SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENNETT (for himself, Mr. DODD, Mr. MOYNIHAN, Mr. KOLH, and Mr. ROBB) (request):

S. Res. 292. A resolution expressing the sense of the Senate that 1998 should be designated as “National Children’s Day”:

To the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 293. A bill to protect the sovereign right of the State of Alaska and the prevent the Secretary of Agriculture and the Secretary of the Interior from assuming management of Alaska’s fish and game resources; read the first time.

By Mr. ROTH (for himself and Mr. MOYNIHAN) (request):

S. 294. A bill to amend section 348 of the Uruguay Round Agreements Act to clarify the rules of origin with respect to certain textile products; to the Committee on Finance.

FAMILY INVESTMENT AND RURAL SAVINGS TAX ACT

Mr. GRASSLEY, Mr. President, today several of us are in agreement that the leadership of the Senate take a step to help America’s farmers as representatives of States with major agricultural economics. All of us are introducing this legislation that agrees that farmers are facing some difficult times.

While we all can to make sure that farmers survive for the short term, the key to the agricultural economic situation is long-term solutions. While we can’t eliminate every risk and we can’t control every factor that governs the success of the family farm, there are initiatives that we can pursue that will help smooth out some of the bumps that are in the road.

That is why today several of us are introducing the FIRST Act, the Family Investment and Rural Savings Tax Act of 1998. As I said at the outset, there are some genuine problems in the ag community. Some parts of the country are experiencing problems that are worse than we are seeing in my own State of Iowa. We can offer reforms that address short-term and long-term needs.

To address short-term needs and help give farmers extra support that some will need to get through this year, I have joined with several of my colleagues in supporting legislation that will speed up transition payments, payments that would be made during 1999 and could, upon election by individuals, be taken in 1998. In my State of Iowa, that will bring 36 cents per bushel into the farmer’s income in 1998 that would otherwise not be there.

But the focus of this legislation which I am speaking about today, the FIRST Act, is to address long-term needs, because what is being described to you, advancing the transition payments, is obviously a short-term solution.

What we are saying is that we must ensure economic stability for everyone first through the transition proposition I described, and then we must help our farmers plan for the future.

This measure takes a three-prong approach to assist farmers and families through tax reform.

The first provision of our bill reduces the capital gains tax rate for individuals from 20 percent to 15 percent. This will spur growth, entrepreneurship and help farmers make the most of their capital assets. It will also encourage movement of capital investment from one generation to the other to help young farmers get started.

This language builds on the capital gains tax reform that we made in last year’s Tax Relief Act.

Secondly, the FIRST Act includes my legislation that creates savings accounts for farmers. This initiative would allow farmers to make contributions to tax-deferred accounts. These Grassley savings accounts, as I call them, will give farmers a tool to control their lives. This savings account legislation will encourage farmers to save during good years to help cushion the fall from the inevitable bad years.

The accounts will give farmers even more freedom to make their own decisions rather than giving the Government more authority over farmers and their lives.

As a working farmer myself, and an American, I know that we want to control our own destiny in this country, to manage our own business. We want to make those decisions that are connected with being a good business operator. We do not want to have to wait for the bureaucrats at the USDA in Washington, DC, in that bureaucracy to tell us how many acres of corn and how many acres of soybeans that we can plant.

This allows, through the balancing out of income, the leveling out of the peaks and valleys from one year to another, because in farming you get a boom or all bust. This farmers’ savings account that I suggest will give farmers an opportunity to do that.

Finally, our tax legislation allows for the permanent extension of income tax cuts and inclusion of capital gains tax rates and to provide tax incentives for farmers; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for Mr. LOTT (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. TAYLOR, Mr. SHELBY, Mr. SESSIONS, and Mr. THOMAS)):

S. 2371. A bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates and to provide tax incentives for farmers; to the Committee on Finance.
T. HAGEL addressed the Chair. The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise to support, as an original cosponsor, the Family Investment and Rural Savings Tax Act of 1998. I thank the majority leader, Senator LOTT, myself, Senator HAGEL, Senator ROBERTS, Senator BURNS of Montana, Senator ROBERTS, and Senator SESSIONS. I thank my colleagues for their hard work and support.

I yield the floor.

Mr. HAGEL addressed the Chair. The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

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I yield the floor.
Mr. ROBERTS. Mr. President, I am pleased to join my friends and colleagues in introducing the Family Investment and Rural Savings Tax (FIRST) Act. I would especially like to thank our Leader, Senator LOTT, for his strong commitment to this effort. His dedication and interest in these important issues should underscore how seriously we are about providing tax relief and improvements for farmers and ranchers before the 105th Congress adjourns.

America's producers are currently experiencing a troubling time. Thanks in large part to the Asian economic crisis and the Administration's inability to open up new markets for U.S. farm products, commodity prices across the board have fallen to dangerously low levels. Low prices, combined with isolated weather-related problems in some regions of the country on one hand and election-year posturing on the other, have prompted some of our Democratic colleagues to call for the return to the failed agriculture policies of the past. They support loan programs that price the United States out of the world market. They support a return to the system whereby the U.S. Government is in the grain business. And they support a return to command-and-control agriculture whereby producers are required to limit their production in a foolish and futile attempt to try to bolster commodity prices. These policies did not work for 50 years and they will not work now.

The FIRST Act is designed to address the real needs of producers today. The FIRST Act provides tax relief for every farmer and rancher in the United States. Specifically, income averaging—something that I fought—would become permanent, the capital gains tax brackets would be cut by 25 percent across the board and a new Farm and Ranch Risk Management Account would be established to allow producers to manage the volatile shifts in farm income from one year to another.

I specifically want to address the capital gains tax cut and the FARRM accounts. The capital gains tax represents one of the most burdensome, expensive provisions of the U.S. Tax Code for America's farmers and ranchers and for America's families. Production agriculture is a capital-intensive business. Without equipment and inputs—machinery and inputs—you simply can't survive in the incredibly competitive agriculture world. Therefore, because of the tremendous costs of deprecating that expensive equipment, the capital gains tax hits farmers and ranchers especially hard. In addition, today the Congress encourages middle-income families to save for their future in part to take pressure off of the Social Security system. However, we continue to allow capital gains to hit America's families twice. Investors' money is taxed both as income when they get their paycheck and as capital gain when they make a smart investment. That's a strange and counterproductive way to encourage personal responsibility and savings for the future. As a result, I am very grateful to our Majority Leader for including the "Crown Jewel" of his tax and Speaker Gingrich's tax bill in the FIRST Act today and I look forward to working with the Majority Leader to ensure that tax relief reaches the Senate adjourns.

I also want to address the creation of the new FARRM Accounts. While Chairman of the House Agriculture Committee, I was charged with producing the 1996 farm bill. As we were producing that legislation, I wanted very badly to create what I called a "farmer IRA." Basically, the farmer IRA would be a rainy day account whereby if a farmer or rancher had a good year, he could invest part of his profits in a tax-deferred account. Then, when a bad year hits, he could withdraw that money to offset the downturn. That's exactly what the FARRM Accounts would do. Producers would be able to invest up to 20 percent of their Schedule F (farm) income in any interest-bearing account. They may withdraw that money at any time during a five-year period. If passed, FARRM Accounts will correct the huge problem in our existing Tax Code that encourages producers to buy a new tractor or combine at the end of the year in order to reduce taxable income instead of saving for the future. Again, I wanted to do this during the farm bill but we ran out of time. I'm very pleased that the Congress may finally get the opportunity to provide the flexibility and tax relief producers so desperately need.

I want to thank my colleagues again for their leadership in this area and I look forward to working with them and the rest of the Senate to pass this important legislation.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record. Without objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the "Family Investment and Rural Savings Tax Act".
(b) TABLE OF CONTENTS.—
Sec. 1. Short title; table of contents.
TITLE I—REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX RATES
Sec. 101. Reduction in individual capital gains tax rates.
TITLE II—TAX INCENTIVES FOR FARMERS
Sec. 201. Farm and ranch risk management accounts.
Sec. 202. Permanent extension of income averaging for farmers.

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

TITLED 1—REDUCTION IN INDIVIDUAL CAPITAL GAINS TAX RATES
Sec. 101. Reduction in individual capital gains tax rates.
(a) IN GENERAL.—Subsection (h) of section 1 of the Internal Revenue Code of 1986 is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—
"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—
"(A) 7.5 percent of so much of the net capital gain of such year as is in excess of the lesser of—
"(B) $25,000 for joint returns, or
"(C) $12,500 for other returns, and
"(2) IN GENERAL.—If a taxpayer has a net capital loss for any taxable year, the tax imposed by this section shall not exceed the amount of the net capital loss of such year.

"(i) REGULAR TAX.—
"(1) IN GENERAL.—The regular tax imposed by this section shall be a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the net capital gain.
"(2) 75 PERCENT OF THE NET CAPITAL GAIN (OR, IF LESS, TAXABLE INCOME) AS DOES NOT EXCEED THE EXCESS (IF ANY) OF—
""(A) $25,000 FOR JOINT RETURNS, OR
""(B) $12,500 FOR OTHER RETURNS.
"(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over
(ii) the taxable income reduced by the net capital loss deductible under subsection (B),".

"(C) 15 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under subparagraph (A) and (B)."

"(2) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 1363(a)(3)."

"(b) ALTERNATIVE MINIMUM TAX.—Paragraph (3) of section 55(b) of such Code is amended to read as follows:

"(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

"(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been added to the taxable excess reduced by the net capital gain,

"(B) 7.5 percent of so much of the net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), and

"(C) 15 percent of the amount of the taxable excess determined as the sum of the amounts on which tax is determined under subparagraphs (A) and (B)."

"(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1363(e) of such Code is amended by striking "20 percent" and inserting "15 percent".

(2) The second sentence of section 7518(g)(6) of such Code, and the second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, are each amended by striking "20 percent" and inserting "15 percent".

(3) Section 311 of the Taxpayer Relief Act of 1997 is amended by striking subsection (e).

(4) Paragraph (7) of section 57(a) of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) is amended by striking the last sentence.

(5) Paragraphs (11) and (12) of section 1223, and section 1223(a), of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) are each amended by adding after the last sentence the following new paragraph:

"(11) SPECIAL RULES FOR TAXABLE YEARS WHICH INCLUDE JUNE 24, 1998.—

(1) IN GENERAL.—Subsection (h) of section 1 of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) is amended by adding at the end the following new paragraph:

"(14) SPECIAL RULES FOR TAXABLE YEARS WHICH INCLUDE JUNE 24, 1998.—For purposes of applying this subsection to a taxable year which includes J une 24, 1998—

(A) Gains or losses properly taken into account for the period on or after such date shall be disregarded in applying paragraph (5)(A)(i), subclauses (I) and (II) of paragraph (5)(A)(ii), paragraph (5)(B), paragraph (6), and paragraph (7)(A).

(B) The amount determined under subparagraph (B) of paragraph (1) shall be the sum of—

(i) 7.5 percent of the amount which would be determined under such subparagraph if the amount of gain taken into account under such subparagraph did not exceed the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year on or after such date, plus

(ii) 15 percent of the amount which would be determined under such subparagraph if the adjusted net capital gain did not exceed the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year on or after such date, plus

(iii) 20 percent of the amount of the excess of the amount determined under such subparagraph (determined with paragraph (3) over the amount determined under clause (i)).

(2) ALTERNATIVE MINIMUM TAX.—Paragraph (3) of section 55(b) of such Code (as amended by the Internal Revenue Service Restructuring and Reform Act of 1998) is amended by adding at the end the following new sentence: "For purposes of applying this paragraph for a taxable year which includes J une 24, 1998, rules similar to the rules of section 1(h)(1)(A) shall apply to taxable years beginning on or after J une 1, 1998.

(3) TRANSITIONAL RULES FOR TAXABLE YEARS WHICH INCLUDE JUNE 24, 1998.—The amendments made by subsection (d) shall apply to taxable years beginning before such date and ending on or after J une 1, 1998.

(4) WITHHOLDING.—The amendment made by subsection (c)(1) shall apply only to amounts paid after the date of the enactment of this Act.

(5) CONFORMING AMENDMENTS.—The amendments made by subsection (c)(5) shall take effect on J une 24, 1998.

TITLE II—TAX INCENTIVES FOR FARMERS SEC. 201. 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 years for which distributions taken) is amended by inserting after section 468B the following new section:

"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 the adjusted gross income of the taxpayer for any taxable year, and such amount shall be includible in the gross income of the taxpayer for any taxable year.

"(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—

(i) IN GENERAL.—The term 'FARRM Account' means a trust created or organized in the United States for the exclusive benefit of the grantor of a FARRM Account and shall be subject to the requirements of this section.

(ii) FUNDING.—Any interest or principal of amounts contributed to the FARRM Account (including extensions of time for filing the return of tax imposed by this chapter for such year (or, in the case of the taxpayer filing the return of tax imposed by this chapter for such year, (or, in the case of the FARRM Account)), and the second sentence of section 1365(c)(2), and which pay such interest not less often than annually.

(iii) All income of the trust is distributed currently to the FARRM Account.

(E) THE ASSETS OF THE TRUST MUST NOT BE COMMINGLED WITH PROPERTY EXCEPT IN A COMMUNITY TRUST OR FUND OR COMMUNITY INVESTMENT FUND.

"(e) 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 part E of title I of subchapter J of this chapter (relating to grants and other treated as substantial owners).

"(f) EFFECTIVE DATES.—

(i) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(ii) 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 attributable to income and then to other amounts.

"(2) EXCLUSION FROM SELF-EMPLOYMENT TAX.—Amounts included in gross income under subsection (b) shall not be included in determining net earnings from self-employment under section 1402.

"(3) SPECIAL RULES.—

(i) 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 of time for filing) of the return of tax imposed by this chapter for such year (or, if earlier, the date the taxpayer files such return for such year).

"(4) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term 'nonqualified balance' means any balance in the Account
Title two of the bill consists of two separate measures which work hand in hand: First, the bill will allow farmers to open their own tax deferred savings accounts. These accounts would provide farmers and ranchers an opportunity to set aside income in high-in-
come years and withdraw it in low-income years. The money is taxed only when it is withdrawn and can be deferred for up to five years.

In 1995, 2.2 million taxpayers, qualified as farmers under IRS definitions, did not have bank accounts. Of these accounts, only 725,000 of those filed a net income while 1.5 million filed a net loss.

Now that could mean one of two things: (1) fewer and fewer farmers are able to stay in the black or (2) more and more farmers are going out of business. We cannot continue to treat our farmers and ranchers as second class citizens in our tax code.

The second part of this title contains language that I introduced earlier this year. This language would allow farmers to use average their income over three years and make that tool permanent in the tax code. This bill will give American farmers a fair tool to offset the unpredictable nature of their business.

The question is who will benefit most from income averaging and farm savings accounts. This is the best part—this legislation will allow farmers to delay paying taxes by reducing their overall income and spreading it out over a number of years.

However, based on the tax rate schedule, this bill would favor farmers in the lower tax bracket. If a farmer could use these tools to reduce their tax burden from one year to the next, it is very conceivable that taxpayer would pay only 15% on his income compared to 28%. That is a significant savings.

This bill leaves the business decisions in the hands of farmers, not the gov-
ernment. Farmers can decide whether to defer income and when to withdraw funds to supplement operations. Farmers and ranchers labor seven days a week, from dawn until dusk, to provide our nation with the world’s best produce, dairy products and meats. Farming is a difficult business requiring calloused hands and rarely a profitable financial reward. This profession is not getting any easier.

Today, we are seeing more and more of our family farms swallowed up by the corporate farms.

Farming has always been a family affair. Rural communities rely on the family farm for their own economic sustenance. Although family farms are traditionally passed on from father to son—it is becoming more and more difficult as the economics of farming are becoming more and more complicated. Further tightening of the belt on these families could mean the eventual loss of the family farm.

Montana’s farmers take pride in their harvests. You could call today’s farmer the ultimate environmentalist.
They know how to take care of the land and ensure that future harvests will be plentiful. As land managers, farmers understand the importance of proper land stewardship.

Those colleagues of mine who grew up on a farm or ranch would certainly understand the frustration of this business. Farmers and ranchers don't receive an annual salary. They cannot rely on income that may not be there at the end of the year and they certainly cannot count on a monthly paycheck. This is a crucial time for family farms and tax relief can mean the difference between keeping the family farm for future generations or losing it.

With the recent passage of the Farm Bill, farmers are more than ever impacted by market forces and in the farming business, those market forces can be very unpredictable.

Market forces in farming are very unique—drought, flooding, infestation and other bad weather play a vital role in a farmer's bottom line. And it's not often when the elements of mother nature allow for a profitable harvest.

At best, most farmers are lucky to break even more than two years in a row. One year may be a windfall, while the next may mean bankruptcy. Farmers and ranchers are forced to make large capital investments in machinery, livestock and improvements to their properties.

Agricultural markets are rarely predictable. Prices, more than any other sector of our economy are likely to experience substantial fluctuations in income.

We also need to address the issue of the estate tax. This is a death blow to the family farm and it's not the only one. Capital gains face unique difficulties as well. Capital gains taxes have a huge impact on agriculture. Lower capital gains tax rates will help producers by making it easier for them to invest in their businesses and make the best use of their capital assets.

We support your legislation and pledge our help to secure its passage into law.

Hon. CONRAD BURNS, U.S. Senate, Washington, DC.

DEAR SENATOR BURNS:...
number will be severely crippled. Such failures will affect not only the employees and owners of such small businesses, but also the creditors, suppliers and customers of such failed small businesses. Lenders, including banks and non-bank lenders, that make long-term credit to small businesses will face significant losses if small businesses either go out of business or have a sustained period in which they cannot operate. It should be remembered that the Y2K problem is not a problem for only those businesses that have large computer networks or mainframes. A small business is at risk if it uses any computers in its business, if it has customized software, if it is conducting e-commerce, if it accepts credit card payments, if it uses a service bureau for its payroll, if it depends on a data bank for information, if it has automated equipment for communicating with its sales or service force of if it has automated manufacturing equipment.

A good example of how small businesses are dramatically affected by the Y2K problem is the experience of John Healy, the owner of Coventry Spares Ltd. in Holliston, Massachusetts, as reported in INC Magazine. Coventry Spares is a distributor of vintage motorcycle parts. Like many small business owners, Mr. Healy's business depends on trailing technology purchased over the years, including a 286 computer, with software that is 14 years old and an operating system that is six or seven versions out of date. Mr. Healy uses this computer equipment, among other matters, for handling the company's payroll, ordering, inventory control, product lookup and maintaining a database of customers and subscribers to a vintage motorcycle magazine he publishes. The system handles 85 percent of his business and, without the computer, he would not be able to continue in the water. Unlike many small business owners, however, Mr. Healy is aware of the Y2K problem and tested his equipment to see if its equipment could handle the Year 2000. His tests confirmed his fear—the equipment and software could not process the year 2000 date and would not work properly after December 21, 1999. Therefore, Mr. Healy will have to expand over $20,000 to keep his business afloat. The experience of Mr. Healy will continue to be repeated across the country as small businesses realize the impact the Y2K problem will have on their business.

The Gartner Group, an international computer consulting firm, has conducted studies showing small businesses are way behind—the worst of all sectors studied—where they need to be in order to avoid significant failures due to non-Y2K compliance. It estimates that only 15 percent of all businesses overall and 200 or more employees have even begun to inventory the automated systems that may be affected by this computer glitch. That means that 85 percent of small businesses have not even begun the initial task of determining how much of a problem they may have or taken steps to ensure that their businesses are not impaired by this problem.

Given the effects of a substantial number of computers that will have on our nation's economy, it is imperative that Congress take steps to ensure that small businesses are aware of the Y2K problem and have access to capital to fix such problems. Moreover, it is imperative that Congress take such steps before the problem occurs, not after it has already happened. Therefore, today I am introducing the Small Business Year 2000 Readiness Act.

This Act will serve the dual purpose of providing small businesses with the means to continue operating successfully after January 1, 2000, and making lenders and small firms more aware of the dangers that lie ahead. The Act requires the Small Business Administration to establish a limited-term loan program whereby guaranteed loans of up to 75 percent of the principal amount of a loan made by a private lender to assist small businesses in correcting Year 2000 computer problems. The loan amount would be capped at $50,000. The guarantee limitation will limit the exposure of the government and ensure that eligible lenders retain sufficient risk so that they make sound underwriting decisions.

The Y2K loan program guidelines will be based on the guidelines SBA has already established governing its FASTRACK pilot program. Lenders originating loans under the Y2K loan program would be permitted to process and document loans using the same internal procedures they would on loans of a similar type and size not governed by a government guarantee. Otherwise, the loans are subject to the same requirements as all other loans made under the (7)(a) loan program.

Under the loan program, each lender designated as a Preferred Lender or Certified Lender by SBA would be eligible to participate in the Y2K loan program. This would include approximately 1,000 lenders that have received special authority from the SBA to originate loans under SBA's existing (7)(a) loan program. The Year 2000 loan program would sunset after October 31, 2001.

To assure that the loan program is available to those small businesses that need it, the legislation requires SBA to inform all lenders eligible to participate in the program of the loan program's availability. It is intended that these lenders, in their own self-interest, will contact their small business customers to ensure that they are Y2K complaint and inform them of the loan program if they are not.

The Small Business Year 2000 Readiness Act is a necessary step to ensure that the second health of this country is not marred by a substantial number of small business failures following January 1, 2000, and that small businesses continue to be the fastest growing segment of our economy in the Year 2000 and beyond.
balance of the financing outstanding at the time of disbursement of the loan.

"(F) REPORT.—The Administration shall annually submit to the Committees on Small Business and Entrepreneurship of the House of Representatives and the Senate a report on the results of the program under this paragraph, which shall include information relating to—

(ii) the number of eligible lenders participating in the program.

(iii) the number of loans guaranteed under this paragraph;

(iv) whether the loans guaranteed were made to repair or replace information technology and other automated systems; and

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue final regulations to carry out the program under section 7(a)(27) of the Small Business Act, as added by this section.

(2) REQUIREMENTS.—Except to the extent inconsistent with this section or section 7(a)(27) of the Small Business Act, as added by this section, the regulations issued under this subsection shall be substantially similar to the requirements governing the FAST RAC pilot program of the Small Business Administration, or any successor pilot program to that pilot program.

(c) REPEAL.—Effective on October 1, 2001, this section and the amendment made by this section are repealed.

SEC. 4. PILOT PROGRAM REQUIREMENTS.

Section 7(a)(25) of the Small Business Act (15 U.S.C. 636(a)(25)) is amended by adding at the end the following:

"(D) NOTIFICATION OF CHANGE.—Not later than 30 days prior to initiating any pilot program or making any change in a pilot program under this subsection that may affect the subsidies for the loan program under this subsection, the Administration shall notify the Committees on Small Business of the House of Representatives and the Senate, which notification shall include—

(i) a description of the proposed change; and

(ii) an explanation, which shall be developed by the Administration in consultation with the Director of the Office of Management and Budget, of the estimated effect that the change will have on the subsidy rate.

(E) REPORT ON PILOT PROGRAMS.—The Administration shall annually submit to the Committees on Small Business of the House of Representatives and the Senate a report on each pilot program under this subsection, which report shall include information relating to—

(i) the number and amount of loans made under the pilot program;

(ii) the number of lenders participating in the pilot program; and

(iii) the default rate, delinquency rate, and recovery rate for loans under each pilot program, as compared to those rates for other loan programs under this subsection.

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 2373. A bill to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes; to the Committee on the Judiciary.

ALTERNATIVE DISPUTE RESOLUTION ACT

Mr. GRASSLEY. Mr. President, I rise today to introduce the Alternative Dispute Resolution Act of 1998. My Judiciary Subcommittee on Administrative Oversight and the Courts has jurisdiction over this matter, and I am very pleased that the ranking member of the subcommittee, Senator DURBIN, has joined me in sponsoring this bill. It will require every Federal district court and bankruptcy court to undertake an alternative dispute resolution, or ADR, program. The bill will provide parties and district court judges with options other than the traditional, costly and adversarial process of litigation.

ADR programs are gaining in popularity and respect for years now. For example, many contracts drafted today—between private parties, corporations, and even nations—include arbitration clauses. Most State and Federal bar associations, including the ABA, have established committees to focus on ADR. Also, comprehensive ADR programs are flourishing in many of the States.

ADR is also being used at the Federal level. In 1990, for example, President Bush introduced called the Administrative Dispute Resolution Act. The law promoted the increased use of ADR in Federal agency proceedings. In 1996, because ADR was working so well, we permanently reauthorized the law. And earlier this year, the executive branch recommitted themselves to using ADR as much as possible.

Since the late 1970s, our Federal district courts have also been successfully introducing alternative dispute resolution programs, or mediations, and other kinds of arbitration. For example, a recent Northwestern University study of ADR programs in State courts indicated that mediation significantly reduced the duration of lawsuits and produced significant cost savings for litigants. That means fewer cases on the docket and decreased costs. The Federal courts should be taking every opportunity to reap the benefits that the State courts have been enjoying.

Mr. President, the fact of the matter is that ADR works. The future of justice in this country includes ADR. Perhaps one of the signs of this is that many of the best law, business, and graduate schools in the country are beginning to ADR training in negotiation, mediation, and other kinds of dispute resolution.

Quite simply, this bill will increase the availability of ADR in our Federal courts. In Federal district court, ADR is one of the Federal court's top priorities. This bill would authorize the courts to establish some form of professional ADR program. It provides the district, however, with the flexibility to decide what kind of ADR works best locally. The bill also allows a district with a current ADR program that's working well to continue the program.

This bill is the Senate companion to H.R. 3528, which was reported out of the Judiciary Committee today without amendments. It also follows the original House bill, except for some findings and a few technical changes to improve the legislation. These changes were included in the bill reported out of committee. The House bill received overwhelming, bipartisan support, passing 405-2.

The Department of Justice, along with the administration, the Administrative Office of the Courts, and the American Bar Association, including its business section, all support the legislation with these improvements.

The consensus is clear: ADR has an important role to play in our Federal court system.

Mr. President, this bill is a step in the right direction for the administration of Justice in our country. Increased availability of ADR will benefit all of us. It should be an option to people in every judicial district of the country. This bill assures that it will be.

By Mr. SARBANES:

S. 2374. A bill to provide additional funding for repair of the Korean War Veterans Memorial; to the Committee on Energy and Natural Resources.

KOREAN WAR VETERANS MEMORIAL LEGISLATION

Mr. SARBANES. Mr. President, today I am introducing legislation to fix and restore one of our most important monuments, the Korean War Veterans Memorial. My bill would authorize the Secretary of the Army to provide, within existing funds, up to $2 million to complete essential repairs to the Memorial.

The Korean War Memorial is the newest war monument in Washington, DC. It was authorized in 1986 by Public Law 99-752 which established a Presidential Advisory Board to raise funds and oversee the design of the project, and charged the American Battle Monuments Commission with the management of this project. The authorization provided $1 million in Federal funds to design the memorial and Korean War Veterans' organizations and the Advisory Board raised over $13 million in private donations to complete the facility. Construction on the memorial began in 1992 and it was dedicated on July 27, 1995.

For those who haven't visited, the Memorial is located south of the Vietnam Veteran's Memorial on the Mall, to the east of the Lincoln Memorial. Designed by world class Cooper Lecky Architects, the monument contains a triangular "field of service," with 19 stainless steel statues of soldiers. Depicting a squad of soldiers on patrol. A curb of granite north of the statues lists the 22 countries of the United Nations that sent troops in defense of
South Korea. To the south of the patrol stands a wall of black granite, with engraved images of more than 2,400 unnamed servicemen and women detailing the countless ways in which Americans answered the call to service. Adjacent to a fountain of linden trees, creating a peaceful setting for quiet reflection. When this memorial was originally created, it was intended to be a lasting and fitting tribute to our veterans. To our sacrifice of our troops who fought in the “Forgotten War.” Unfortunately, just three years after its dedication, the monument is not lasting and is no longer fitting.

The Memorial has not functioned as it was originally conceived and designed and has instead been plagued by a series of problems in its construction. The grove of 40 linden trees have all died and been removed from the ground, leaving forty gaping holes. The pipes for the “pool of remembrance’s” return system have cracked and the pool has been cordoned off. The monument’s lighting system has been deemed inadequate and has caused safety problems for those who wish to visit the site at night. As a result, most of the 13 million who visit the monument each year—many of whom are veterans—must cope with construction gates or areas which have been cordoned off instead of experiencing the full effect of the Memorial.

Let me read a quote from the Washington Post—from a Korean War Veteran John LeGault who visited the site—that I think captures the frustration associated with not having a fitting and complete tribute for the Korean War. He says, “Who cares?” “That was the forgotten war and this is the forgotten memorial.” Mr. President, we ought not to be sunshine patriots when it comes to making decisions which affect our veterans. To our veterans, we are very high on the contributions our military makes in times of sacrifice. Our veterans deserve better.

To resolve these problems and restore this monument to something that our Korean War Veterans can be proud of, the U.S. Army Corps of Engineers conducted an extensive study of the site in an effort to identify, comprehensively and correctly, the corrective actions that would be required. The Corps has determined that an additional $2 million would be required to complete the restoration of the grove work and replace the statutory lighting. My legislation would provide the authority for the funds to make these repairs swiftly and once and for all.

With the 50th anniversary of the Korean War conflict fast approaching, we must ensure that these repairs are made so that our former troops attend to their sacrifice of our troops who fought in the “Forgotten War.” I urge my colleagues to join me in supporting this important legislation.

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:

SEC. 1. ADDITIONAL FUNDING FOR KOREAN WAR VETERANS MEMORIAL.

Section 3 of Public Law 99-572 (40 U.S.C. 1003 note) is amended by adding at the end the following:

“(C) ADDITIONAL FUNDING.—

(1) IN GENERAL.—In addition to amounts made available under subsections (a) and (b), the Secretary of the Army may expend, from any funds available to the Secretary on the date of enactment of this paragraph, $2,000,000 for repair of the memorial.

(2) DISPOSITION OF FUNDS RECEIVED FROM CLAIMS.—Any funds received by the Secretary of the Army as a result of any claim against a contractor in connection with the construction of the memorial shall be deposited in the general fund of the Treasury.”.

By Mr. JEFFORDS:

S. 2376. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for land sales for conservation purposes; to the Committee on Finance.

The Conservation Tax Incentives Act of 1998

Mr. JEFFORDS, Mr. President, today, I am introducing the Conservation Tax Incentives Act of 1998, a bill that will result in a reduction in the capital gains tax for landowners who sell property for conservation purposes. This bill creates a new incentive for private, voluntary land protection. This legislation is a cost-effective non-regulatory, market-based approach to conservation, and I urge my colleagues to join me in support of it.

The tax-exempt charitable contribution deduction currently provides an incentive to taxpayers who give land away for conservation purposes. That is, we already have a tax incentive to encourage people to donate land or conservation easements to government agencies like the Fish and Wildlife Service or to citizens’ groups like the Vermont Land Trust. This incentive has been instrumental in the conservation of environmentally significant land across the United States.

Not all land worth preserving, however, is owned by people who can afford to give it away. For many landowners, their land is their primary financial asset, and they cannot afford to donate it for conservation purposes. While they might like to see their land preserved in its underdeveloped state, the tax code’s incentive for donations is of no help.

The Conservation Tax Incentives Act will provide a new tax incentive for sales of land for conservation by reducing the amount of income that landowners would ordinarily have to report—and pay tax on—when they sell their land. The bill provides that when land is sold for conservation purposes, only one half of any gain will be included in income. The other half can be excluded from income, and the effect of this exclusion is to cut in half the capital gains tax the seller would otherwise have to pay. The bill will apply to land and to partial interests in land and water.

It will enable landowners to permanently protect a property’s environmental value without forgoing the financial security it provides. The bill’s benefits are available to landowners who sell land either to a government agency or to a qualified conservation nonprofit organization, as long as the land will be used for such conservation purposes as protection of fish, wildlife or plant habitat, or as open space for agriculture, forestry, outdoor recreation or scenic beauty.

Land is being lost to development and commercial use at an alarming rate. By Department of Agriculture estimates, more than four square miles of farmland are lost to development every day, often with negligible effects on the habitat wildlife need to thrive. Without additional incentives for conservation, we will continue to lose ecologically valuable land.

A real-life example from my home state illustrates the need for this bill. A few years ago, in an area of Vermont known as the Northeast Kingdom, a large well-managed forested property came on the market. The land had appreciated greatly over the years and was very valuable commercially. With more than 3,000 acres of mountains, forests, and ponds, with hiking trails, towering cliffs, scenic views and habitat for many wildlife species, the property was very valuable environmentally. Indeed, the State of Vermont was anxious to acquire it and preserve it for traditional agricultural uses and habitat conservation.

After the property had been on the market for a few weeks, the seller was contacted by an out-of-state buyer who planned to sell the timber on the land and to dispose of the rest of the property for development. After learning of this, the State quickly moved to obtain appraisals and a legislative appropriation in preparation for a possible purchase of the land by the State. Subsequently, the State and The Nature Conservancy made a series of purchase offers to the landowner. The out-of-state buyer insisted upon the landowner to accept his offer. Local newspaper headlines read, “State of Vermont Loses Out On Northeast Kingdom Land Deal.” The price accepted by the landowner was only slightly higher than the amount the State had offered. Had the bill I’m introducing today been on the books, the lower offer by the State may well have been as attractive—perhaps more so—than the amount offered by the developer.

This bill provides an incentive-based means for accomplishing conservation in the public interest. It helps tax dollars accomplish more, allowing public
and charitable conservation funds to go to higher-priority conservation projects. Preliminary estimates indicate that with the benefits of this bill, nine percent more land could be acquired, with no increase in the amount governments currently spend for conservation land acquisition. At a time when little money is available for conservation, it is important that we stretch as far as possible the dollars that are available.

State and local governments will be important beneficiaries of this bill. Many local communities have voted in favor of raising taxes to finance bond initiatives to acquire land for conservation. My bill will help stretch these bond proceeds so that they can go further in improving the conservation results for local communities. In addition, because the bill applies to sales to publicly-supported national, regional, State and local citizen conservation groups, its provisions will strengthen private, voluntary work to save places important to the quality of life in communities across the country. Private funding efforts for land conservation will be enhanced by this bill, as landowners will be able to conserve more, or more valuable, land.

Let me provide an example to show how I intend the bill to work. Let’s suppose that in 1962 a young couple purchased a house and a tract of adjoining land which they have maintained as open land. Recently, the county where they lived passed a bond initiative to buy land for open space, as county residents wanted to protect the quality of their life from rampant development and uncontrolled sprawl. Let’s further assume that the couple, now contemplating retirement, is considering competing offers for their land, one from a developer, the other from the county, which will preserve the land in furtherance of its open-space goal. Originally purchased for $25,000, the land is now worth $250,000 on the open market. If they sell the land to the developer for its fair market value, the couple would realize a gain of $225,000 ($250,000 sales price minus $25,000 cost), owe tax of $45,000 (at a rate of 20% on the $225,000 gain), and thus net $205,000 after tax.

Under my bill, if the couple sold the land for conservation purposes, they could exclude from income one half of the $225,000 gain (the $107,500 gain includible in income) and thus net $218,500 ($240,000 sales price minus $21,500 tax). Despite having accepted a sales price $10,000 below the developer’s offer, the couple will keep $13,000 more and would have kept if they had accepted his offer.

The end result is a win both for the landowners, who end up with more money in their pocket than they would have had after a sale to an outsider, and for the county, which is able to preserve the land at a lower price. This example illustrates how the exclusion from income will be especially beneficial to middle-income, “land-rich/cash-poor” landowners who can’t avail themselves of the tax benefits available to those who can afford to donate land.

As this bill also applies to partial interests in land, the exclusion from income—and the resulting reduction in capital gains tax—will in certain instances, also be available to landowners selling partial interests in their land for conservation purposes. A farmer could, for example, sell a conservation easement, continuing to remain on his farm, and still be able to take advantage of the provisions in this bill. The conservation easement must meet the tax code’s requirements i.e., it must serve a conservation purpose, such as the protection of fish or wildlife habitat or the preservation of open space (including farmland and forest land).

There are some things this bill does not do. It does not impose new regulations or controls on people who own environmentally-sensitive land. It does not compel anyone to do anything; it is entirely voluntary. Nor will it increase government spending for land conservation. In fact, the effect of this bill will be to allow better investment of tax and charitable dollars used for land conservation.

The estimated cost of this bill is just $50 million annually. This modest cost, however, does not take into account the value of the land conserved. It is estimated that for every dollar foregone by the Federal treasury, $1.76 in land will be permanently preserved.

I urge all my colleagues to join me in support of the Conservation Tax Incentives Act of 1998.

By Mr. MOYNIHAN (for himself, Mr. LEVIN, Mr. JEFFORDS, Mr. LEAHY, Mr. CLELAND, Mr. DURBIN, Mr. D’AMATO, and Mrs. BOXER):

S. 2377. To amend the Clean Air Act to limit the concentration of sulfur in gasoline used in motor vehicles; to the committee on Environment and Public Works.

Mr. President, I believe our task is clear. We must adopt a sulfur standard that will result in considerable health and environmental benefit. It will maximize the effectiveness of currently available vehicle emissions
technology, and will enable the introduction of the next generation of vehicle technology into the U.S. market. Refiners can reduce the sulfur content of gasoline using existing technology that is already being used to supplement this California-A Japan and the European Union. Our national fleet is already comprised of world-class vehicles. It is time for us to provide this fleet with world-class fuel. I urge my colleagues to join my cosponsors and me in supporting this important legislation.

Mr. JEFFORDS. Mr. President, I join Senator MOYNIHAN in offering legislation that would reduce the sulfur content of gasoline. Current levels of sulfur in gasoline lead to high nitrogen oxide, carbon monoxide, and hydrocarbon emissions by weakening catalytic converter emission controls. These emissions elevate ground-level ozone and particulate matter pollution.

As we all have learned, long-term exposure to ozone pollution can have significant health impacts, including asthma attacks, breathing and respiratory problems, loss of lung function, and lowered immunity to disease. The EPA has compared breathing ozone for one hour to sunburning the skin. Children, including Vermont's approximately 10,000 asthmatic children, are at special risk for adverse health effects from ozone pollution. Children playing outside in the summer time, the season when concentrations of ground-level ozone are the greatest, may suffer from coughing, decreased lung function, and have trouble catching their breath. Exposure to particulate matter pollution is similarly dangerous causing premature death, increased respiratory symptoms and disease, decreased lung function, and alterations in lung tissue. These pollutants also result in adverse environmental effects such as acid rain and visible emissions or soot.

Mr. President, this bill will reduce these pollutants in our communities, and more importantly it will reduce these pollutants cost-effectively. To reduce the sulfur content of gasoline, refineries can use currently available technology. These measures will not break the bank. California has already adopted the measures in this bill on a statewide basis. So have Japan and the members of the European Union.

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Mr. CLELAND. Mr. President, I am pleased today to announce that I have added my name as an original cosponsor of the Low Sulfur Fuel Act of 1998 and to express my reasons for supporting this important legislation. I would first like to thank my colleague from New York, Senator MOYNIHAN, for his leadership on this issue. The bill establishes a national, year-round cap on gasoline sulfur levels, and would impose a reduction of sulfur content in gasoline from 300 parts per million (ppm) to 40 ppm within two years from the date of enactment. High sulfur levels in gasoline increase vehicle emissions of nitrogen oxides (NOx), carbon monoxide (CO), and hydrocarbons (HC), which in turn produce higher levels of particulate matter (PM) and contribute to ground level ozone. Reducing sulfur content levels to 40 ppm has been shown to reduce Nitrogen Oxides by 51 percent, Carbon Monoxide by 24 percent, and Hydrocarbons by 24 percent. Essentially, the sulfur in gasoline inhibits the catalyst in a automobile from doing its job—which is to reduce the emissions of the aforementioned pollutants. Sulfur is a contaminant only and does not in any way enhance engine performance.

There are two compelling reasons which led me to support this bill: First, helping our states attain the health requirements set forth by the Clean Air Act by providing them with a viable tool for reducing NOx, and CO emissions; and second, updating our gasoline to keep pace with other industrialized nations thereby keeping our automotive fleet competitive in the international marketplace.

In my home state of Georgia, the Metro Atlanta area has experienced extensive difficulties in complying with the standards set forth by the Clean Air Act. In an effort to meet these standards, the Georgia Department of Natural Resources (DNR), has voted to implement reduced sulfur content in fuel. The rule would require gasoline in the 25 county area surrounding Atlanta to be reduced to 30 ppm by 2003. Georgia is only the second state, after California, to take such innovative steps to meet air quality goals. In my review of this bill, I sent a copy to Harold Reheis, Director of the Georgia Environmental Protection Division, and the Georgia Department of Natural Resources (DNR), has voted to implement reduced sulfur content in fuel. The rule would require gasoline in the 25 county area surrounding Atlanta to be reduced to 30 ppm by 2003. Georgia is only the second state, after California, to take such innovative steps to meet air quality goals. In my review of this bill, I sent a copy to Harold Reheis, Director of the Georgia Environmental Protection Division, and the Georgia Department of Natural Resources, upon my recommendation, recently promulgated rules to require low sulfur gasoline to be sold in 25 counties in and around Metro Atlanta starting May 1999.

The proposed Senate bill would result in a reduction in air pollutants statewide and nationwide. This could help prevent ozone nonattainment problems in other urban areas of Georgia like Augusta, Columbus, and Macon, which all could have difficulty meeting the tighter federal ozone standards adopted by USEPA last year.

I urge my colleagues to support this bill. Let’s clean up our air so we can all breathe just a little bit easier.

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Sincerely,

HAROLD F. REHEIS, Director.
This large disparity between the reimbursement rate and the actual cost may force labs in Hawaii and other states to discontinue Pap smear testing. Additionally, the below-cost-reimbursement may compel some labs to process tests faster and in higher volume to improve cost efficiency. This situation increases the risk of inaccurate results and can severely handicap patient outcomes.

If the Pap smear is to continue as an effective cancer screening tool, it must remain widely available and reasonably priced for all women. Adequate payment is a necessary component of ensuring women's continued access to quality Pap smears.

My bill will increase the Medicare reimbursement rate for Pap smear lab work from its current $7.15 to $14.60—the national average cost of the test. This rate is important because it establishes a benchmark for many private insurers.

No other cancer screening procedure is as effective for early detection of cancer as the Pap smear. Over the last 50 years, the incidence of cervical cancer deaths has declined by 70 percent due in large part to the use of this cancer detection measure. Experts agree that the detection and treatment of precancerous lesions can actually prevent cervical cancer. Evidence also shows that the likelihood of survival when cervical cancer is detected in its earliest stage is almost 100 percent with timely and appropriate treatment and follow-up.

Mr. President, an estimated 13,700 new cases of invasive cervical cancer will be diagnosed in 1998 and 4,900 women will die of the disease. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a list of the average Pap smear production costs for 23 states be printed in the RECORD. There being no objection, the list was ordered to be printed in the RECORD, as follows:

Pap Smear Production Costs—Continued

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<tr>
<td>Hawaii</td>
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<tr>
<td>Iowa</td>
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<td>Wisconsin</td>
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</tbody>
</table>

Note—This data was obtained from the American Pathology Foundation.

By Mr. MURKOWSKI (for himself and Mr. DASCHLE):

S. 2379. A bill to establish a program to establish and sustain viable rural and remote communities; to the Committee on Banking, Housing, and Urban Affairs

THE RURAL AND REMOTE COMMUNITY FAIRNESS ACT OF 1998

Mr. MURKOWSKI. Mr. President, today I introduce the Rural and Remote Community Fairness Act of 1998. This Act will lead to a brighter future for rural and remote communities by establishing two new grant programs that will address the unique economic and environmental challenges faced by small communities in rural and remote areas across this country. I am pleased that this legislation is co-sponsored by the Minority Leader, Senator DASCHLE.

The bill authorizes up to $300 million a year in grant aid from 1999 through 2005 for any communities across the nation with populations of less than 10,000 which face electric rates in excess of 150 percent of the national average retail price. The money can go for electricity system improvements, energy efficiency and weatherization efforts, water and sanitation improvements or work to solve leaking fuel storage tanks.

The bill also amends the Rural Electrification Act to authorize Rural and Remote Electrification Grants of an additional $20 million a year to the same communities. The grants can be used to increase energy efficiency, lower electricity rates or provide for the modernization of electric facilities.

This nation has well-established programs for community development grants. The majority of these programs were established to help resolve the very real problems found in this nation's urban areas. However, our most rural and remote communities experience different, but equally real, problems that are not addressed by existing law. Not only are these communities generally ineligible for the existing programs, their challenges, while sometimes similar to those experienced by urban areas, require a different focus and approach.

The biggest single economic problem faced by small communities is the expense of establishing a modern infrastructure. These costs, which are always substantial, are exacerbated in remote and rural areas. The existence of this infrastructure, including efficient housing, electricity, bulk fuel storage, waste water and water service, is a necessity for the health and welfare of our children, the development of a prosperous economy and minimizing environmental problems.

As a result, these communities are forced to bear an oppressive economic and environmental burden that can be eased with a relatively small investment on the part of the Federal government. I can give you some examples: in Manley Hot Springs, Alaska, the citizens pay almost 70 cents per kilowatt hour for electricity. In Iliugig, Kokhanok, Akiachak Native Community, and Middle Kuskokwim, consumers pay over 50 cents per kilowatt hour for electricity. The national average is around 7 cents per kilowatt hour.

Further, in Alaska, for example, many rural villages still lack modern water and sewer sanitation systems taken for granted in all other areas of America. According to a Federal Field Working Group, 190 of the state's villages have "unsafe" sanitation systems, 135 villages still using "honey buckets" for waste disposal. Only 31 villages have a fully safe, piped water system; 71 villages having only one central water source.

Concerning leaking storage tanks, the Alaska Department of Community
and Regional Affairs estimates that there are more than 2,000 leaking above-ground fuel storage tanks in Alaska. There are several hundred other below-ground tanks that need repair, according to the Alaska Department of Environmental Conservation.

These are not only an Alaskan problem. The highest electricity rates in America are paid by a small community in Missouri, and communities in Maine, as well as islands in Rhode Island and New York will likely qualify for these grants. Providing safe drinking water and adequate waste treatment facilities is a problem for very small communities across this land.

What will this Act do to address these problems? First, the Act authorizes $100 million per year for the years 1999-2005 for block grants to communities of under 10,000 inhabitants who pay more than 150 percent of the national average retail price for electricity. These grants will be allocated by the Secretary of Housing and Urban Development among eligible communities proportionate to cost of electricity in the community, as compared to the national average. The communities may use the grants only for the following eligible activities:

- Low-cost weatherization of homes and other buildings;
- Construction and repair of electrical generation, transmission, distribution, and related facilities;
- Construction, remediation and repair of bulk fuel storage facilities;
- Facilities and training to reduce costs of maintaining and operating electrical generation, distribution, transmission, and related facilities;
- Professional management and maintenance for electrical generation, distribution and transmission, and related facilities;
- Investigation of the feasibility of alternative energy services;
- Construction, operation, maintenance and repair of water and waste water services;
- Acquisition and disposition of real property for eligible activities and facilities; and
- Development of an implementation plan, including administrative costs for eligible activities and facilities.

In addition, this bill will amend the rural Electrification Act of 1936 to authorize Rural Electrification Grants for $20 million per year for years 1999-2005 for grants to qualified borrowers under the Act that are in rural and remote communities who pay more than 150 percent of the national average retail price for electricity. These grants can be used to increase energy efficiency, lower electricity rates, or provide or modernize electric facilities.

This Act makes a significant step toward repairing our social, economic, and environmental problems faced by our Nation’s rural and remote communities. I encourage my colleagues to support this legislation.
The Putting Parents First Act is based on state statutes that already have been determined to be constitutional by the U.S. Supreme Court. The legislation establishes a minimum level of parental involvement that must be demonstrated nationally. It does not preempt state parental involvement laws that provide additional protections to the parents of pregnant minors.

The second part of the Putting Parents First Act extends the idea of parental involvement to the arena of federally-subsidized contraception. Currently, the federal government funds many different programs through the Department of Health and Human Services and the Department of Education that can provide prescription contraceptives and devices, as well as abortion referrals, to minors without parental consent.

The case of the little girl from Crystal Lake, IL is just one example, but it makes clear everything that is wrong with current law in this area. In that case, the young girl was just 14 years old when her 37-year-old teacher brought her to the county health department for birth control injections. He was conducting a self-examination of her, but had grown tired of using condoms. A county health official injected the young girl with the controversial birth control drug Depo-Provera without notifying the girl’s parents. The Federal Family Planning and Services Title X rules prohibited clinics from notifying parents when issuing birth control drugs to minors. He continued to molest her for 18 months until the girl finally broke down and told her parents. The teacher was arrested and sentenced to ten years in prison. The young girl spent five days a week in therapy and is still recovering from effects of anorexia nervosa.

Although the teacher’s crime was unspeakable, it should be noted as an example of the federal government’s policy that allowed him to live to commit his crime for so long. This is an outrage. The policy of the Government of the United States should be to help parents to help their children. Providing contraceptives and abortion referrals to children without involving parents undermines, not strengthens the role of parents. Worse yet, it jeopardizes the health of children.

The current law for federally-funded contraception is outlined in the Federal Family Planning and Services Title X rules which specifically target the community-based organizations which would perform contraceptive procedures which specifically target the community-based organizations which would perform contraceptive procedures.

As you know, the 1997 Balanced Budget Act provided states with the option of utilizing “presumptive eligibility” as an outreach method for enrolling eligible children into their state Medicaid programs. Presumptive eligibility allows certain agencies to temporarily enroll children in the state Medicaid program for a brief period if the child appears to be eligible for the program based on their family’s income. Health care services can be provided to these children if necessary during this “presumptive eligibility” period while the state Medicaid agency processes the child’s application and makes a final determination of their eligibility. Presumptive eligibility is completely optional for the states and is not mandatory.

Under current law, states are only given the limited choice of using a few specific community agencies for presumptive eligibility including: Head Start Centers, WIC clinics, Medicaid providers and state or local child care agencies. The McCain-Kerry CHAMP bill would expand the types of community-based organizations which would be recognized as qualified entities and permitted to presume eligibility for children. Under our bill, public schools,
entities operating child welfare programs under Title IV-A, Temporary Assistance to Needy Families (TANF) offices and the new Children Health Insurance Program (CHIP) offices would be permitted to help identify Medicaid eligible kids. Many more entities are going to participate in outreach which would increase the opportunities for screening children and educating their families about the Medicaid services available to them. By increasing the "net", for states, we would be helping them "capture" more children who are going without health care services because their families are not familiar, comfortable or aware of the Medicaid program and its enrollment process.

Our bill would help millions of children gain access to health care without creating a new government program, imposing mandates on states, or expanding the role of government in our communities. This is important to note—we would not be creating new agencies, bureaus or benefits. Instead we would be increasing the efficiency and effectiveness of a long-standing program designed to help one of our most vulnerable populations, children. We urge our colleagues to support this innovative piece of legislation.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

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

S. 2892

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 "Children's Health Assurance through the Medicaid Program (CHAMP) Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Twenty-three percent or 3,400,000 of the 15,000,000 Medicaid-eligible children went without health insurance in 1996.

(2) Children with working parents are more likely to be uninsured.

(3) More than 35 percent of the 3,400,000 million uninsured Medicaid-eligible children are Hispanic.

(4) Almost three-fourths of the uninsured Medicaid-eligible children live in the Western and Southern States.

(5) Studies have shown that uninsured children are more likely to receive preventive and primary health care services as well as to have a relationship with a physician.

(6) Studies have shown that a lack of health insurance prevents parents from trying to obtain preventive health care for their children.

(7) These studies demonstrate that low-income and uninsured children are more likely to be hospitalized for conditions that could have been treated with appropriate outpatient services, resulting in higher health care costs.

SEC. 3. ADDITIONAL ENTITIES QUALIFIED TO DETERMINE MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-INCOME CHILDREN.

Section 1920A(b)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(i)) is amended—

(1) by striking "or (II)" and inserting ", and (II)"; and

(2) by inserting "eligibility of a child for medical assistance under the State plan for the payment of medical assistance, (I) is the title of a child for child health assistance under the program funded under title XXI, or (III) is an elementary school or secondary school, as such terms are defined in section 11361 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 1003), an elementary or secondary school operated or supported by the Indian Bureau of Education, or a State child support enforcement agency, a child care resource and referral agency, or a State office or program that administers applications for or administers a program funded under part A of title IV-D or that determines eligibility for any assistance or benefits provided under any program of public or assisted housing that receives Federal funds, including the program under section 8 or any other section of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)", before the semicolon.

Mr. KERRY. Mr. President, I want to thank my friend and colleague Senator McCaIN for his work on this important and innovative piece of legislation with whom this legislation, entitled the Children's Health Assurance through the Medicaid Program (CHAMP), which would increase health coverage for eligible children and increase state flexibility.

Mr. President, the Balanced Budget Act of 1997 gave States the option to bring more eligible but uninsured children into Medicaid by allowing states to grant "presumptive eligibility." This means that a child would temporarily be covered by Medicaid if preliminary information suggests that they qualify. Providing health insurance for children is important because studies show that children without health insurance are more likely to be in worse health, less likely to see a doctor, and less likely to receive preventive care such as immunizations.

Mr. President, Senator McCaIN and I are introducing today a bill that will strengthen the existing option and give states more flexibility. First, it will allow states to rely on a broader range of agencies to assist with Medicaid enrollment. By expanding the list of community-based providers and state and local agencies to include schools, child support agencies, and some child care facilities, states will be able to make significant gains in the number of children identified and enrolled in Medicaid. States would not be required to rely on these additional providers but would have the flexibility to choose among qualified providers and shape their own outreach and enrollment strategies.

The cost of these changes to the presumptive eligibility option for Medicaid under last year's Balanced Budget Act are modest. Our understanding is that our proposal would cost approximately $250 million over five years. This is a positive step in the right direction, helping ensure that the growing population of American children have access to affordable health care in the early years saves the country's financial resources in the long run.
the researchers noted that “children working in agriculture are legally permitted to work at younger ages, in more hazardous occupations, and for longer periods of time than their peers in other industries.” For example, a 13 year old can work alone in an air conditioned office building, but can pick strawberries in a field in the middle of summer. That same report noted that over 150,000 children are working in agriculture. However, because the data we have based on census data, the Farm Worker Union places the number at nearly 800,000 children working in agriculture.

In December 1997, the Associated Press published a five part series on child labor in the United States documenting 4 year olds picking chili peppers in New Mexico and 10 year olds harvesting cucumbers in Ohio. In one tragic example reported by the AP, 14 year old Pedro de la Garza was run over while working on a construction site in Texas. I was outraged.

At the June hearing of the Senate Employment and Training Subcommittee, I came to terms regarding child labor in the United States. A 14 year old was crushed to death when a 5000 lb. hammer fell on him while working on a construction site in Texas. I was outraged.

The Child Labor Coalition, and the testimony of Sergio Reyes be printed in the Record. There being no objection, the material was ordered to be printed in the Record, as follows:

SEC. 1. SHORT TITLE; REFERENCE.
(a) SHORT TITLE.—This Act may be cited as the "Children’s Act for Responsible Employment" or the "CARE Act".
(b) REFERENCE.— Whenever in this Act an amendment made by adding at the end of a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

SEC. 2. AGRICULTURAL EMPLOYMENT.
Section 13(c) (29 U.S.C. 213(c)) is amended—
(1) by striking paragraph (4) and inserting in its place the following:
(4) `(l) The provisions of section 12 relating to child labor shall not apply to any employee engaged in agriculture outside of school or to any employee who, where such employee is living while he or she is so employed, if such employee is employed by his or her parent or legal guardian, on a farm owned or operated by such parent or legal guardian.'; and
(2) by striking paragraphs (2) and (4).

SEC. 3. YOUTH PEDDLING.
(a) FAIR LABOR STANDARDS ACT COVERAGE.—
(1) FINDING.—The last sentence of section 2(a) (29 U.S.C. 202(a)) is amended by inserting after "households" the following: and the employment of employees under the age of 16 years in youth peddling.
(2) DEFINITION.—Section 3 (29 U.S.C. 203) is amended by adding at the end the following:
"youth peddling' means selling goods or services to customers at their residences, places of business, or public places such as street corners or public transportation stations. 'youth peddling' does not include the activities of persons who, as volunteers, sell goods or services on behalf of not-for-profit organizations.";
(b) DEFINITION OF OPPRESSIVE CHILD LABOR.—Section 3(1) (29 U.S.C. 203(1)) is amended by adding at the end the following:
"occupations other than" the following: "youth peddling";
(c) PROHIBITION OF YOUTH PEDDLING.—Section 12(a) (29 U.S.C. 212(a)) is amended by adding after "oppressive child labor in commerce or in the production of goods for commerce" the following: "or in youth peddling".

SEC. 4. CIVIL AND CRIMINAL PENALTIES FOR CHILD LABOR VIOLATIONS.
(a) CIVIL MONEY PENALTIES.—Section 16(e) (29 U.S.C. 216(e)) is amended in the first sentence—
(1) by striking "$10,000" and inserting "$15,000";
(2) by inserting after "subject to a civil penalty of" the following: "not less than $500 and".
(b) CRIMINAL PENALTIES.—Section 16(a) (29 U.S.C. 216(a)) is amended by adding at the end the following: "Any person who violates the provisions of section 15(a)(4), concerning oppressive child labor, shall on conviction be subject to a fine of not more than $15,000, or to imprisonment for not more than 5 years, or both, in the case of a willful or repeat violation that results in or contributes to a fatality of a minor employee or a permanent disability of a minor employee, or a violation which is concurrent with a criminal violation of any other provision of this Act or of any other Federal or State law."

SEC. 5. GOODS TAINTED BY OPPRESSIVE CHILD LABOR.
Section 12(a) (29 U.S.C. 212(a)) is amended by striking the period at the end and inserting the following: "and provided further, that the Secretary shall determine the circumstances under which goods may be allowed to be shipped or delivered for shipment in interstate commerce.

SEC. 6. COORDINATION.
Section 4 (29 U.S.C. 206) is amended by adding at the end the following:
"(g) The Secretary shall encourage and establish closer working relationships with non-governmental organizations and with State and local government agencies having responsibility for administering and enforcing labor and safety and health laws. Upon the request of the Secretary, and to the extent permissible under applicable law, State and local government agencies with information regarding injuries and deaths of employees shall submit such information to the Secretary for use as appropriate in the enforcement of section 12 and in the promulgation and interpretation of the regulations orders authorized by section 3(1). The Secretary may reimburse such State and local government agencies for such services.".

SEC. 7. REGULATIONS AND MEMORANDUM OF UNDERSTANDING.
(a) REGULATIONS.—The Secretary of Labor shall issue such regulations as are necessary to carry out this Act and the amendments made by this Act.
(b) MEMORANDUM OF UNDERSTANDING.—The Secretary of Labor and the Secretary of Agriculture shall, not later than one year after the date of enactment of this Act, enter into a memorandum or understanding to coordinate the development and enforcement of standards to minimize child labor.

SEC. 8. AUTHORIZATION.
There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary for to carry out this Act and the amendments made by this Act.


Hon. Tom Harkin, U.S. Senate, Washington, D.C.

Senator Harkin: The Child Labor Coalition thanks you for your leadership over the last six years to end child labor exploitation overseas. Your influence has spurred much of the progress that has been made in the international community.

As you are certainly aware, the United States is not immune to child labor problems. Two of our most significant areas are the escalating injuries to young workers and the inadequate protection of children working in agriculture. The legislation you are introducing is a positive step toward addressing these problems.

Every year, more than 200,000 minors are injured and more than 100 die in the workplace. Research has shown that injuries often occur when youth are engaged in prohibited duties or occupations. Your legislation to increase penalties for child labor violations will send a clear message to employers to ensure the safety of their young workers through increased diligence in following the child labor laws.

The FSA does not adequately protect children working as hired farmworkers. Children may work at younger ages, for more hours, and engage in hazardous employment at times when they are not part of any workplace or occupation. This has to change and your legislation to equalize
For many years now I have been involved with a variety of issues that affect the technology sector. As I have said before, no other sector of the economy is as vibrant and forward looking. The ingenuity, drive and vision of this industry is for all of us, including those of us in the Senate. Moreover, the importance of this industry should only grow in the coming years. However, as I look to the future with the hope of seeing the next century stamped “Made in America” I see one large impediment—the Y2K bug.

The 105th Congress must consider this problem and assist the country in trying to avoid a potentially disastrous crisis. We cannot wait for disaster to strike. We must act now to enable companies to avert the crisis. No individual will be left untouched if the country fails to address this problem and experiences widespread ramifications. No company will escape huge costs if they have not addressed this crisis. The companies with their own problems and have some assurances that their business partners and suppliers have fixed their problems. A great deal of effort has been undertaken to bring attention to this problem, including H.R. 2487 and S.2384.

However, it is now time to move beyond simply highlighting the problem. We need to roll up our sleeves and get to work on a solution. I begin today to lay out my plan for assisting individuals and businesses to walk safely through the minefield called the Y2K problem. First of this overall plan is the Year 2000 Enhanced Cooperation Solution. This legislation provides a very narrow exemption to the antitrust laws if and when a company is engaged in cooperative conduct to alleviate the impact of a year 2000 date failure in hardware or software. The exemption has a clear sunset and expressly ensures that the law continues to prohibit anti-competitive conduct such as boycotts or agreements to allocate markets or fix prices.

This simple, straightforward proposal is critical to allowing for true cooperation in an effort to rectify the problem. No company can solve the Y2K problem alone. Even if one company devises a workable solution to their own problems they still face potential disaster from components provided by outside suppliers. If one company fails to fix workable solutions we certainly want to provide them with every incentive to disseminate those solutions as widely as possible. Cooperation is essential. But without a clear legislative directive, potential antitrust liability will stand in the way of cooperation. We must provide our industries with the appropriate incentives and tools to fix this problem without the threat of antitrust lawsuits based on the very cooperation we ought to be encouraging.

I do want to be very clear on one point—as important as it is that this legislation be enacted and enacted soon, it is merely the first piece of a difficult puzzle. The Administration has presented the Congress with their view of how information sharing on the Y2K problem should be furthered. Based on my initial review, that proposal appears to short-change those in the right direction but fails far short of the target destination. Most importantly, the proposed approach which purports to promote information sharing does not accomplish its objective as it leaves the problem of potential antitrust liability in other words, it in no way accomplishes the task that it set out to complete.

I will seek the introduction of the second piece of the solution, the Year 2000 Enhanced Information Solution, which while working within the guidelines of the Administration’s language will add the teeth, make clear that good faith disclosure of information will be protected, and provide for protection of individual companies.

Together with the antitrust legislation I introduce today, this should provide sufficient protection to promote the kind of cooperation that will be essential to addressing this looming problem.

The final piece of the package will be the Year 2000 Litigation Solution. Real harm from inadequate efforts to address this problem must be compensated. However, we must consider the prospect of frivolous litigation to block efforts to avoid such harm. We also must ensure that frivolous litigation over the Y2K problem does not consume the lion’s share of the next century. While it is not possible for Congress to guarantee that private individuals and companies will be able to solve the Y2K problem, Congress can eliminate legal obstacles that stand in the way of private solutions. Information regarding existing software and known problems must be shared as completely and openly as possible. The current fear of litigation and liability that imposes a distinct chilling effect on information sharing must be alleviated.

Resources to address the Y2K problem, particularly time, are finite. They must be focused as fully as possible on remediation, rather than on unproductive litigation. Moreover, we must ensure the availability of adequate development and programming talent may hinge upon a working environment that protects good faith remediation efforts from the threat of liability for their work. Congress must prevent a fiasco where only lawyers win.

I look forward to working with those that are interested as this process moves forward. I believe that this Congress cannot wait to address this problem. This issue is urgent, and we have precious little left in this Congress and before the Y2K problem is upon us. I hope we can work together to free up talented individuals to address this serious problem.

By Mr. BENNETT (for himself and Mr. HATCH):
S. 2365. A bill to establish the San Rafael Swell National Heritage Area and the San Rafael National Conservation Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

THE SAN RAFAEL HERITAGE AND CONSERVATION ACT

Mr. BENNETT. Mr. President, I am pleased to introduce the “San Rafael National Heritage and Conservation Act” and I am pleased to be joined by Senator HATCH in this effort.

The San Rafael National Heritage and Conservation Act not only accomplishes the preservation of an important historic area, but it is the result of a collaborative approach among Federal land managers, state and local governments and other concerned agencies and organizations. This revised legislation incorporates several of the suggestions of the Administration, the House and those who originally expressed concerns about the bill as introduced in the House. The legislation we introduce today is the result of months of discussions between the Bureau of Land Management, the citizens of Emery County and Members of Congress. It is a good-faith effort to initiate an effort that will bring resolution to the larger philosophical differences between land management practices in Utah. With a little luck, we might even begin a process which could lead to a resolution to the ongoing Utah wilderness debate.

The San Rafael Swell region in the State of Utah was one of America’s last frontiers. I have in my office, a map of the State of Utah drafted in 1876 in which large portions of the San Rafael Swell were simply left blank because they were yet to be explored. Visitors who comment on this map are amazed when they see that large portions of the San Rafael area remained unmapped thirty years after the Mormon pioneers arrived in the Salt Lake Valley.

This area is known for its important historical sites, notable tradition of mining, widely recognized paleontological resources, and numerous recreational opportunities. As such, it needs to be protected. The San Rafael Swell National Conservation Area created through this legislation will be approximately 630,000 acres in size and will comprise wilderness, a Bighorn Sheep Area, a scenic area of Critical Environmental Concern, and Semi-Primitive Area of Non-Motorized Use. The value of the new management structure for the National Conservation Area can be found in the flexibility it gives in addressing a broad array of issues from the protection of critical lands to the oversight of recreational uses.

The San Rafael National Heritage and Conservation Act sets aside 130,000 acres as BLM wilderness lands. It permanently removes the threat of mining, oil drilling, and timbering from the Swell. It also sets aside a conservation area of significant size to protect Utah’s largest herd of Desert Bighorn Sheep. Vehicle travel is restricted to designated roads and trails in other areas and visitors recreational facilities are provided. Finally, it will assist the BLM and the local communities in developing a long-term strategy to preserve this unique landscape through the National Heritage Area. Careful study of the bill shows that the San Rafael Swell National Heritage and Conservation Act is a multidimensional management plan for an entire area with varied environmental needs. It provides comprehensive protection and management for an entire ecosystem.

My colleagues in the House have worked hard to address the concerns of the Administration and they have made several changes to the House version as introduced in an effort to improve the legislation. We have redrawn maps, eliminated roads from wilderness areas, eliminated cherry stems of other bills. At the same time, we have increased the size of wilderness and semi-primitive areas. Specifically, by including new provisions dealing with the Compact and Heritage Plan, the new language ensures that the resources found in the Swell will be properly surveyed and understood prior to the Heritage Area moving forward.

With regards to the Conservation Area, bill language guarantees that the management plan will not impair any of the important resources within the area. We have also included new language that ensures the Secretary of Interior is fully represented on the Advisory Council.

The San Rafael Swell National Heritage and Conservation Act is unique in that it sets the San Rafael Swell apart from Utah’s other national parks and monuments. It protects not only the important lands in this area but also another resource just as precious—its cultural heritage. This bill is an example of how a legislative solution can result from a grassroots effort involving both state and local government officials, the BLM, historical preservation groups, and wildlife enthusiasts. Most important, it takes the necessary steps to preserve the wilderness value of these lands.

This legislation has broad state-wide and local support. It is sound, reasonable, and innovative in its approach to land management and managing the public land treasures of the San Rafael Swell. Finally, it is based on the scientific methods of ecosystem management and prevents the fracturing of large areas of multiple use lands with small parcels of wilderness interspersed between.

Mr. President, I conclude with this point; the wilderness debate in Utah has gone on too long. My colleagues will be reminded that in the last Congress, the debate centered around whether two million acres or 5.7 million acres were the proper amount of wilderness to designate. We are now trying to protect more than 600,000 acres in one county in Utah alone. The Emery County Commissioners should be commended for their foresight and vision in preparing this proposal. I hope that this legislation can become a model for future conflict resolutions.

Unfortunately, the shouting match over Swell has obscured the fact that the discussion over what types of protection were in order for these lands. I doubt that there are few people who would debate the need to protect these lands. But too often in the past we get caught up over the form, what constitutes “protection.” Unfortunately for some groups, a certain designation is the only method of acceptable protection. I urge those groups to look beyond the trees and see the forest for a change. Should these groups decide to come to the table, lend their considerable expertise to our efforts and try to reach a consensus, the first steps toward resolving the decades-old wilderness debate in Utah will have taken.

I urge my colleagues will carefully review this legislation and support for this bill.

Mr. HATCH. Mr. President, I rise in support of the San Rafael Swell National Heritage and Conservation Act. As a co-sponsor of this measure, I applaud the efforts of my friend and colleague, Senator BENNETT, for bringing this matter before the United States Senate. This is a refreshing approach to managing public lands in the West. A comprehensive approach to our land management decisions can be a cynosure for future land management decisions in the West.

Much more than simply protecting rocks and soil, this legislation safeguards wildlife and their habitat, cultural sites and artifacts, and Indian and Western heritage. This is not our standard one-size-fits-all land management plan. It provides for the conservation of this unique area, opting to encourage visitors not development.

Mr. President, the San Rafael Swell is an area of immediate importance to the local economy and cultural heritage. It was once the home to Native Americans who adorned the area with petroglyphs on the rock outcrops and canyon walls. What were once their dwellings are now significant archaeological sites scattered throughout the Swell. After the Indian tribes came explorers, trappers, and outlaws. In the 1870s, ranchers and cowboys came to the area and began grazing the land, managing it for their personal and Western heritage. This is not your ordinary public lands. But too often in the past we get caught up over the form, what constitutes “protection.” Unfortunately for some groups, a certain designation is the only method of acceptable protection. I urge those groups to look beyond the trees and see the forest for a change. Should these groups decide to come to the table, lend their considerable expertise to our efforts and try to reach a consensus, the first steps toward resolving the decades-old wilderness debate in Utah will have taken.

I urge my colleagues will carefully review this legislation and support for this bill.
By Mr. BIDEN: S. 2387. A bill to confer and confirm Presidential authority to use force abroad, to set forth procedures governing the exercise of that authority, and thereby to facilitate cooperation between the President and Congress in decisions concerning the use or deployment of United States Armed Forces abroad in situations of actual or potential hostilities; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today I introduce legislation designed to provide a framework for joint congressional-executive decision-making about the most solemn decision that a nation can make: to send men and women to fight and die for their country.

Entitled the "Use of Force Act," the legislation would replace the war powers resolution of 1973 with a new mechanism that, I believe, is more effective than the existing statute.

Enacted nearly a quarter century ago, over the veto of President Nixon, the war powers resolution has enjoyed an unhappy afterlife. My colleagues question its constitutionality, and ignored by a Congress too timid to exercise its constitutional duty.

This was not, of course, the intent of its framers, who sought to improve executive-congressional cooperation on questions involving the use of force—and to remedy a dangerous constitutional imbalance.

This imbalance resulted from what I call the "monarchist" view of the war power—the thesis that the President holds nearly unlimited power to direct American forces into action.

The thesis is largely a product of the cold war and the nuclear age. The view that, at a time when the fate of the planet itself appeared to rest with two powers, the United States and the Soviet Union, the role of "Commander in Chief of the Army and Navy of the United States."''

In 1990, Congress attempted to rectify the constitutional imbalance. But the response was required to Saddam Hussein—was a semantic dodge designed to avoid congressional authorization—and a demonstration that the monarchist view was a dead letter, courts were powerless to remedy the situation.

And, most recently, the Clinton administration asserted that it had all the authority it needed to initiate a military attack against Iraq—though it never publicly elaborated on this supposed authority.

In this case, the question was not clear-cut—as it was in 1991. But two things emerged in the debate that reinforced the need for this legislation. First, it demonstrated that executive instinct to find "sufficient legal authority" to use force is undiluted.

Second, it demonstrated that Congress often lacks the institutional will to carry out its responsibilities under the war power. Although there was strong consensus that a strong response was required to Saddam Hussein's resistance to U.N. inspections, there was no consensus in this body about whether Congress itself should authorize military action. Lacking such a consensus, Congress did nothing.

Congress' responsibilities could not be clearer. Article one, section eight, clause eleven of the Constitution grants to Congress the power "to declare war, grant letters of marque and reprisal and to make rules concerning captures on land and water."

To the President, the Constitution provides in article two, section two the role of "Commander in Chief of the Army and Navy of the United States." It may fairly be said that, with regard to many constitutional provisions, the Framers' intent was ambiguous. But on the war power, both the contemporary evidence and the early construction of the clauses do not leave much room for doubt.

The original draft of the Constitution would have given Congress the power to "make war." At the Convention, John Madison and Elbridge Gerry argued for the
Our earliest Presidents were extremely cautious about encroaching on Congress' power under the war clause. For example, in 1793, the first President, George Washington, stated that offensive operations against an Indian tribe were not dependent on congressional action: "The Constitution vests the power of declaring war with Congress; therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure."

During the Presidency of John Adams, the United States engaged in an undeclared naval war with France. But it bears emphasis that these military engagements were clearly authorized by Congress by a series of incremental statutes. The naval war with France also yielded three important Supreme Court decisions regarding the scope of the war power.

In 1799, Congress authorized the President to intercept any U.S. vessels headed to France. President Adams subsequently ordered the Navy to seize any ships traveling to or from France. The Supreme Court declared the seizure of a U.S. vessel traveling from France to be illegal—thus ruling that Congress had the power not only to authorize limited war, but also to limit Presidential power to take military action. The court ruled in two other cases bearing on the question of limited war. Wars, the Court said, even if "imperfect," are nonetheless wars. In still another case, Chief Justice Marshall opined that "the whole powers of war [are] by the Constitution vested in Congress . . . [which] may authorize general hostilities . . . or partial war."

These precedents, and the historical record of actions taken by other early Presidents, have significantly more bearing on the modern era than the modern era. As Chief Justice Warren once wrote, "The precedential value of [prior practice] tends to increase in proportion to the proximity" to the constitutional convention. Unfortunately, this constitutional history seems largely forgotten, and the doctrine of Presidential power that arose during the cold war remains in vogue.

To accept the status quo requires us to believe that the constitutional imbalance serves our nation well. But it can hardly be said that it does. As matters now stand, Congress is denied its proper role in sharing in the decision to commit American troops, and the President is deprived of the consensus to help carry this policy through. I believe that only by establishing an effective war powers resolution can we ensure that our leaders are not liable to the President the authority he has sought if these procedures fail to produce a vote. That effort provided the foundation for the legislation introduced in the 104th Congress, and that I reintroduce today. The bill has many elements; I will briefly summarize it.

First, the bill replaces the war powers resolution with a new version. But I should make clear that I retain its central element: a time-clock mechanism that limits the President's power to use force abroad. That mechanism, it bears emphasis, was found to be unambiguously constitutional in a 1980 opinion issued by the Office of Legal Counsel at the Department of Justice. It is often assumed that the time-clock provisions are "unworkable," or that it invites our adversaries to make a conflict so painful in the short run so as to induce timidity in the Congress. But with or without a war powers law, American willingness to undertake sustained hostilities will always be subject to democratic pressures. A statutory mechanism is simply a means of delineating procedure.

The procedure set forth in this legislation assures that if the President wants an early congressional vote on a use of force abroad, his congressional supporters can produce it. Recent history tells us, of course, that the American people, as well as Congress, rally around the flag—and the Commander-in-Chief—in the early moments of a military deployment.

Second, my bill defuses the specter that a "timid Congress" can simply sit on its hands and permit the authority for a deployment to expire. First, it establishes elaborate expedited procedures designed to ensure that a vote will occur. And it explicitly defeats the "timid Congress" specter by giving the President the authority he has sought if these procedures fail to produce a vote. Thus, if the President requires the war powers resolution was in order—outside the realm of emergency—and Congress fails to vote, the President's authority is extended indefinitely.
Third, the legislation delineates what I call the “going in” authorities for the President to use force. One fundamental weakness of the war powers resolution is that it fails to acknowledge powers that most scholars agree are inherent to the presidency to respond to an armed attack upon the United States or its Armed Forces, or to rescue Americans abroad. My legislation corrects this deficiency by enumerating five instances where the President may use force:

1. Congress has declared war or enacted specific statutory authorization;
2. The President has requested authority for an extended use of force but Congress has failed to act on that request, notwithstanding the expedited procedures established by this act;
3. The President has certified the existence of an emergency threatening the supreme national interests of the United States.

The legislation also affirms the importance of consultation between the President and Congress and establishes a new means to facilitate it. To overcome the common complaint that Presidents must contend with “535 Secretaries of State,” the bill establishes a congressional leadership group with whom the President is mandated to consult on the use of force. Another infirmity of the war powers resolution is that it fails to define “hostilities.” Thus Presidents frequently engaged in verbal gymnastics of insisting that “hostilities” were not “imminent”—even when hundreds of thousands of troops were positioned in the Arabian desert opposite Saddam’s legions.

Therefore, the legislation includes a more precise definition of what constitutes a “use of force.” Finally, to make the statutory mechanism complete, the use of force act provides a means for judicial review. Because I foresee the reluctance of many of my colleagues to inject the judiciary into decisions that should be made by the political branches, this provision is extremely limited. It empowers a three-judge panel to decide only whether the time-clock mechanism has been triggered.

The bill contains a provision granting standing to Members of Congress, a door that the Supreme Court appears to have largely closed in the case of Raines v. Traylor. The one-vote challenge brought by the senior Senator from West Virginia. I believe, notwithstanding the holding of that case, that a Member of Congress would suffer the concrete injury necessary to satisfy the standing under article three of the Constitution.

The reason is this: The failure of the President to submit a use of force report would harm the ability of a Member of Congress to exercise a power clearly reposed in Congress under article one, section eight. That injury, I believe, should suffice in clearing the high hurdle on standing which the Court imposed in the Byrd case. No private individual can bring such a suit; if a Member of Congress cannot, then no one can.

I have no illusions that enacting this legislation will be easy. But I am determined to try.

The status quo—with Presidents asserting broad executive power, and Congress often content to surrender its constitutional powers—does not serve the American people well.

More fundamentally, it does not serve the men and women who risk their lives to defend our interests. For that, ultimately must be the test of any war powers law.

Mr. President, I ask unanimous consent that the section-by-section analysis be included in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. The title of the bill is the “Use of Force Act (UFA).”

Section 2. Table of Contents

Section 3. Findings. This section sets forth three findings regarding the need to provide a statutory framework to facilitate joint decisionmaking between Congress and the President regarding decisions to use force abroad.

Section 4. Statement of Purpose. The key phrase in this section is “confer and confirm Presidential authority.” The Use of Force Act is designed to bridge the long-standing—and, for all practical purposes, unresolvable—dispute over precisely what constitutes the President’s “inherent” authority to use force. Whereas the War Powers Resolution purported to delineate the President’s constitutional authority and to assert that no such authority exists, the Use of Force Act sets forth a range of authorities that are practical for the modern age and sufficiently broad to subsume all presidential authorities deemed “inherent” by any reasonable constitutional interpretation.

Section 5. Definitions. This section defines a number of terms, including the term “use of force.”

As defined in the Use of Force Act, a “use of force abroad” is:

1. a deployment of U.S. armed forces (either a new introduction of forces, a significant expansion of the U.S. military presence in a country, or a commitment to a new mission or objective); and
2. the deployment is aimed at deterring an identified threat, or the forces deployed are incurring or inflicting casualties (or are operating with a substantial possibility of incurring casualties), and
3. the use of force is consistent with any war powers law.

TILME GENERAL PROVISIONS

Section 101. Authority and Governing Principles. This section sets forth the Presidential authorities being “conferring and confirming” on the President. Under this Act, the President may use force—

1. to repel an attack on U.S. territory or U.S. armed forces;
2. to deal with urgent situations threatening supreme U.S. interests;
3. to extricate imperiled U.S. citizens;
4. to forestall or retaliate against specific acts of terrorism;
5. to defend against substantial threats to international sea lanes or airspace.

Against a complaint that this list is excessively permissive, it should be emphasized that the President and other authorities to undertake a use of force—so-called “going in” authorities—and the “staying in” conditions set forth in section 102, are most consistent with the President’s original decision.

Section 102. Consultation. This section affirms the importance of consultation between the President and Congress and establishes new means to facilitate it. To overcome the common complaint that Presidents usually contend with “535 Secretaries of State,” the UFA establishes a Congressional Leadership Group with whom the President is mandated to consult on the use of force.

Framework of regular consultations between specified Executive branch officials and relevant congressional committees is intended to establish a “norm” of consultative interaction and in hope of overcoming what many find to be the overly theatrical public-hearing process that has superseded the more frank and informal consultations of earlier years.

Note: An alternative to the Use of Force Act is to repeal (or effectively repeal) the War Powers Resolution and leave the initiative only a Congressional Leadership Group. This is the essence of S.J. Res. 323, 106th Congress, which would amend the War Powers Resolution introduced by Senators Byrd, Warner, Nunn, and Mitchell in 1988. This approach, which relies on “consultation and the Constitution,” avoids the complexities of enacting legislation such as the UFA but fails to solve chronic problems of procedure or authority, leaving matters of process and power to be debated anew as each crisis arises. In contrast, the Use of Force Act would perform one of the valuable functions of law, which is to guide individual and institutional behavior.

Section 103. Reporting Requirements. Section 103 requires that the President report in writing to the Congress concerning any use of force, not later than 48 hours after commencing a use of force abroad.

Section 104. Conditions for Extended Use of Force. Section 104 sets forth the “staying in” conditions; that is, the conditions that must be met if the President is to sustain a use of force he has begun under the authorities set forth in section 101. A use of force may extend beyond 60 days only if—

1. Congress has declared war or enacted specific statutory authority;
2. the President has requested authority for an extended use of force but Congress has failed to act on that request (notwithstanding the expedited procedures established by Title II of this Act); and
3. the President has certified the existence of an emergency threatening the supreme national interests of the United States.
The second and third conditions are designed to provide sound means other than a declaration of war or the enactment of specific statutory authority by which the President may extend use for force. Through these conditions, the Use of Force Act avoids two principal criticisms of the War Powers Resolution: (1) that Congress could not require a force withdrawal simply through inaction; and (2) that the law might, under certain circumstances, unconstitutionally deny the President the use of his “inherent” authority.

To defuse the specter of a President hamstring by a Congress too timid or inapt to face the consequences of a President’s action, the UFA uses two means: first, it establishes elaborate expedited procedures designed to ensure that a vote will occur; second, it explicitly defeats the “inherent” Congress’s specter by granting to the President the authority he has sought if these procedures nonetheless fail to produce a vote. Thus, if the President requests authority for a sustained use of force—one outside the realm of emergency—and Congress fails to vote, the President’s authority is extended indefinitely.

The language of the bill should satisfy all but proponents of an extreme “monarchist” interpretation under which the President has the constitutional authority to use force as he sees fit. Other interpretations, the concept of an “inherent” authority depends upon the element of emergency: the need for the President to act under urgent circumstances to save the nation’s security and its citizens. If so, the UFA protects any “inherent” presidential authority by affirming his ability to act for up to 60 days under the broad-ranging authorities in section 101 and, in the event he is prepared to certify an extended national emergency, to exercise any authority available under the UFA through the expedited procedures in section 104.

Section 105. Measures Eligible for Congressional Priority Procedures. This section establishes criteria by which joint and concurrent resolutions become eligible for the expedited procedures created by Title II of the UFA. A joint resolution that declares war or provides specific statutory authorization—or one that terminates, limits, or prohibits a use of force—becomes eligible if it is introduced: (1) pursuant to a written request by the President to any one member of Congress; (2) if cosponsored by a majority of the members of the Congressional Leadership Group in the house where introduced; or (3) if cosponsored by 30 percent of the members of either house. Thus, there is almost no conceivable instance in which a President can be denied a prompt vote; he need only ask one member of Congress to introduce a resolution on his behalf.

A concurrent resolution becomes eligible if it meets either of the cosponsorship criteria cited above and contains a finding that a use of force abroad began on a certain date, or has exceeded the 60 day limitation, or has been extended under authority provided by section 101, or is being conducted in a manner inconsistent with the governing principles set forth in section 101.

While having no direct legal effect, the passage of a concurrent resolution under the UFA could have considerable significance: politically, it would represent a clear, prompt, and formal congressional repudiation of a presidential action; within Congress, it would trigger parliamentary rules blocking further consideration of measures providing or authorizing the use of force in question (as provided by section 106 of the UFA); and jurisdictionally, it would become a consideration in any action brought by a member of Congress for extraordinary or injunctive relief (as envisaged by section 107 of the UFA).

Section 106. Funding Limitations. This section prohibits the expenditure of funds for any use of force inconsistent with the UFA. Further, this section exercises the power of the purse to Congress; in the event of a conflict by providing that a point of order will lie against any measure containing funds to perpetuate a use of force that Congress, by concurrent resolution, has found to be illegitimate.

Section 107. Judicial Review. This section permits judicial review of any action brought by a member of Congress on the grounds that the UFA has been violated. It does so by: (1) granting standing to any Member of Congress under the U.S. District Court for the District of Columbia; (2) providing that neither the District Court nor the Supreme Court may refuse to make a determination on the merits based on certain judicial doctrines, such as political question or ripeness (doctrines invoked previously courts to avoid deciding cases regarding the war power); (3) prescribing the judicial remedies available to the District Court; and (4) creating a right of direct appeal to the Supreme Court and encouraging expeditious consideration of such appeal. It bears emphasis that the remedy prescribed is modest, and does not risk unwarranted interference of the judicial branch in a decision better reposed in the political branches. Thus, the matter must be heard by a three-judge panel; one of these judges must be a circuit judge. Additionally, the power of the court is extremely limited: it may only consider a 60-day period set forth in Section 104 has begun. In 1997, the Supreme Court held, in Raines v. Byrd, 521 U.S. n.3 (1997) (slip op., at 8, n.3) Second, a more recent decision of the Court suggests that a Member of Congress could attack “constititional standing” that is, meet the “case or controversy” requirements of Article III in just the sort of case envisaged by the U.S. Congress in the Federal Election Commission v. Akins, a case decided on June 1, 1988. The Court permitted standing in a case where the Members of Congress had not been “injured,” the Federal Election Commission (FEC) to treat an organization as a “political committee,” then which had triggered public disclosure of certain information about that organization. The Court held that standing would be permitted where the plaintiff “fails to obtain information which must be publicly disclosed pursuant to statute.” A case under the Use of Force Act would be analogous—in that the plaintiff Members of Congress would seek information in a “Use of Force Request” submitted to Congress by Section 103(a). Such information, quite obviously, would be essential to Members of Congress in the exercise of their constitutional powers under the war clause of the Constitution (Article I, Section 8, Clause 11), a power they alone possess.

Section 108. Severability. This section clarifies several points of interpretation, including: that authority to use force is not derived from other statutes or from treaties but from the UFA; (2) that the President may not use force in any fashion except as provided by the UFA (a statement that may not be construed as indicating congressional authorization or approval).

By Mr. DORGAN. S. 2388. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion on gain on the sale of a principal residence; to Congress who brings suit in the U.S. District Court on the grounds that the UFA has been violated. It makes a determination on the merits based on certain judicial doctrines, such as political question or ripeness (doctrines invoked previously courts to avoid deciding cases regarding the war power); (3) prescribing the judicial remedies available to the District Court; and (4) creating a right of direct appeal to the Supreme Court and encouraging expeditious consideration of such appeal. It bears emphasis that the remedy prescribed is modest, and does not risk unwarranted interference of the judicial branch in a decision better reposed in the political branches. Thus, the matter must be heard by a three-judge panel; one of these judges must be a circuit judge. Additionally, the power of the court is extremely limited: it may only consider a 60-day period set forth in Section 104 has begun. In 1997, the Supreme Court held, in Raines v. Byrd, 521 U.S. n.3 (1997) (slip op., at 8, n.3) Second, a more recent decision of the Court suggests that a Member of Congress could attack “constititional standing” that is, meet the “case or controversy” requirements of Article III in just the sort of case envisaged by the U.S. Congress in the Federal Election Commission v. Akins, a case decided on June 1, 1988. The Court permitted standing in a case where the Members of Congress had not been “injured,” the Federal Election Commission (FEC) to treat an organization as a “political committee,” then which had triggered public disclosure of certain information about that organization. The Court held that standing would be permitted where the plaintiff “fails to obtain information which must be publicly disclosed pursuant to statute.” A case under the Use of Force Act would be analogous—in that the plaintiff Members of Congress would seek information in a “Use of Force Request” submitted to Congress by Section 103(a). Such information, quite obviously, would be essential to Members of Congress in the exercise of their constitutional powers under the war clause of the Constitution (Article I, Section 8, Clause 11), a power they alone possess.

One of the most popular provisions included in last year’s major tax bill permits families to exclude from federal income tax up to $500,000 of gain from the sale of their principal residences. That’s a good deal, especially for most urban and suburban dwellers who have spent many years paying for their houses, and who regard their houses as both a home and a retirement account. For many middle income families, their home is their major financial asset, an asset the family can draw on in retirement. House
prices in major growth markets such as Washington, D.C., New York, or California may start at hundreds of thousands of dollars. As a result, the urban dwellers who have owned their homes through many years of appreciation can often benefit from a large portion of this new $500,000 capital gains tax exclusion. Unfortunately this provision, as currently applied, is virtually useless to family farmers.

For farm families, their farm is their major financial asset. Unfortunately, family farmers under current law receive little or no benefit from the new $500,000 exclusion because the IRS separates the value of their homes from the value of the farmland the homes sit on. As people from my state of North Dakota know, houses out on the farmsteads of rural America are more commonly sold for $5,000 to $40,000. Most farmers plow all profits they make into the whole farm rather than into a single capital house value when the farm is sold. It’s not surprising that the IRS often judges that homes far out in the country have very little value and thus farmers receive much less benefit from this $500,000 exclusion than do their urban and suburban counterparts. As a result, the capital gain exclusion is little or no help to farmers who are being forced out of business. They may immediately face a hefty capital gains tax bill from the IRS.

This is simply wrong, Mr. President. It is unfair. Federal farm policy helped the hands of our family farmers in the Great Plains. It’s stop penalizing farmers who are forced out of agriculture. Let’s allow farmers to benefit from the same kind of tax exclusion that most homeowners already receive. This is the right thing to do. And it’s the fair thing to do.

By Mr. WELSTON: S. 2389. A bill to strengthen the rights of workers to associate, organize and strike, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR ORGANIZING ACT

Mr. WELSTON. Mr. President, I rise to introduce a bill, the Fair Labor Organizing Act, to strengthen the basic rights of workers freely to associate, organize and to join a union. The bill would address significant shortcomings in the National Labor Relations Act. These shortcomings amount to impediments to fundamental American ways that working people can seek to improve their own and their families’ standard of living and quality of life, which is to join, belong to and participate in a union.

Mr. President, in the past few years, working men and women across the country have been fighting and organizing with a new energy. They are fighting for better health care, pensions, a living wage, better education policy and a fairer trade policy. They also are fighting and organizing to ensure that they have the opportunity to be represented by a union through which they can collectively bargain with their employers. Much of this organizing is taking place among sectors of the workforce, and among portions of our working population, that have not previously been organized. I think these new efforts are part of what really is a new civil rights and human rights struggle in our country. It is an unprecedented historical development. There is probably no clearer indication that the impact of this development is being felt, and that many of these efforts are succeeding, than some of the attacks in the current Congress on unions representing the country’s working people.

Why have we seen so many bills with Orwellian titles such as the TEAM Act, and bills like the so-called SAFE Act, the Employee Ownership and Strike Protection Act, that are designed to weaken employee teamwork and a lot more to do with company-dominated labor organizations? Such as the “Family Friendly Workplace Act,” which really isn’t family friendly, but would reduce working families’ pay and undercut the rights of workers to organize. We need a new federal organizing law, the National Labor Relations Act, to stop penalizing farmers who are being forced out of business. The gains of unionized workers are critical to the economic security of all working families.

How can it be that as many as 10,000 Americans lose their jobs each year for anti-union activities when the National Labor Relations Act already supposedly prohibits the firing of an employee to deny his or her right to freely organize or join a union? If more than four in 10 workers who are not currently in a union say they would join if they had the opportunity, why aren’t there more opportunities? Since we know that union workers earn up to one-third more than non-union workers and are more likely to have pensions and health benefits, why are more non-unionized workers unionized when the new labor movement is correctly focused on organizing?

The answer to these basic questions is this: we need labor law reform. We need to improve the National Labor Relations Act (NLRA).

The Fair Labor Organizing Act would achieve three basic goals. First, it would help employees make fully informed, free decisions about union representation. Second, it would expand the remedies available to wrongfully discharged employees. Third, it would require mediation and arbitration when employers and employees fail to reach a collective bargaining agreement on their own.

It is late in the current Congress. My bill may not receive full consideration or be enacted into law this year. But I believe it is important to set a standard and place a marker. Workers across America are fighting for their rights, and they are finding that, as long as the playing field is tilted against them, the NLRA does not fully allow them fair opportunity to speak freely, to associate, organize and join a union, even though...
that is its intended purpose. I have walked some picket lines during the
past two years. I have joined in solidarity
with workers seeking to organize. I have
called on employers to bargain in
good faith with their employees during
disputes. I have continued to support
and urge legislators to do the same.
At the same time, it is clear to nearly
any organizer and to many workers
who have sought to join a union that
the rules in crucial ways are stacked
against them. My bill seeks to address
that fact.

First, it is a central tenet of U.S.
labour policy that employees should be
free to make informed and free deci-
sions about union representation. Yet,
union organizers have limited access
to employees while employers have unfet-
tered access. Employers have daily
contact with employees. They may dis-
tribute written materials about unions.
They may require employees to attend
meetings where they present the
unions' views on union representation.
They may talk to employees one-on-one
about how they view union representa-
ton. On the other hand, union organi-
zers are restricted from worksites and
even public areas.

If you were able to make independ-
ent, informed decisions about whether
they should be represented by a union,
then we have to give them equal access
to both sides of the story. This bill
would require the National Labor Rela-
tions Act to provide equal time to
labor organizations to provide informa-
tion about union representation. Equal
time. That means that an employer
would trigger the equal time provision
that this bill would insert into the
NLRA by expressing opinions on union
representation during work hours or at
the worksite. The provision would give
a union equal time to use the same
media used by the employer to distri-
bute information, and would allow the
union access to the worksite to com-
 municate with employees.

The second reform in the bill would
toughen penalties for wrongful dis-
charge violations. It would require the
National Labor Relations Board to
award back pay equal to 3 times the
employee's wages when the Board finds
that an employee is discharged as a re-
sult of an unfair labor practice. It also
would allow employees to file civil ac-
tions to recover punitive damages when
they have been discharged as a re-
S9449
result of an unfair labor practice.

Third, the bill would put in place me-
diation and arbitration procedures to
help employers and employees reach
mutually agreeable first-contract col-
lective bargaining agreements.... It
would require mediation if the parties
cannot reach agreement on their own
after 60 days. Should the parties not
reach agreement 30 days after a medi-
ator is selected, then either party
could request mediation and conciliation
service for binding arbitration. I believe
that this proposal represents a balanced solution—one
that would help both parties reach
agreements they can live with. It gives
both parties incentive to reach genuine
agreement without allowing either side
to indefinitely hold the other hostage
to unrealistic proposals.

Mr. President, this bill would be a
step toward fairness for working fami-
lies in America. The proposals are not
new. I hope my colleagues will support
the bill.

By Mr. DASCHLE:

S. 2391. A bill to authorize and direct
the Secretary of Commerce to initiate
an investigation under section 702 of
the Tariff Act of 1930 of methyl ter-
tiary butyl ether (MTBE) from Saudi
Arabia; to the Committee on Finance.

FAIR TRADE IN MTBE ACT OF 1998

Mr. DASCHLE. Mr. President, today
I am pleased to introduce legislation
designed to combat unfairly traded im-
ports of methyl tertiary butyl ether
(MTBE) from Saudi Arabia. MTBE is
an oxygenated fuel additive derived from
dehydrated methanol.

Through the wintertime oxygenated
fuels program to reduce carbon mon-
obide pollution and through the refor-
mulated gasoline program to reduce
emissions of toxics and ozone-causing
chemicals, we have created consider-
able demand in this nation for
oxygenated fuels, such as MTBE, ETBE
and ethanol. It has been my hope that
this would fuel the competitiveness of
domestically-produced oxygenates, thereby
reducing our dependence on foreign im-
ports and expanding economic opportu-
nities at home. Unfortunately, this
goal has not been achieved, in large
part because of a substantial expansion
of subsidized MTBE imports from Saudi
Arabia.

Mr. President, I am a supporter of
free trade when it is also fair trade.
However, there has been a marked
shift from Saudi imports of MTBE from
Saudi Arabia in recent years that does not
reflect the natural outcome of market-
based competition.

These imports appear to be driven by
a pattern of government subsidies. Not
only is this increasing our dependence
on foreign suppliers, but it is unfairly
harming domestic oxygenate producers
and those who provide the raw mate-
rials for these oxygenates, such as
America’s farmers.

The Saudi government has made no
secret of its desire to expand domestic
industrial capacity of methyl tertiary
butyl ether (MTBE). In particular, sev-
eral years ago, there were public re-
ports that the Saudi government prom-
ised investors a 30% discount relative
to world prices on the feedstock raw
materials used in the production of
MTBE. The feedstock is the major cost
component of MTBE production, and
the Saudi government decree has ap-
parently translated into a nearly — 30%
arificial cost advantage to Saudi-
based producers as well as consumers.

Moreover, it appears that this blan-
tant subsidy is in large measure re-
ponsible for the increase in Saudi
MTBE exports to the United States in
recent years. These exports have not
only reduced the U.S. market share of
American producers of MTBE, ETBE,
and ethanol, but also has discouraged
new capital investment, thereby de-
pairing American workers, investors
and others of a significant share of the
economic activity that Congress
contemplated when it drafted the
oxygenated fuel requirements of the
Clean Air Act Amendments of 1990.

Mr. President, I believe it is high
time for the United States government
to respond to the Saudi government’s
subsidies. Saudi Arabia is a valued
ally; however, our bond of friendship
should not be a justification for turn-
ing a blind eye to an unfair element of
our otherwise mutually beneficial trad-
ing relationship.

Because it is not a member of the
World Trade Organization nor a party
to its Agreement on Subsidies and
Countervailing Measures, the Saudi
government may remain exempted
by the international trade rules by
which we legally are required to abide.
This does not mean, however, that we
must stand idly by while foreign sub-
sidies undermine an important sector
of our economy.

For this reason, my bill would re-
quire the Secretary of Commerce to
self-initiate an investigation under
Section 702 of the Tariff Act of 1930
to determine whether a countervail-
ing subsidy has been provided with respect
to Saudi Arabian exports of methyl
tertiary butyl ether (MTBE). If the
Secretary finds that a subsidy has in-
deed been provided to Saudi producers,
he would be required under the terms
of our existing law to impose an import
duty in the amount necessary to offset
the subsidy. Because Saudi Arabia is
not a member of the WTO, there would
be no requirement for a demonstration
of injury to the domestic industry as a re-
sult of the subsidy.

Let’s talk for a moment about what
is at stake here for American consum-
ers. Last year, I asked the U.S. General
Accounting Office (GAO) to assess the
impact on U.S. oil imports of the Re-
formulated Gasoline (RFG) program
that was created by Congress in 1991.
The GAO found that the U.S. RFG pro-
gram has already resulted in over
250,000 barrels per day less imported
petroleum due to the addition of
ethanol. In 1993, the U.S. spent over
$2 billion per year due to domestically
produced oxygenates.

But the GAO further found that, if all
gasoline in the U.S. were reformulated
(compared to the current 35%), the U.S.
would import 777,000 fewer barrels of
oil per day. That is more than $5.5 bil-
lion per year that would not be flowing
to foreign oil producers and could be
reinvested in the United States.

This is not “pie-in-the-sky” theory.
Ethanol production and domestically
produced MTBE can reduce oil imports

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and strengthen our economy. In rural America, for example, new ethanol and MTBE plants will be built, so long as we wise up and create a level playing field against subsidized Saudi competition.

Phase II of the Clean Air Act's reformulated gasoline program (RFG) requires transportation fuels to meet even tougher emissions standards starting in the year 2000. That gasoline market is growing, with demand for ethanol, ETBE and MTBE in 2005 estimated to be 300,000 barrels per day. Unless we act to ensure that American-made oxygenated fuels can compete in American fuels markets, we stand to cede those markets to subsidized Saudi Arabian MTBE.

Mr. President, I am hopeful that my legislation will help level the playing field for American producers of ethanol, ETBE and MTBE and add new economic vitality to their associated communities of workers, farmers, and business owners. I urge my colleagues to give it serious consideration and to enact it as soon as possible so that we may begin the process of bringing fairness back to the realm of international trade in oxygenated fuels.

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. 2932

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fair Trade in MTBE Act of 1998.”

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Section 814 of Public Law 101-549 (commonly referred to as the “Clean Air Act Amendments of 1990”) expressed the sense of Congress that significant improvements should be made in the purchase and use of American-made reformulated gasoline and other clean fuel products.

(2) Since the passage of the Clean Air Amendments Act of 1990, Saudi Arabia has added substantial industrial capacity for the production of methyl tertiary butyl ether (in this Act referred to as “MTBE”).

(3) The expansion of Saudi Arabian production capacity has been stimulated by government subsidies, notably in the form of a governmental decree guaranteeing Saudi Arabian MTBE producers a 30 percent discount relative to world prices on feedstock.

(4) The subsidized Saudi Arabian production has been accompanied by a major increase in Saudi Arabian MTBE exported to the United States.

(5) The subsidized Saudi Arabian MTBE exports have reduced the market share of American producers of MTBE, ETBE, and ethanol, as well as discouraged capital investment by American producers.

(6) Saudi Arabia is not a member of the World Trade Organization and is not subject to the terms and conditions of the Agreement on Subsidies and Countervailing Measures negotiated as part of the Uruguay Round Agreements.

SEC. 3. INITIATION OF COUNTERVAILING DUTY INVESTIGATION.

(a) In General.—Not later than 30 days after the date of enactment of this Act, the administering authority shall initiate an investigation pursuant to title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) to determine if the necessary elements exist for the imposition of a duty under section 701 of such Act with respect to the importation into the United States of MTBE from Saudi Arabia.

(b) Administration Authority.—For purposes of this section, the term “administering authority” has the meaning given such term by section 7701 of the Tariff Act of 1930 (19 U.S.C. 1671).

By Mr. BENNETT (for himself, Mr. DODD, Mr. MOYNIHAN, Mr. KOHL, and Mr. ROBB) (by request):

S. 2932. A bill to encourage the disclosure and exchange of information about computer processing problems and related matters in connection with the transition to the Year 2000, to the Committee on the Judiciary.

YEAR 2000 INFORMATION DISCLOSURE ACT

• Mr. BENNETT, Mr. President, today I introduce, by request of President Bill Clinton, the Administration’s “Good Samaritan” legislation referred to as the “Year 2000 Information Disclosure Act.”

I want to thank the White House for joining Vice Chairman Dodd and the rest of the members of the Special Committee on the Year 2000 Technology Problem in the debate on how to promote the flow of information on Year 2000 readiness throughout the private sector. The Administration’s recognition of this problem, the fear of law suits and its stifling effect on companies’ willingness to disclose helpful Y2K information, is invaluable in helping all of us deal with this national crisis.

The existing legal framework clearly discourages the sharing of critical information between private sector companies. The President’s bill attempts to deal with this problem by providing liability protections to corporations and other organizations who in good faith openly share information about computer and technology processing problems and related matters in connection with the transition to the Year 2000. We welcome the thoughtful ideas of the White House and the hard work of the Office of Management and Budget, as well as John Koskinen, the Chairman of the President’s Council on Year 2000 Conversion.

President Clinton’s proposal represents a good starting point from which to begin the process of addressing the critical need for private sector information sharing announced in his speech before the National Sciences Foundation on Tuesday, July 14. The Senate Committee on the Year 2000 Technology Problem, which I chair, has to date held hearings on Year 2000 problems in several industries including energy utilities, financial institutions, and health care. This Friday, July 31, the Committee will hold its fourth hearing on the subject of which will be the telecommunications industry. In each of the prior hearings, it has become increasingly evident that the fear of legal liability has proven to be the single biggest deterrent to the open sharing of Year 2000 information. With just over 500 days remaining before the Year 2000 problem manifests itself in full, we must do everything we can to encourage the sharing of vital Year 2000 information. Through this sharing, organizations can save valuable time and resources in addressing Year 2000 problems.

But, we must be careful to pass meaningful legislation that will indeed encourage disclosure and sharing of Year 2000 information. For example, small companies which cannot afford to hire an army of their own testing staff and, who, for the most part, are not as knowledgeable as where the dangers of the Y2K bug may appear are significant elements of our economy and their Y2K failures could have devastating impacts on those who depend on their services.

We look forward to hearing the input of those companies and individuals who are affected both as plaintiffs and defendants. To be of value, we must pass legislation this year. To that end, we will be working closely with the administration, and with Senators HATCH and LEAHY of the Judiciary Committee which has the primary jurisdiction for this legislation.

• Mr. MOYNIHAN, Mr. President, I am pleased to join with Senators ROBERT F. BENNETT (R-UT) and CHRISTOPHER DODD (D-CT) today as original cosponsors of President Clinton’s “Year 2000 (Y2K) Information Disclosure Act.”

This legislation is intended to promote the open sharing of information about Y2K solutions by protecting those who share information in good faith from liability claims based on exchanges of information. As the President stated in his speech before the National Sciences Foundation on Tuesday, July 14, 1998, the purpose of this legislation is to “guarantee that businesses which share information about their readiness with the public or with each other, do it honestly and with confidence, cannot be made liable for the exchange of that information if it turns out to be inaccurate.”

The open sharing of information on the Y2K problem will play a significant role in preparing the nation and the world for the millenial malady. I urge the prompt and favorable consideration of this legislation. There is no time to waste.

• Mr. DODD, Mr. President, today I join with Senator ROBERT BENNETT, the chairman of the Senate Special Committee on the Year 2000 Technology Problem, to introduce, at the request of the President of the United States, “the Year 2000 Information Disclosure Act.” We are joined in this introduction by Senators MOYNIHAN, KOHL, and ROBB.

It should be clear to even the most disinterested observer that we are facing a serious economic challenge in
form of the Year 2000 computer problem. There is little doubt that the millenium conversion will have a significant impact on the economy; the outstanding question is how large that impact will be. One of the most relevant factors in assessing the potential impact of this problem is the expected readiness of small and medium sized businesses to deal with this issue. Many of the nation's largest corporations are spending hundreds of millions of dollars to prepare for Year 2000 conversion: Citibank is spending $600 million, Aetna is spending more than $125 million, and the list goes on and on. However, it is not so clear that small and medium sized businesses are approaching the problem with similar vigor.

As a result, it is my opinion that it will become increasingly necessary for those companies that have successfully completed remediation and are now testing to be able to share those results with other companies that might not be as far along. It will be an increasing national economic priority to use all the tools available to help businesses and government entities meet the millennium deadline, and encouraging the sharing of information that can cut precious weeks off the time it takes to get ready will be essential.

I agree with the statements of President Clinton that companies that make such voluntary disclosures should not be punished for those disclosures with frivolous or abusive lawsuits. It is to address that concern that the President has requested that Senator Bennett and I introduce this legislation.

I also agree with the President's analysis that in order for this information-sharing to be effective, it must start to take place as soon as possible. Sharing information about non-compliant systems six, eight, or twelve months from now will be of limited value and still failed.

Some questions have emerged in the press as to the scope of this legislation. The fact is that there are very few weeks left in this session, and therefore the more the bill, the more difficult it will be to pass. Therefore, if we are intent on providing protection for voluntary disclosures on Year 2000, it will be very hard to add to that provisions dealing with other aspects of Year 2000 liability. While I believe that concerns on voluntary liability are real and meaningful, there is little question that dealing with any liability issues is always a controversial and lengthy process. So as we move forward with the concept of a safe harbor for voluntary disclosure, I hope that we can do so with it in mind. This legislation with these larger and contentious issues regarding liability.

President Clinton has given us an excellent starting point for discussing these issues. I look forward to working with all my colleagues in the weeks remaining to craft final legislation that addresses these issues in a meaningful and constructive manner.