signed the International Covenant on Civil and Political Rights, but has yet to take the steps necessary to make the treaty legally binding: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that—

(1) at the 57th Session of the United Nations Human Rights Commission in Geneva, Switzerland, the appropriate representative

of the United States should solicit cosponsorship for a resolution calling upon the Government of the People's Republic of China to end its human rights abuses in China and Tibet, in compliance with its international obligations; and

(2) the United States Government should take the lead in organizing multilateral support to obtain passage by the Commission of such resolution.

Mr. HUTCHINSON. Mr. President, I rise today to introduce a resolution, along with my colleague Senator WELLSTONE, calling on the Administration to introduce a resolution at the upcoming meeting of the United Nations (U.N.) Human Rights Commission highlighting China's human rights abuses. This Senate resolution makes a simple statement. The U.S.should lead the effort in Geneva to speak for freedom in China, both by introducing a resolution and by garnering the support of key cosponsors.

Mr. President, in a report issued just two days ago, Amnesty International documented the extensive use of torture in China. According to the report, ''Torture is widespread and systemic, committed in the full range of state institutions, from police stations to 'reeducation through labour' camps, as well as in people's homes, workplaces, and in public . . . Victims can be anyone from criminal suspects, political dissidents, workers and innocent bystanders to officials.'' The common occurrence of torture points to a wider trend—China's human rights record is appalling. The Chinese government continues to repress any voice it perceives to be a threat to its power—religious groups, democracy activists, people trying to expose corruption, people trying to use the Internet for the free exchange of ideas—anyone who will not bow to the government. I expect that the State Department's annual report on human rights, which will be issued soon, will once again confirm this trend.

The destruction of places of worship is nothing new in China. But in recent months, scores of churches have been destroyed, in what some experts have described as the most destructive crackdown since the Cultural Revolution. Beginning in November, in counties around Wenzhou, over 700 churches have been destroyed. Over two hundred others have either been banned or taken for other purposes. I am disturbed by this worsening campaign against religious believers in China. The Chinese government has also stepped up its campaign against spiritual movements like the Falun Gong and Zhong Gong, not only imprisoning leaders but also sentencing marginal followers to lengthy terms and penalizing family members of practitioners.

Pro-democracy activists, including Xu Wenli, one of the founders of the China Democracy Party, are still languishing in prison for legally and peacefully expressing their views. Huang Qi, a middle class computer user and an Internet webmaster, is on trial for subverting state power simply because he posted information about topics like the democracy movement and the Tiannanmen Square Massacre. He could face ten years in prison. This attempt to control Internet usage should be of great concern to the international community, especially those who have touted the Internet as a revolutionizing force in China.

Mr. President, all of these human rights abuses point to a much needed response—a resolution at the U.N. Human Rights Commission. There is no more appropriate place for highlighting these abuses in a multilateral setting, because this multilateral forum was established just for this purpose. If we do not use this forum for bringing up obvious abuses, then we undercut its very viability. The U.S. has traditionally led the effort on China's human rights abuses. This year should be no different. China is already intensely lobbying other countries to defeat any such resolution. We must begin as soon as possible to obtain support for a resolution.

I understand that the Administration is in the process of deciding whether to advance a resolution at Geneva. I hope that they will look to the Congress and understand that there is broad support for a Geneva resolution. This Administration has the opportunity to set a tone for its approach to China and all of Asia. If the mistake of the Clinton Administration was bowing to China's demands and centering its efforts in Asia around China, then the Bush Administration has the chance to stand firm, to be skeptical of the Chinese government's offers and promises. I urge the Administration not to look at China's offer of ratifying the International Covenant on Economic, Social, and Cultural Rights, as anything an empty promise—a distraction that will quickly fade away once the Commission meeting is over.

Finally, Mr. President, last year when the Senate and Congress as a whole passed PNTR for China, proponents argued that passage of PNTR in no way signified a diminished concern for human rights. I believe that now is the time to demonstrate this continuing concern for human rights. I urge my colleagues to support this resolution.

## SENATE RESOLUTION 23—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD AWARD THE PRESIDENTIAL MEDAL OF FREEDOM POSTHUMOUSLY TO DR. BENJAMIN ELIJAH MAYS IN HONOR OF HIS DISTINGUISHED CAREER AS AN EDUCATOR, CIVIL AND HUMAN RIGHTS LEADER, AND PUBLIC THEOLOGIAN

Mr. CLELAND (for himself, Mr. MILLER, and Mr. HOLLINGS) submitted the following resolution; which was referred to the Committee on the Judiciary, as follows:

S. RES. 23

Whereas Dr. Benjamin Elijah Mays, throughout his distinguished career of more than half a century as an educator, civil and human rights leader, and public theologian, has inspired people of all races throughout the world by his persistent commitment to excellence;

Whereas Benjamin Mays persevered, despite the frustrations inherent in segregation, to begin an illustrious career in education;

Whereas as dean of the School of Religion of Howard University and later as President of Morehouse College in Atlanta, Georgia, for 27 years, Benjamin Mays overcame seemingly insurmountable obstacles to offer quality education to all Americans, especially African Americans;

Whereas at the commencement of World War II, when most colleges suffered from a lack of available students and the demise of Morehouse College appeared imminent, Benjamin Mays prevented the college from permanently closing its doors by vigorously recruiting potential students and thereby aiding in the development of future generations of African American leaders;

Whereas Benjamin Mays was instrumental in the elimination of segregated public facilities in Atlanta, Georgia, and promoted the cause of nonviolence through peaceful student protests during a time in this Nation that was often marred by racial violence;

Whereas Benjamin Mays received numerous accolades throughout his career, including 56 honorary degrees from universities across the United States and abroad and the naming of 7 schools and academic buildings and a street in his honor; and

Whereas the Presidential Medal of Freedom, the highest civilian honor in the Nation, was established in 1945 to appropriately recognize Americans who have made an especially meritorious contribution to the security or national interests of the United States, world peace, or cultural or other significant public or private endeavors: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian and his many contributions to the improvement of American society and the world.

Mr. CLELAND. Mr. President. I rise today to introduce legislation that would honor Benjamin Elijah Mays for his distinguished career as an educator, civil and human rights leader, and public theologian. Among his many accomplishments, Dr. Benjamin E. Mays earned a master's degree and a doctorate of philosophy from the University of Chicago, served as president of Morehouse College and mentored Martin Luther King, Jr., and received numerous awards and honors during his lifetime. In recognition of his many accomplishments and contributions to the citizens of this nation and the world, I believe the President should award the Presidential Medal of Freedom to the late Benjamin E. Mays.

Dr. Benjamin Elijah Mays' achievements are even more extraordinary given the circumstances and social climate in the United States at the turn of the 20th Century. Dr. Mays, the son of former slaves, encountered prejudice and obstacles at every stage of his early education and pursued his dream

of a college education despite hostile, and sometimes violent, opposition. Although he faced the frustrations inherent in segregation, Dr. Mays finished high school at South Carolina State College in three years and graduated as class valedictorian. Based on his will to learn, his motivation to succeed, and his strong strength of character, Dr. Mays then went on to graduate from Bates College in Maine and received his graduate degrees from the University of Chicago.

As dean of the School of Religion at Howard University and later as President of Morehouse College in Atlanta, Georgia for 27 years, Benjamin Mays overcame seemingly insurmountable obstacles to offer quality education to all Americans, especially African-Americans. One of Dr. Mays' own inspirations was Mahatma Gandhi, whom he met in Mysore, India for 90 minutes and who shaped Mays' views on nonviolence as a means of political protest. Dr. Mays greatly influenced his students and, one in particular, Martin Luther King, Jr. sought the advice and counsel of his mentor before and during the civil rights movement. Dr. Mays was instrumental in the elimination of segregated public facilities in Atlanta and promoted the cause of nonviolence through peaceful student protests during a time in this nation that was often marred by racial violence. Another student from Morehouse, Ira Joe Johnson, published a book about Dr. Mays' scholarship program for African-American medical students in the early 1940s.

Dr. Mays once said that ''[e]very man and woman is born into the world to do something unique and something distinctive and if he or she does not do it, it will never be done.'' This nation owes a great debt to the late Dr. Benjamin E. Mays and it is certainly appropriate and timely to honor his achievements and his contributions to the citizens of the United States and the world by awarding him a Presidential Medal of Freedom.

## SENATE RESOLUTION 24—HONORING THE CONTRIBUTIONS OF CATHOLIC SCHOOLS.

Mr. SANTORUM (for himself, Mr. HUTCHINSON, Mr. DOMENICI, Mr. VOINOVICH, and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions, as follows:

S. RES. 24

Whereas America's Catholic schools are internationally acclaimed for their academic excellence, but provide students more than a superior scholastic education;

Whereas Catholic schools ensure a broad, values-added education emphasizing the lifelong development of moral, intellectual, physical, and social values in America's young people;

Whereas the total Catholic school student enrollment for the 1999–2000 academic year was 2,653,038, the total number of Catholic schools is 8,144, and the student-teacher ratio is 17 to 1;

Whereas Catholic schools provide more than $17,200,000,000 a year in savings to the Nation based on the average public school per pupil cost;

Whereas Catholic schools teach a diverse group of students and over 24 percent of school children enrolled in Catholic schools are minorities;

Whereas the graduation rate of Catholic school students is 95 percent, only 3 percent of Catholic high school students drop out of school, and 83 percent of Catholic high school graduates go on to college;

Whereas Catholic schools produce students strongly dedicated to their faith, values, families, and communities by providing an intellectually stimulating environment rich in spiritual, character, and moral development; and

Whereas in the 1972 pastoral message concerning Catholic education, the National Conference of Catholic Bishops stated, ''Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives.'': Now, therefore, be it

*Resolved,* That the Senate—

(1) supports the goals of Catholic Schools Week, an event sponsored by the National Catholic Educational Association and the United States Catholic Conference and established to recognize the vital contributions of America's thousands of Catholic elementary and secondary schools; and

(2) congratulates Catholic schools, students, parents, and teachers across the Nation for their ongoing contributions to education, and for the key role they play in promoting and ensuring a brighter, stronger future for this Nation.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, February 14, 2001, at 11 a.m., in closed session to receive a briefing form the navy on the submarine accident near Hawaii.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 14, 2001, to conduct a hearing on ''Establishing an Effective, Modern Framework for Export Controls.''

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 14, 2001, to conduct a hearing on ''Saving Investors Money and Strengthening the SEC.''

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

COMMITTEE ON FINANCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, February 14, 2001, to hear testimony regarding Education Tax and Savings Incentives.

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

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, February 14, 2001 at 10 a.m. in SD226.

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

SUBCOMMITTEE ON COMMUNICATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 14, 2001, at 9:30 a.m. on ICANN Governance.

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

## PRESIDENTIAL VISIT TO MEXICO

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Con. Res. 13 that I submitted earlier.

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

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 13) expressing the sense of Congress with respect to the upcoming trip of President George W. Bush to Mexico to meet with newly elected President Vicente Fox, and with respect to future cooperative efforts between the United States and Mexico.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DEWINE. Mr. President, we are facing a unique time in the history of U.S.-Mexico relations. Mexico's election and inauguration last year of an opposition candidate as president—Vicente Fox Quesada—has overturned 71 years of executive branch domination by the Institutional Revolutionary Party, PRI. And now, with the inauguration of our new president—George W. Bush—both nations have the unprecedented opportunity to implement positive changes and create lasting progress for our entire Western Hemisphere.

Because of Mexico's critical importance to our nation and hemisphere, it is not at all surprising that President Bush has chosen to travel to Mexico for

his first official foreign trip as President. It is with that in mind that I am introducing a resolution today, along with Senators HELMS, LOTT, DODD, MCCAIN, LANDRIEU, GRASSLEY, BREAUX, CHAFEE, VOINOVICH, and LEAHY to express our bipartisan interest in America's current relationship with Mexico and to suggest several issues of particular importance that President Bush should raise during his upcoming meeting with President Fox.

Our resolution acknowledges the vital nature of our relationship with Mexico and calls for policies that promote cooperation, enhance the security and prosperity of both nations, and enable both countries to establish mutually agreed-upon goals in at least four areas: one, economic development and trade; two, the environment; three, immigration; and, four, law enforcement and counter-drug policy.

In each of these areas, both countries should pursue realistic and practical steps that will build confidence in our partnership and help set the stage for future discussions and future progress.

No one can deny the importance of our involvement with Mexico—a nation with which we share over 2,000 miles of common borders. Additionally, over 21.4 million Americans living in this country are of Mexican heritage—that's 67 percent of our total U.S. Latino population. Indeed, many people and many issues bind our nations togther. And, it is in both nations' interest to make that bond even stronger.

That is why we want to see President Fox succeed. And, he is off to a good start. For the first time in two decades, economic crisis has not marred Mexico's transition period in between presidencies. Instead, President Fox's election has been received as a positive step in Mexico's maturing economy and has fueled new investment in the country, raising expectations for better economic opportunities for the Mexican people.

President Fox's election also has raised expectations here in Washington for better opportunities to improve U.S.-Mexico bilateral cooperation on a wide range of issues. An advocate of free trade in the Americas, President Fox currently recognizes that a strong, steady economy in Mexico can be the foundation to help solve many of our shared challenges, such as immigration, environmental quality, violent crime, and drug trafficking.

Furthermore, thanks to the economic cooperation spearheaded by the North American Free Trade Agreement (NAFTA), trade between the United States and Mexico amounts to $200 billion annually, making our neighbor to the south our second largest trading partner behind Canada. Over the last decade, U.S. exports to Mexico have increased by 207 percent. In 1999, alone, the United States exported $86.9 billion to Mexico—that is more than we exported to France, Germany, and the United Kingdom combined: $84.1 billion!

Overall progress in our partnership cannot occur, though, absent continued progress in Mexico's economy. Although Mexico is in its fifth consecutive year of recovery following the 1994-1995 peso crisis, improved living standards and economic opportunities have not been felt nationwide. Lack of jobs and depressed wages are particularly acute in the interior of the country, even in President Fox's home state of Guanajuato. As long as enormous disparities in wages and living conditions exist between the United States and Mexico, our own nation will not fully realize the potential of Mexico as an export market nor will we be able to deal adequately with the resulting problems of illegal immigration, border crime, and drug trafficking.

In keeping with the market-oriented approach we began with NAFTA, the United States can take a number of constructive steps to continue economic progress in Mexico and secure its support for a Free Trade Agreement with the Americas:

First, we can encourage growth and development by devising, for example, a common strategy to improve the flow of credit and U.S. investment opportunities in Mexico and by increasing funding for entrepreneurial efforts of all sizes, such as microcredit and microenterprise programs and Overseas Private Investment Corporation (OPIC) projects. OPIC—a loan program that assists U.S. small business investments in foreign countries—is already developing a limited small business financing program to support U.S. investments in environmentally sound projects in Mexico. We should work to expand the availability of this kind of investment assistance.

Second, we should expand the mandate of the North American Development Bank (NADbank) beyond the U.S.–Mexico border region—an idea proposed by Congressman DAVID DREIER and M. Delal Baer, an expert in Latin American affairs for the Center for Strategic and International Studies. The NADbank has been a successful source of private-public financing of infrastructure projects along our borders. Extending its authority inland will not only bring good jobs into the interior of Mexico, but also would develop and further nationalize a transportation and economic infrastructure.

Continued investments in NADBank also would facilitate greater environmental cooperation between the United States and Mexico through projects geared toward advancing the environmental goals and objectives set forth in NAFTA and would enhance the overall protection of American and Mexican natural resources.

Third, both nations need to pursue a joint immigration policy that takes into account the realities of the economic conditions of both countries. At a minimum, the Bush Administration should re-evaluate the current guest worker program, which has proven burdensome for U.S. farmers and small businesses. Any calls for a liberalization of this program from President Fox should be linked to concrete programs to reduce illegal immigration into the United States.

Fourth, in a quick and simple fix, the Bush Administration should eliminate the annual cap on the number of visas issued to Mexican business executives to enter the United States. Currently, the cap stands at 5,500 and will be phased out by 2004. The United States does not have such a cap for Canada. Repealing the cap now would send to President Fox and the people of Mexico a positive signal about their nation's value as an economic partner.

Fifth and finally, it is important for the United States to be seen as a partner and resource when President Fox undertakes his pledge to reform Mexico's entire judicial system. With a law enforcement system plagued with inherent corruption and institutional and financial deterioration, President Fox will face numerous challenges. It is in our interest to help him upon his request, whether it be through financial or technical assistance. It is in our own interest that he succeed, because our country cannot reverse effectively the flow of drugs across our border without the full cooperation and support of Mexican law enforcement. Additionally, the Bush Administration should explore possible multilateral anti-drug mechanisms and work with President Fox to decentralize standard day-to-day border functions of the hardworking and trusted law enforcement officials from both countries.

The issues that impact the United States and Mexico are numerous—all important, each interrelated with the other. Together, they present an enormous task for the presidents of both countries. Perhaps most important, they are evidence of the enormous importance of Mexico to the future prosperity and security of our country, as well as our hemisphere. The elections of Vicente Fox and George W. Bush present one of the best opportunities not only to redefine U.S.-Mexico relations for the better, but to bring all of Latin America to the top of the Administration's foreign policy agenda.

We cannot underestimate, nor can we neglect our neighbors to the south. President Bush knows this. He understands this. And, in a speech last August in Miami, I think he, himself, best described our relationship with Latin America, when he said:

> Those who ignore Latin America do not fully understand America, itself. . . . Our future cannot be separated from the future of Latin America. . . . We seek, not just good neighbors, but strong partners. We seek, not just progress, but shared prosperity. With persistence and courage, we shaped the last century into an American century. With leadership and commitment, this can be the century of the Americas.

I couldn't agree more.

At this point, I ask unanimous consent that the resolution before the Senate be agreed to, the preamble be agreed to, the motion to reconsider be

laid upon the table, and finally, that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 13) was agreed to.

The preamble was agreed to.

(The resolution is printed in today's RECORD under ''Submission of Concurrent and Senate Resolution.'')

## ORGAN DONATION AND SUPPORTING NATIONAL DONOR DAY

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 12, submitted earlier today by Senator DURBIN.

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

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 12) expressing the sense of Congress regarding the importance of organ, tissue, bone marrow, and blood donation, and supporting National Donor Day.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DEWINE. Mr. President, let me take a moment, if I may, to speak on behalf of this resolution.

Every day in this country we lose people because we do not have enough donated organs, and we do not have enough people who understand this problem. I applaud my colleague for introducing this resolution and join with him and the other cosponsors in asking for its passage.

Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and any statement relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 12) was agreed to.

The preamble was agreed to.

(The concurrent resolution is printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

## MEASURE READ THE FIRST TIME—S. 328

Mr. DEWINE. Mr. President, I understand that S. 328 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. 328) to amend the Coastal Zone Management Act.

Mr. DEWINE. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will be read a second time on the next legislative day.

## PROVIDING FOR A JOINT SESSION OF CONGRESS

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 28, regarding an address to Congress by the President of the United States. Further, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 28) was agreed to.

## PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 32, the adjournment resolution, which is at the desk. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 32) was agreed to.

## ORDERS FOR THURSDAY, FEBRUARY 15, 2001

Mr. DEWINE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on February 15. I further ask unanimous consent that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period for morning business until 1 p.m., with Senators speaking for up to 10 minutes each, with the following exceptions: Senator DURBIN, or his designee, in control of the time between 10 a.m. and 11 a.m., with 10 minutes under the control of Senator Clinton, 15 minutes under the control of Senator DORGAN, and 20 minutes under the control of Senator CARNAHAN; Senator KYL, or his designee, controlling the time between 11 a.m. and 11:30 a.m.; Senator THOMAS, or his designee, in control of the time between 11:30 a.m. and 12 noon; Senator COLLINS, or her designee, in control of 15 minutes; Senator LOTT, or his designee, in control of 15 minutes; Senator DASCHLE, or his designee, in control of 30 minutes.

Mr. REID. Mr. President, I ask that the closing script be modified to provide that if either leader uses his leader time, morning business for the affected party or parties be extended accordingly. It is not usual that the leaders do use their time, but when either one of them does, if we have morning business set aside, it cuts down the other side's ability to have morning business. This is fair. I do not see any problem with it.

Mr. DEWINE. Mr. President, our side certainly has no objection to this. I ask unanimous consent that my unanimous consent request be modified to reflect the request of the Senator from Nevada.

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

## PROGRAM

Mr. DEWINE. Mr. President, tomorrow the Senate will be in session beginning at 10 a.m. Following morning business at 1 p.m., the Senate can be expected to consider the bill honoring our former colleague, Senator Coverdell, and also the Senate could consider a resolution relative to the energy crisis occurring on the west coast and could also consider the nominee to head the Federal Emergency Management Agency. Therefore, votes can be expected to occur.

## ORDER FOR ADJOURNMENT

Mr. DEWINE. Mr. President, on behalf of the majority leader, 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 following the remarks of Senator BROWNBACK.

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

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

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

## RECONCILIATION AND VALENTINE'S DAY

Mr. BROWNBACK. Mr. President, I want to speak for a few minutes on a bill that I am going to be putting forward shortly and then tie it in to this day. It is Valentine's Day. I hope everybody has called their special person. I hope they have called their mother. I hope they have called the people to whom they think they ought to reach out. If they have not done so, there is still time. There is special delivery of flowers, candy, and others things that can be done. They can still capture the day and the moment for the people to whom they should be reaching out.

I want to talk about a national day of reconciliation. This is an effort by both Houses to identify what needs to be done to reconcile the Nation and past and present problems.

We are at the beginning of a new administration and at the beginning of a new millennium. This would be a good time to do this.

It is a simple proposition, a basic proposition of what we need to do to identify—something we should have done—and correct past wrongs. I am hoping we can identify and move that forward without difficulty and controversy. It will be a very healthy exercise.

It is also healthy to recognize the basis of some of these days we celebrate. That is why I put forward this notion of reconciliation on Valentine's Day. It is a lot more than just hearts, cards, and candy.

I commend to the Senate an article written by Mark Merrill in the Washington Times today. He is president of Family First, an independent, nonprofit research group that strengthens families. He supports the story of Valentine, the true Valentine. I understand there are three St. Valentines. All three were martyred. All three were tremendously dedicated to other individuals and to helping them.

The one he identifies is the first Valentine. It is quite a story. I ask unanimous consent to print this article in the RECORD.

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

[From the Washington Times, Feb. 14, 2001]

SACRIFICIAL LOVE—ST. VALENTINE'S CONTRIBUTION TO LOVE AND COMMITMENT

(By Mark W. Merrill)

Do you know the real story behind Valentine's Day? It goes way beyond hearts, cards and candy. It is a story of love, sacrifice and commitment.

In the third century, the Roman Empire was ruled by Claudius Gothicus. He was nicknamed ''Claudius the Cruel'' because of his harsh leadership and his tendency for getting into wars. In fact, he was in so many wars that he was having a difficult time recruiting soldiers.

Claudius believed that recruitment for the army was down because Roman men did not want to leave their loves or families behind, so he canceled all marriages and engagements in Rome. Thousands of couples saw their hopes of matrimony dashed by the single act of a tyrant.

But a simple Christian priest named Valentine came forward and stood up for love. He began to secretly marry soldiers before they went off to war, despite the emperor's orders. In 269 AD, Emperor Claudius found out about the secret ceremonies. He had Valentine thrown into prison and ordered him put to death.

He gave his life to that couples could be bonded together in holy matrimony. They may have killed the man, but not his spirit. Even centuries after his death, the story of Valentine's self-sacrificing commitment to love was legendary in Rome. Eventually, he was granted sainthood and the Catholic church decided to create a feast in his honor. They picked Feb. 14 because of the ancient belief that birds (particularly lovebirds and doves) began to mate on that very day.

So what are you doing to keep the love in your marriage? While gifts, candlelight dinners and sweet words are nice, the true spirit of Valentine's Day needs to last year-round.

Here are some ways to bring more love into your marriage:

Schedule priority time together. Pull out your calendars and set a date night every week or two—just to spend time together and talk. (Note: Movies don't count)

Laugh together. When was the last time you shared a funny story and chuckled with each other? Loosen up and laugh freely. Live lightheartedly.

Play together. Find a hobby or activity you both enjoy—fishing, bowling, tennis, hiking, biking or crossword puzzles.

Be romantic together. Send your spouse a note of encouragement in the mail every once in awhile just to say, ''I love you.''

However, you choose to express yourself, do it in the spirit of the selfless Saint Valentine—who not only took a stand for love—he gave his life for it.

Mr. BROWNBACK. I will read portions of the article because it is so instructive about what Valentine's Day is about.

In the 3rd century, the Roman Empire was ruled by Claudius Gothicus. He was nicknamed ''Claudius the Cruel''—

That is a pretty auspicious name for an emperor—

because of his harsh leadership and tendency for getting into wars. In fact, he was in so many wars he was having a difficult time recruiting soldiers.

Claudius believed that recruitment for the Army was down because Roman men did not want to leave their loves or their families behind. . . .

So what do you do if you are emperor and cannot get people to sign up? He banned the institution of marriage and said there was not going to be marriage allowed anymore.

Thousands of couples saw their hopes for matrimony dashed by the single act of a tyrant.

But a simple Christian priest named Valentine came forward and stood up for love. He began to secretly marry soldiers before they went off to war, despite the emperor's orders. In 269 AD, Emperor Claudius found out about the secret ceremonies. He had Valentine thrown into prison and ordered him put to death.

He gave his life so couples could be bonded together in holy matrimony. They may have killed the man, but not his spirit. Even centuries after his death, the story of Valentine's self-sacrificing commitment to love was legendary in Rome. Eventually, he was granted sainthood and the Catholic church decided to create a feast in his honor. They picked February 14 because of the ancient belief that birds (particularly lovebirds and doves) began to mate on that very day.

I think it is interesting to look back into the history of why it is we celebrate certain days and when we celebrate them. There is usually a beautiful story, this tapestry of something of beauty in our heritage that I always think of in redigging that well and seeing what is there.

## ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 10 a.m., Thursday, February 15, 2001.

Thereupon, the Senate, at 5:02 p.m, adjourned until Thursday, February 15, 2001, at 10 a.m.