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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, March 18, 2002, at 2 p.m.

Senate

FRIDAY, MARCH 15, 2002

The Senate met at 9:15 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

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

Lord of our Lives, our prayer this morning is to report in for duty. We know it makes a great difference how we think about You and how we conceive of our relationship with You. You are our supreme commander, we are Your servants. Throughout the Bible, the truly great men and women regarded the name ''Servant of God'' as a description of their highest calling. Patriarchs, priests, prophets, and disciples bore the distinguished title of servants. The psalmist urgently calls us to ''Serve the Lord with gladness.''—Psalm 100:2. That's our purpose today. As Senators, officers of the Senate, and staff, we all renew our commitment to serve You in our work in government. We are not here to be served but to serve. May no challenge be too momentous nor any assignment too menial for us as Your servants. Our security and esteem are not in titles, positions, power, or turf but in being Your servants, working for Your glory and the good of America. May it be so today, Sovereign Master of our Lives. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 15, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, shortly the Senate will vote on the confirmation of Executive Calendar No. 704, David Bury of Arizona, to be United States District Judge for the District of Arizona. Following that, we will return to the energy bill. The managers will be ready to accept amendments. We hope there can be some done today between the two managers. There will be no further rollcall votes. The majority leader announced last night we will come in, it appears, at about 3 o'clock on Monday, and further information will be given before we adjourn today.

The leader has also announced we will have at least one vote beginning at 6 o'clock Monday. There could be more than one vote.

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF DAVID C. BURY, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the consideration of Executive Calendar No. 704. The clerk will state the nomination.

The legislative clerk read the nomination of David C. Bury, of Arizona, to be United States District Judge.

Mr. LEAHY. Mr. President, today, the Senate is voting on the 41st judicial nominee to be confirmed since last July when the Senate Judiciary Committee reorganized after the Democrats became the majority party in the Senate. With the confirmation of David C.

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

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Bury to the U.S. District Court for the District of Arizona, the Senate will have resolved 6 judicial emergencies since we returned to session just a few short weeks ago and 11 since I became chairman this past summer. As of this week, the Senate has confirmed more judges in the last 9 months than were confirmed in 4 out of 6 years under Republican leadership. The number of judicial confirmations over these past 9 months—41—exceeds the number of judicial nominees confirmed during all 12 months of 2000, 1999, 1997, and 1996.

During the preceding 6½ years in which a Republican majority most recently controlled the pace of judicial confirmations in the Senate, 248 judges were confirmed. The larger number, the total judges confirmed during President Clinton's two terms, includes 2 years in which a Democratic majority proceeded to confirm 129 additional judges in 1993 and 1994. During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year—a pace of consideration and confirmation that has already been exceeded under Democratic leadership over these past 9 months. The Republican majority did not proceed on any of the judicial nominations resent to the Senate in January by President Clinton or those initially sent to the Senate in May by President Bush.

In the past 9 months, we have had more hearings, for more nominees, and had more confirmations than the Republican leadership did for President Clinton's nominees during the first 9 months of 1995. In each area—hearings, number of nominees given hearings, and number of nominees confirmed—the Judiciary Committee has exceeded the comparable period when Republicans were in power. And 1995 was one of their most productive years. Beginning in 1996, the Republican majority really began stalling the judicial confirmation process. In the 1996 session, only 17 judges were confirmed all year. Judge Bury will be the 13th judge confirmed since January 24 this year, and it is only March.

Under Democratic leadership, we have reformed the process and practices used in the past to deny Committee consideration of judicial nominees. Almost 60 judicial nominees never received a hearing by the Senate Judiciary Committee or received a hearing but were never voted on by the Committee. We are holding more hearings for more nominees than in the recent past. We have moved away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

The speedy confirmation of David Bury to the District Court for Arizona illustrates the effect of the reforms to the process that the Democratic leadership has spearheaded, despite the poor treatment of too many Democratic nominees through the practice of anonymous holds and other obstructionist tactics employed by some in the preceding 6 years.

David Bury will be filling a judicial emergency vacancy seat that has been vacant since 2000, when the new position was created by public law to handle the greater number of criminal and immigration cases in the courts along our Southwest Border. I have worked with the Senators from Arizona, Texas and other Senators from the Southwestern Border States to fill these new judgeships. It is a shame, however, that the Congress did not see fit to create the judgeships needed so desperately in the Southern District of California. Perhaps Senator FEINSTEIN will succeed in doing that this year. I know that I am supporting her efforts and will be trying to help her finally achieve that goal.

David Bury is the second Federal judge confirmed from Arizona in a little more than a month and the third since the change in majority. On February 26th, the Senate confirmed by a vote of 98 to zero Judge Cindy Jorgenson and last December we confirmed Judge Frederick Martone.

There are some who insist that circuit court nominees are being treated unfairly. Nothing could be farther from the truth. By having fair hearings and voting on nominees, up or down, the Judiciary Committee is proceeding as it should. Unlike the many judicial nominees who did not get hearings or were accorded a hearing but were never allowed to be considered by the Committee, we are trying to accord nominees both a hearing and a fair up or down vote.

Until Judge Edith Clement received a hearing on her nomination to the 5th Circuit last year, there had been no hearings on 5th Circuit nominees since 1994 and no confirmations since 1995. Last year we were able to confirm the first new judge to the 5th Circuit in 6 years and help end the Circuit emergency that had been declared in 1999 by the Chief Judge.

Jorge Rangel was nominated to the 5th Circuit in 1997 and never received a hearing on his nomination or a vote by the Committee. His nomination to a Texas seat on the Fifth Circuit languished without action for 15 months.

Enrique Moreno was first nominated to the 5th Circuit in 1999 and never received a hearing on his nomination or a vote by the Committee. His nomination to a Texas seat on the Fifth Circuit also languished without action for 17 months.

H. Alston Johnson was also first nominated to the 5th Circuit in 1999 and never received a hearing on his nomination or a vote by the Committee in 1999, 2000, or the beginning of 2001. His nomination to a Louisiana seat on the Fifth Circuit also languished without action for 23 months.

In contrast, under the Democrat-led Senate, President Bush's nominees to the 5th Circuit, Judge Edith Brown Clement and Judge Charles Pickering, were treated fairly. Both received hearings less than 6 months after their nominations. In fact, Judge Clement was the first Fifth Circuit nominee to receive a hearing since 1994, when Senator BIDEN chaired the Senate Judiciary Committee. She is the first person to be confirmed to that Circuit since 1995.

In contrast to recent, past practices, we are moving expeditiously to consider and confirm David Bury, who was nominated in September, received his ABA peer review in November, participated in a hearing in February, was reported by the Committee in March and is today being confirmed.

This nominee has the support of both Senators from his home State and appears to be the type of qualified, consensus nominee that the Senate has been confirming to help fill the vacancies on our federal courts. I congratulate Mr. Bury and his family on his confirmation today.

Mr. HATCH. Mr. President, I rise to support the confirmation of David C. Bury to be U.S. District Judge for the District of Arizona.

I have had the pleasure of reviewing Mr. Bury's distinguished legal career, and I have come to the opinion that he is a fine lawyer who will add a great deal to the Federal bench in Arizona.

David Bury was born and raised in Tulsa, OK. After graduating from Oklahoma State University in 1964, he attended the University of Arizona College of Law, earning his Juris Doctorate in 1967.

Mr. Bury has been a trial lawyer in private practice for over 34 years, and he has experience in almost every area of civil trial practice—primarily in the area of insurance defense. His clients have included private citizens, large corporation, lawyers, doctors, insurance companies, Pima County, and the State of Arizona. Mr. Bury has defended medical and legal malpractice cases, products liability and construction site cases, governmental entities in false arrest cases, assault and battery cases, United States Code section 1983 actions, and road design and construction cases. He has defended school teachers and school districts. Additionally, he has represented individuals in personal injury and employment cases.

Mr. Bury is a Fellow of the American College of Trial Lawyers and an Advocate in the American Board of Trial Advocates. He is also listed in the ''Best Lawyers in America.'' He has served as a lawyer representative to the Ninth Circuit Judicial Conference,

on the Commission on Trial Court Appointments for Pima County, and on the disciplinary committee for the State Bar of Arizona. In addition, Mr. Bury often serves as an arbitrator and has been a guest lecturer for legal and medical organizations throughout his career.

I have every confidence that David Bury will serve with distinction on the Federal District Court for the District of Arizona.

Thank you, Mr. President.

I yield the floor.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of David C. Bury, of Arizona, to be United States District Judge for the District of Arizona? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Kansas (Mr. BROWNBACK), the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAIG), the Senator from Tennessee (Mr. FRIST), the Senator from North Carolina (Mr. HELMS), the Senator from Arizona (Mr. MCCAIN), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Texas (Mrs. HUTCHISON) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) would vote ''yea''.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 51 Ex.]

YEAS—90

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

NOT VOTING—10

Brownback	Helms	McConnell
Burns	Hutchison	Miller
Craig	Lincoln	
Frist	McCain	

The nomination was confirmed.

Mr. REID. Madam President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

• Mr. MCCAIN. Madam President, due to my absence, I was unable to vote today on the confirmation of David C. Bury as a judge for the United States District Court for the District of Arizona, Tucson Division.

Had I been present today, I would have voted ''yea'' on Mr. Bury's nomination with whole-hearted enthusiasm for a man of outstanding character and tremendous legal talent.

Without question, Mr. Bury is well-qualified for this position. His reputation precedes him. In the State of Arizona, he has always been a well-respected and highly competent trial attorney. His unblemished 34 years in the practice of law have proven his commitment to the legal profession. Not only does he bring to the Federal bench extensive experience in civil litigation, he will bring to the bench the requisite qualities of patience, fairness and the highest ethical standards. In short, Mr. Bury will be an outstanding Federal judge for our great state of Arizona.

I congratulate him, his wife Debby and his three children on his nomination to the Federal court. They are undoubtedly proud of him not only for this high honor, but also for the rest of his professional accomplishments and his personal commitment to them.

I am very confident that Mr. Bury will be a top-notch public servant who will bring to the Federal judiciary the highest level of professionalism, leadership and dedication. He will make the people in Arizona proud. And for his public service, I thank him.•

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Resumed

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 517) to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Feinstein amendment No. 2989 (to amendment No. 2917), to provide regulatory oversight over energy trading markets.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Bingaman amendment No. 3016 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Mr. MURKOWSKI. Madam President, during this lull in the debate of the energy bill I would like to take a moment to thank the Senator from New Mexico and his staff for all of their hard work and cooperation on the Alaska gas pipeline title of this bill.

Mr. BINGAMAN. I thank the Senator for those kind words. This is an important energy policy initiative for the nation. I thought we had a good beginning with the amendments that were offered and debated last week.

Mr. MURKOWSKI. I agree, it was a good start. However, we still have a fair piece to go before we reach the end of this trail. If the Senator would recall during last week's debate I mentioned that there were a number of additional items that would need to be addressed before we completed our legislative effort on this important issue.

These additional items include crafting language that sets procedures in place for allocating initial gas capacity of the pipeline and for any subsequent expansions that might be warranted based on new discoveries or additional needs in Lower 48 markets.

Mr. BINGAMAN. Yes, I do recall the Senator's remarks and I am aware that there are several additional items that are being worked on at the staff level. I particularly hope we will be able to make some improvements that will assist in lowering the overall risk associated with this $20 billion project.

These include enhancing the ability of the Pipeline Coordinator created in the gas pipeline title to keep the numerous Federal and State agencies that will be involved in this project working in a cooperative and coordinated fashion and providing for clear and expedited procedures for resolving legal challenges that might arise during permitting and construction of the pipeline. Streamlining the permitting process will help reduce the risks of delay and added costs to the project.

Mr. MURKOWSKI. I do indeed understand what my friend from New Mexico is saying. This point is especially true when you recall that the oil and gas producers who hold the leases on the Prudhoe Bay gas have stated publicly that the project as it now stands is uneconomical. Any legislative language that adds risk or cost to the project will simply make it impossible to build the Alaska gas transportation system—and this will deny the American consumers with access to a dependable,

long-term, and economic supply of domestic natural gas.

Mr. BINGAMAN. I agree with the Senator from Alaska. We must be extremely careful in crafting language for inclusion in the gas title; poorly thought out concepts can add significant risk to this project.

I suggest that we continue our cooperative efforts as we have in the past. I believe that by working together we can get this project built, and that will benefit both the people of Alaska and the entire gas consuming public across the United States.

Mr. MURKOWSKI. I agree completely and I look forward to continuing our efforts. I particularly appreciate the Senator's understanding the need to allow Alaskans access to the North Slope gas reserves. As in the Nation, my State needs abundant and dependable gas supplies to fuel the growth of our economy over the next three decades.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. Madam President, I ask unanimous consent I might be allowed to speak as in morning business for up to 7 minutes.

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

THE PICKERING NOMINATION

Mr. BENNETT. Madam President, we have just confirmed a district judge, and I am delighted with that action. It is an action I wish we would take more often around here.

Last night, the Judiciary Committee refused to send to the Senate Judge Pickering, who was nominated for the circuit court. I wish to make a few comments with respect thereto, and do it in the shadow of the confirmation vote we have just had.

When this session of Congress began, the Senator from Vermont, who now chairs the Judiciary Committee, made it clear he had an extra-constitutional test he would apply to every judge. That is, he insisted we have the statement of the American Bar Association before us before we even consider a judge. I use the term ''extra-constitutional'' rather than ''unconstitutional,'' as some commentators have, because the Senator has every right to turn to any group or any area he wants in order to make his decision, but a requirement that a judge be recommended by the American Bar Association is not in the Constitution. Therefore, it is an extra-constitutional test.

When Judge Pickering came before the Judiciary Committee, he passed that extra-constitutional test. He was chosen and designated as being well qualified by the American Bar Association. Yet he was voted down by the members of the Judiciary Committee. Some of them said he had racist views. Yet the African Americans in his home State came forward in great numbers to insist that this judge did not have racist views. Indeed, these African Americans who knew him better than African Americans outside of his State insisted he was an excellent judge and an excellent choice for the circuit court. Nonetheless, he was still not sent to the Senate for a vote.

What this means is that the chairman of the Judiciary Committee has an additional extra-constitutional test he is applying to nominees. As he said before, it is his right to put whatever test he wants. But I hope, in courtesy to the Senate, that he and the other members of Judiciary Committee who voted against Judge Pickering will disclose their extra-constitutional test. They did at the beginning of the session. They said, in response to the President, they would not consider him until we have a rating from the American Bar Association. That is an extra-constitutional test we will openly and directly apply.

It is clear from what has happened to Judge Pickering that there is now another extra-constitutional test being applied in secret, that is being applied in camera, and that is being applied in the dark. Those of us who are unaware of what it is are, therefore, unable to discuss it and unable to talk about it or direct our concerns toward it.

Therefore, I formally ask the chairman of the Senate Judiciary Committee, Mr. LEAHY from Vermont, to tell us what the extra-constitutional test that he applied to Judge Pickering is.

The newspapers say he has to pass muster from groups such as People for the American Way. I would rather not get the information from the newspapers. I would rather not have a journalist tell me what is on the Senator's mind. I would rather have the Senator tell us as openly and directly as he can at the beginning of this session what it is he requires before he will vote for someone to come out of the Judiciary Committee for a Senate vote.

It is only fair that we and the constituents in Vermont understand what the test is that the chairman of the Judiciary Committee is applying. At the moment, we are left in the dark.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

(The remarks of Mr. GREGG pertaining to the introduction of S. 2020 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GREGG. Mr. President, I yield the floor.

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

MORNING BUSINESS

Mr. REID. At this time it appears no one is offering amendments on the energy bill. But in an effort to see if that will happen, I think the Senate would be well advised to go into a period of morning business for the next hour. So I ask unanimous consent, because there are a number of Senators wishing to speak as in morning business, that the Senate proceed to a period of morning business with Senators allowed to speak for a period up to 10 minutes each, and that the morning business time expire at 11:15 a.m. today.

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

The Senator from Wyoming.

(The remarks of Mr. ENZI pertaining to the introduction of S. 2021 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the period for morning business be extended until 12 o'clock today.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BRINGING SOUTH DAKOTA'S STRENGTH TO THE WAR AGAINST TERRORISM

Mr. DASCHLE. Mr. President, 2 months ago, I traveled with some of our other Senate colleagues to Afghanistan and other Central Asian nations.

We wanted to see what progress is being made in the war against terrorism. We also wanted to talk with our allies in the region to try to assess how we might help make their nations hospitable to freedom—and inhospitable to terrorists.

We learned a great deal.

I have already had a chance to share many of my thoughts and observations with Secretary Powell.

Today, I would like to say a few words publicly about the part of our trip that I found the most moving and impressive: the other Americans we met—men and women who are serving our Nation's interests every day in places far from home—often under incredibly challenging conditions.

We met extraordinary people from almost every State. They all deserve our profound appreciation.

I was especially moved by five people I met from my own State. Listening to them, and watching them perform their jobs, made me very proud to be a South Dakotan. It also reinforced my conviction that we will triumph in the war against terrorism.

This week, as we mark the 6-month anniversary of the attacks on our Nation, seems like a fitting time to tell my colleagues about them.

David Nelson, the Senior Economic Counselor in the U.S. Embassy in Berlin, is from Brookings, SD. Day in and day out, he is working to protect America's economic interests in Germany. Since September 11, he has also played a critical role in our efforts to cut off the terrorists' money supplies.

Dr. Jan Riemers is from Bristol, SD. She is the only western doctor in Uzbekistan's capital city of Tashkent. She is a sort of modern-day Albert Schweitzer, who moved her entire family to Uzbekistan so she could serve people who might otherwise never see a doctor.

I also met three remarkable young men who are even more directly involved in the war against terrorism. They are serving our country in uniform. For security reasons, I won't use their names.

One is an Army private from Midland, SD who I met in Uzbekistan. When we met, it had been almost 2 years since his last leave.

On September 11, he was just completing a tour of duty in Bosnia. He and his colleagues had been living in tents and eating MREs—packaged meals—three times a day for several months at that point. He could have come home instead, he volunteered to go to Central Asia to be a part of the war against terrorism. And he said he was honored to do so.

In Afghanistan, I met an Air Force master sergeant from Rapid City. He is involved in delivering two things Afghanistan needs desperately: U.S. military support, and humanitarian assistance.

His efforts helped make possible the military victories we have seen in Afghanistan. They are also part of the reason we have not seen the humanitarian disaster some predicted at the outset of the war.

In Kyrgyzstan, I met an Air Force staff sergeant from Yankton—one of the first U.S. service members deployed to that country. We met at Manas International Airport, where he and other Americans are working to build an air base that will host personnel from several countries and serve as a hub for air operations in Afghanistan. He came out to meet us in the middle of a snowstorm, and he could not have been more excited about his mission.

We ask our service men and women—like these three honorable South Dakotans—to attempt extraordinary things and make extraordinary sacrifices. Time after time, they not only meet our expectations, they exceed them.

In this week, when we mark the 6-month anniversary of the attacks on our Nation, it seems appropriate that we also honor the men and women who are working—and risking their lives—to try to prevent us from ever experiencing that heartache again.

They are true patriots. They come from my State and yours, and from every State and territory in our Nation. They make us proud. And they are making America, and the world, stronger and better.

Mr. President, I ask unanimous consent that the report we have compiled regarding the trip to Afghanistan from January 10 to 19 of this year be printed in the RECORD.

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

DASCHLE CODEL TO CENTRAL ASIA, JANUARY 10 TO 19, 2002

Senator Daschle led a bipartisan and bicameral Congressional Delegation CODEL to Germany, Uzbekistan, Pakistan, Afghanistan, Kyrgyzstan, and Turkmenistan from January 10 to January 19. The following views expressed in this report, however, reflect only the views and findings of Senators Daschle and Durbin.

SUMMARY OF FINDINGS AND KEY RECOMMENDATIONS

The initial phase of the war on terrorism has been a clear success.

It was evident from our trip to Central Asia that the conduct of the war on terrorism has, to date, produced impressive results. Our troops, President Bush, Secretary Rumsfeld, and Secretary Powell deserve credit and recognition for that success.

U.S. troops are a credit to themselves and the country.

The performance of U.S. troops in Central Asia and Afghanistan has been remarkable and a tribute to the hard work and commitment of the thousands of men and women who are carrying out Operation Enduring Freedom. U.S. personnel are braving harsh weather and very rudimentary accommodations. One Air Force Sergeant said he ''had been living in the mud'' in Uzbekistan for 3 months, further saying he was honored to be doing so. An Army Colonel in Afghanistan, while eating chicken Chow Mein for the fourth night in a row, observed, ''I can't complain, because it's hot [food].'' Another Army PFC declared he was proud to have spent the past 3 months serving Afghanistan, notwithstanding the fact that he was deployed to the region 1 week after moving into a new house with his new wife. The morale of U.S. troops is very high, as evidenced by another Army PFC from South Dakota who has not had leave since February 2000 and volunteered to serve in Uzbekistan as he was finishing a tour of duty in Bosnia because he was eager to participate in the war against terrorism.

The U.S. personnel from other U.S. agencies in the region are also a credit to America. Foreign Service officers in Uzbekistan, Pakistan, and Afghanistan are working around the clock—literally—to advance U.S. interests and ensure the safety of American personnel. The Embassy in Tashkent is overcrowded, the Embassy in Kabul is in terrible straits after being overrun by decades of war, and families of personnel at the U.S. Embassy in Islamabad were forced to return to the U.S. as a result of security threats.

On a more personal note, we were proud to meet a number of South Dakotan and Illinois servicemen and women who are serving their country in the region. To a person, they support the mission and take pride in the role they are playing to improve living conditions in the region and defeat international terrorism.

Senator Daschle was also proud of the generosity of South Dakotans was greatly appreciated by Afghans. The delegation delivered three boxes of winter clothing to the Afghan Minister of Orphans, Widows and Martyrs. The clothing was collected by South Dakotan business leaders and students at two separate elementary schools.

The troops' success allow us to focus on consolidating gains.

The successful effort that started as a war in Afghanistan to bring to justice those responsible for the September 11th attacks is shifting to focus on consolidating gains and helping to bring some semblance of economic, political, and physical security to the region. Challenges are many, but the United States undertook a remarkable effort to confront and defeat the first such challenge—widespread hunger.

A remarkable U.S.-led effort to deliver food and shelter has averted humanitarian disaster, which last fall, after years of mismanagement by the Taliban, looked inevitable. But the USG—led by the Department of Defense and USAID with significant assistance from CARE, Catholic Relief Services, Church World Services, International Rescue Committee, and others—provided nearly $200 million worth of food, water, health care and shelter to millions of Afghans in FY 2002.

Challenges remain. It is particularly troubling that Bin Laden, the bulk of the senior Al Qaeda leadership, Mullah Omar and the majority of the Taliban leadership remain at large.

The fact that so many key terrorist leaders are unaccounted for is one factor that contributes to insecurity in Afghanistan, which is increasingly threatening the gains the United States has made in the region. At the time of the trip to Afghanistan, Chairman Karzai and U.S. personnel in the region were clearly concerned about security. Events since the delegation's visit to Afghanistan—such as the fights between warlords in Gardez, the murder of the interim tourism minister, and increasingly alarming reports out of the Administration about a general rise of lawlessness and warlordism, including a specific report that some warlords may be preparing to sabotage the loya jirga set for June—only serve to harden that assessment.

The current configuration of the International Security Force (ISAF) is insufficient to confront this insecurity. At the very least, the ISAF should be expanded beyond Kabul and into other Afghan cities until efforts to train a police force and an Afghan military loyal to the interim government can catch up with this insecurity. While success of the ISAF is not dependent on the U.S. providing ground troops as part of an expanded effort, it is clear that an American component for transportation, intelligence and search-and-rescue is likely to be a precondition for significant international participation in an expanded ISAF.

An increased U.S. military role in support of an expanded ISAF is entirely consistent with the Administration's apparent policy goal of maintaining a U.S. presence in the region, evidenced by the substantial upgrades beginning at Manas Airport in Bishkek, Kyrgyzstan and a more permanent presence being prepared in Uzbekistan and Georgia. This increased American military

presence can play an important role in support of the ISAF.

Central Asian Republics have taken significant steps in support of the U.S.—and are urging a long term American presence in return.

Good long term relations with the Central Asian Republics is very much in the national interest of the United States.

Uzbekistan, Kyrgyzstan and even Turkmenistan have demonstrated, with their efforts in Afghanistan, a solid commitment to the war against terrorism.

Uzbekistan agreed to our request for basing and overflight rights, including the right for the United States to maintain a significant troop presence at the airfield at Khanabad. As a result, our two countries signed a Status of Forces Agreement on October 7 and a Memorandum of Understanding on Economic Cooperation on November 7. Last fall, the U.S. also allocated an additional $100 million in assistance for Uzbekistan, and the Administration is reported to be considering an additional tranche of assistance in a supplemental for ''front line states'' expected to be submitted to Congress in mid-to-late March.

The Government of Uzbekistan has also provided important cooperation with U.S. programs to curb the proliferation of material for use in weapons of mass destruction (WMD). The October 22 agreement between the U.S. and Uzbekistan to begin cleaning up the former Soviet biological weapons test range on Vozrozhdeniya in the Aral Sea is an important step forward in U.S. efforts to halt the proliferation of WMD material. The Government of Uzbekistan also ought to be commended for efforts, supported by the U.S., at strengthening border controls of weapons material.

Kyrgyzstan provided overflight and landing rights and agreed to permit the basing of a large number of coalition personnel and aircraft at the international airport in Manas, a site which will function as a ''transportation hub'' for coalition efforts in Afghanistan and the region.

Turkmenistan has allowed for some overflight rights and became an important—indeed the principal—conduit of American and international humanitarian assistance into northern Afghanistan.

These steps represent a move toward the West, but sustaining positive long term relationships still demand major improvements on political and economic reform.

Each country claimed that they had made a deliberate and conscious choice to reach out to the West. What is not clear is whether the governments are also committed to embracing universal human and voting rights that have been sorely lacking in each country.

While the U.S. is right to continue cooperating with these governments, significant and sustained economic and political reforms are a pre-requisite to consolidating long term relationships with these countries.

Each country's continuing refusal to enact political reform while at the same time continuing to violate basic human rights will contribute to extremism and threaten the stability that each government argues it is seeking.

The human rights situation in Uzbekistan is abysmal. There is no freedom of association and independent institutions—including the press—are banned. In one telling moment, a human rights leader in Uzbekistan said that the media in Russia—currently being cracked down on by government regulators—is much more free than the Uzbek media. Even the Parliament is largely a rubber stamp for the Karimov government, with little, if any, influence.

Civil society in Uzbekistan has also been drastically restricted. NGOs are not allowed to register or function. The few independent groups that do exist are subjected to harassment based on Soviet practices, including firing ''agitators'' from state run jobs, confiscating human rights workers passports, confiscating equipment of independent NGOs. Human rights leaders and the U.S. State Department also catalogued instances where the government used torture and prolonged detention to deter other civil society activity.

In Kyrgyzstan, where the United States encouraged the government's bold steps in the early and mid-1990s toward democratization, there has been a dramatic backsliding in its political reform process. Of particular concern are reports of constant pressure on opposition political parties, harassment of journalists who criticized members of the government, and numerous flaws—many apparently deliberate—in the October 29, 2000 presidential elections. In fact, the Office for Security and Cooperation in Europe (OSCE) Office of Democratic Institutions and Human Rights concluded that the October elections ''failed to comply with OSCE commitments for democratic elections.''

In Turkmenistan, there are no legally registered opposition parties and absolutely no free press. The State Department reports that the most recent elections, in December 1999, ''did not even approach minimum international standards.'' The only officially recognized religions are the Russian Orthodox church and Sunni Islamism; all other faiths face harsh persecution and harassment. In what seems to be a fitting moniker, several analysts refer to insular Turkmenistan as the North Korea of Central Asia. Furthermore, while the leaders of Uzbekistan and Kyrgyzstan at least admitted to having significant human rights problems, the National Security Adviser of Turkmenistan simply dismissed concerns about human rights saying, ''I understand that these things [freedom of religion, the media and association] are important for America, but it is simply not time for such reforms in Turkmenistan. Before we do these things, we need time to strengthen our economy.''

HIV/AIDS is a growing threat in Central Asia.

The leadership of Uzbekistan and Kyrgyzstan noted their concern regarding the trafficking of Afghan opium to and through their countries, which has contributed to large increases in illicit drug use throughout Central Asia in recent years. According to UNAIDS, this surge in drug use has brought the Central Asian republics to the ''verge of a major public health and socio-economic development disaster, in terms of large scale epidemics of HIV/AIDS.'' As such, the United States should be looking for opportunities to increase funding for bilateral AIDS prevention, care and treatment programs targeted to Central Asia and to increase the annual U.S. commitment to the Global Trust Fund to Fight AIDS, TB and malaria.

Pakistan and President Musharraf are also making a strategic choice to join the West. Concrete steps to confirm and reward that choice will be welcomed.

Pakistan has been a vital ally in the war against terrorism. With its location in a critical region of the world, a nuclear arsenal, and a population set to double in the next 20 years, American national security is undoubtedly improved by President Musharraf's strategic choice.

The January 12 speech by President Musharraf—in which he proclaimed a jihad against extremism—demonstrates that he is ready to take Pakistan back from the extremists. He outlined a far reaching proposal for reforming the Pakistani education system and a systematic crackdown on extremists. Although ultimate success in this effort can only be judged by results, initial efforts suggest that he is committed to this effort.

He has specifically requested U.S. support for reforms to the Pakistani education system, which has been ignored by previous Pakistani governments more interested in investing in weapons systems than social services. The United States should support that effort with significant new resources, closely conditioned on President Musharraf maintaining his commitment to reform. There can be no better investment of U.S. assistance in Pakistan.

President Musharraf's comments about and concrete steps to reform the ISI given widespread reports of its links to extremists are also a reason for optimism. He should be commended for his cooperation on the investigation of the kidnapping and brutal murder of Danny Pearl case. However, as with his speech on fighting extremism, the USG must demand concrete results in this investigation. President Musharraf's seriousness about confronting Islamic extremists—including those responsible for the murder of Pearl—can be further confirmed by Pakistan handing over to the United States Sheikh Omar, the confessed mastermind of the abduction.

Germany taking concrete—and costly—steps in the war on terrorism, but it is concerned about next steps.

German Foreign Minister Fischer referred to the way on terrorism as a fight with a ''new totalitarianism.'' In a war with such extremists, there can be no compromise, just as there could be no compromise with the Nazis.

Germans also reserved blunt language for the conduct of the Saudis in this effort against extremism—''democracy is the necessary pre-condition of defeating terrorism''—and for the lack of concerted effort by Palestinian Authority Chairman Arafat—the decision to start the Intifada in September 2000 was judged an ''historic mistake'', and ''we all may have overestimated how much Arafat wants peace.''

Germany has taken seriously its role in this war against totalitarianism, taking concrete and historic steps in the war in Afghanistan and in the law enforcement and investigation efforts in the United States. Germany has deployed troops to Afghanistan as part of Operating Enduring Freedom and in Kabul with the ISAF and German naval vessels are operating in the Indian Ocean off the Horn of Africa as part of international efforts to stop the flow of arms to Somalia.

Just as remarkably, Germany has provided intensive law enforcement cooperation in the investigation of the September 11 attacks. German cooperation has been pivotal to initial success in the United States, including the indictment of Zacarias Moussaoui.

While it does not see another state that has sponsored terrorism to the extent that Afghanistan did, the German government recognizes clearly that this is going to be a ''long term war'' and appears to be ready to make further contributions to that effort. In particular, the German leadership pointed out Iran—and its clear desire for WMD—as a problem that the west will have to confront.

Given the extent of German cooperation in the first phase of the war against terrorism—and the political price paid by the German government—it was interesting to hear the serious concerns expressed by the German officials about the next phases in the war.

German Government officials noted especially the threat posed by Saddam Hussein—both to his own people and, with his interest in developing weapons of mass destruction, to the region, Europe and the United States.

These officials also noted, however, that forcing military action in Iraq without prior consultation with, if not outright support from, the international community risks a potentially even more threatening set of circumstances in the Gulf with negative impacts on energy security as well as the security of Israel.

THE RETIREMENT OF ALEX LEWIS

Mr. DASCHLE. Mr. President, today the Senate loses one of its most valued employees to retirement. After 35 years of dedicated service, Alex Lewis of the Recording Studio is stepping down.

Alex began work for the Architect of the Capitol in 1967 at the ripe old age of 20. He started work here as an electrician's helper. By the 1970s he was running and maintaining the Senate and House audio systems, moving to the Senate full time in 1991.

In 1994, he helped bring the Senate into the computer age, working tirelessly over many late nights and weekends and under a tight deadline to replace the old Senate sound system with the state-of-the-art digital system we use today.

That can-do attitude, his friendliness and cooperativeness was respected by everyone who worked with him. And, in the last 3 years as studio supervisor, Alex was respected for his caring, consideration, and fairness by everyone here in this body.

Alex said that having the opportunity to be witness to more than three decades of historical events at the Capitol is something he will always treasure. Today, all of us in the Senate family want to express how much we treasure his service to this institution. We thank him and we wish him well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Maine is recognized.

(The remarks of Ms. COLLINS, Mr. BOND, and Mr. SMITH of Oregon pertaining to the introduction of S. 2023 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. REID. I ask unanimous consent the Senate extend morning business until 1 o'clock today.

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

NOMINATION OF CHARLES PICKERING, SR.

Mr. HATCH. Mr. President, I rise today to express my deepest-felt disappointment in the decision of the Judiciary Committee yesterday against the nomination of Judge Charles Pickering, a jurist of the highest character and proven dedication to public service.

Mr. President, I will not repeat my defense of Judge Pickering's record, which I addressed here yesterday.

There are particular reasons why I am disappointed and saddened. First, certainly, is the unfairness with which the Judiciary Committee treated Judge Pickering's record.

I feel awful for Judge Pickering and his family for the way that the special interest groups and the liberal activists have distorted his record.

It has come to the point that men and women who put themselves up for public service and the Senate confirmation process are heroes, willing to sacrifice their good name and peace of mind.

I also feel terribly for the people of Mississippi, and about what this decision says to them after the long distance they have traveled to correct past wrongs. I feel terribly for the African Americans from Mississippi who stood by Judge Pickering, at risk to their own reputations.

Opponents have made much of the meager 26 reversals that Judge Pickering has had, an attempt to open old and painful wounds by using the all-too familiar race card and suggesting that Judge Pickering has a poor record in civil rights cases.

They claim that Judge has a poor record on voting rights. In fact, he has had only four voting rights cases—only four—and he has been appealed on the merits in none of them. My staff has counted almost 200 decisions, and there may be more, in which Judge Pickering has applied the various civil rights laws of the United States with neither an appeal nor a reversal.

Opponents sought desperately to find aggrieved litigants with an ax to grind. They have found almost none. That is amazing for somebody who is in the Federal and State courts for much of a legal career. The African American parties who were involved in one of the four voting rights cases have even written to support the confirmation of Judge Pickering—the same judge who ruled against them.

Many of my colleagues are lawyers. They know full well, as did these African American parties who support Judge Pickering that just ruling one way or another in a case does not mean you are against the underlying law. With this, does it mean that every judge who has overturned a drug sentence is pro-drugs? Obviously not. We all know better than that.

The judge's record is clear and distinguished. But I venture to say that the opponents of Judge Pickering are not interested in accentuating the positive record, to say the least. It is not politically expedient to do so.

Take the case of little Jeffrey Hill. His parents believed that their son was entitled to receive a free appropriate education under the Individuals with Disabilities Education Act.

Jeffrey's parents sued and stood alone against the State of Mississippi. Judge Pickering, as he has done in cases involving homosexuals, African-Americans and others, appropriately found that the law in that case required Mississippi to educate handicapped children. Judge Pickering gave little Jeffrey Hill his day in court. He ruled on the law.

Yesterday Senators on the Judiciary Committee received a letter from three dozen members of the House of Representatives, including the former chairman of the House Judiciary Committee, Mr. HYDE.

House Members asked that the Judiciary Committee repudiate extreme liberal, left-of-mainstream special interest groups that have raised Judge Pickering's religious views as an issue, going so far as to attack Judge Pickering for a speech he gave on the Bible when he was president of the Mississippi Southern Baptist Convention.

I ask unanimous consent that the House letter be printed in the RECORD.

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

REPUBLICAN STUDY COMMITTEE,
Washington, DC, March 13, 2002.

HOUSE MEMBERS URGE SENATORS TO REPUDIATE RELIGIOUS TESTS FOR JUDGES

Outside Groups Attempting to Create a Religious Test in Order to Defeat the Nomination of Judge Pickering

WASHINGTON, D.C.—Over three dozen Members of the House of Representatives today sent a letter to Members of the Senate Judiciary Committee asking them to repudiate attempts by groups such as the People for the American Way to establish a defacto religious test preventing persons of faith from serving as federal judges.

Rep. Walter Jones (R–NC), stated, ''In their campaign against the nomination of Judge Charles Pickering to the Court of Appeals, a number of outside interest groups have asserted that Judge Pickering is unfit because he 'promotes religion from the bench.' A close examination of these allegations and Judge Pickering's record clearly indicate that what opponents of his nomination are really objecting to is the fact Judge Pickering is personally a man of religious faith.''

Rep. Joe Pitts (R–PA) added, ''The failure of the Senate Democrats to repudiate the charge that Judge Pickering is unfit for the Judiciary because of his religious faith sends a very clear message: 'So long as Democrats control the Senate, religious people will be prohibited from serving as judges.' ''

The text of the letter sent to Senate Judiciary Committee Members is reset on the next page:

MARCH 13, 2002.

Members of the Senate Judiciary Committee.

DEAR SENATORS: We write to express our grave concern regarding the attempts by some organizations to have the Senate impose what amounts to a religious test on judicial nominees. As you are aware, Article VI of the Constitution specifically forbids the imposition of a religious test.

Groups such as People for the American Way have been leading a campaign in opposition to the nomination of Judge Charles Pickering to the U.S. Court of Appeals for the 5th Circuit. Opponents of Judge Pickering have argued that he is unfit because he ''promotes religion from the bench.'' In support of this charge opponents cite a speech Judge Pickering delivered in 1984 when he was President of the Mississippi Baptist Convention and comments made by Judge Pickering from the bench referencing biblical principles and other religious literature.

Judge Pickering has made clear that he will follow the law and not his particular religious beliefs in the exercise of his judicial duties. Indeed, his record over the past decade as a District Judge clearly indicates that he practiced in the best traditions of the U.S. judicial system, even when making reference to religious literature. Indeed, Chief Justice Earl Warren, Justice Thurgood Marshall, and Justice William Brennan have all made explicit references to the Bible or biblical principles when delivering the opinion of the Supreme Court in cases covering such disparate issues as the Fifth Amendment right against self-incrimination, and the forfeiture and seizure of vessels used for unlawful purposes.

Many of those opposing Judge Pickering's nomination are in effect arguing that a religious person is unqualified to serve in the federal judiciary because he cannot be trusted to separate his personal religious beliefs from his official duties. This is nothing more than a religious test barring any person of faith from holding a judicial office.

We request that you join us in publicly repudiating those who argue that people of faith are unsuited for the federal judiciary. Such arguments run counter to our Constitution and the best practices of the American judiciary.

Sincerely,

Walter Jones, Henry Hyde, Frank Wolf, J.C. Watts, Ernie Fletcher, Ed Whitfield, John Hostettler, John Cooksey, Henry Brown, Charles Taylor, Joe Pitts, Virgil Goode, Dave Weldon, Chris Cox, Steve Chabot, John Shadegg, Pete Hoekstra, Jeff Flake, Sue Myrick, Mike Pence.

John Sullivan, Todd Tiahrt, John Doolittle, Melissa Hart, Jim DeMint, Bob Schaffer, Robert Aderholt, Todd Akin, Kevin Brady, David Vitter, Jo Ann Davis, Bob Barr, Joe Barton, Chris Cannon, Roscoe Bartlett, John Linder, Lee Terry, John Shimkus, Tom Tancredo.

Mr. HATCH. I think that is wrong. Being a member of the Church of Jesus Christ of the Latter Day Saints myself, the only church in the history of this Nation that had an extermination order out against it by the Governor of Missouri at the time, I fully understand terrible religious prejudice. So I decry anybody on the right, or anybody supporting Judge Pickering, calling Senator LEAHY or any other Democrat or any other Member of this body, to criticize their religious perspective or view.

But it certainly was wrong to criticize Judge Pickering's religion and his religious perspective. He is a religious, righteous man, the type of person you would want to have on the bench. And thank goodness he still will be on the bench in the district court, but he won't be able to lend his expertise and talents to the circuit court of appeals.

I join with the concern expressed by my colleagues here and in the House, including Democrats. The fact that an impression has been created that the Senate Judiciary Committee would impose any test, whether a religious test or an abortion litmus test, concerns me greatly.

Republicans refused to establish an abortion litmus test in either direction when we controlled this committee. We confirmed 377 of President Clinton's judicial nominees without imposing such a test.

Maybe this has something to do with the make up of the Judiciary Committee: all the members on one side of the aisle share a single view, but on the Republican side, both views are welcomed.

I might also add, I believe that underlying these attacks on conservative judicial nominees is the issue of abortion. If we had chosen to use that as a litmus test issue, President Clinton would have had very few judges confirmed. If that is going to be the rule, then that is a very bad thing and bad precedent to start. I was told by some of the outside groups that they do not believe anybody should serve on any court in this land who is not pro-abortion.

That is an extreme view. Hopefully that view will never have that much influence on this body, but, unfortunately, I think it does have an influence. I will not ever agree that the Judiciary Committee or the Senate should exercise its advice and consent responsibility in a way that makes an absolutely lock-step demand that nominees think in a particular way on any single issue. Of course, as long as the Democrats are in the majority, I cannot stop them from doing so.

But I can promise this: a decision to impose a litmus test will offend everyone in this country who understands and appreciates the rule of law, the independent judiciary, and the great tradition of debate and acceptance of diversity that have made our country the strong democracy it is today.

Although some Senators on this committee prize diversity as a standard for the confirmation process. It concerns me that some people's definition of diversity includes only those with diverse skin color or ethnicity, and then only if they agree with their liberal views.

Take Miguel Angel Estrada, who the President nominated 310 days ago, almost a year, Mr. President.

Mr. Estrada, an immigrant from Honduras with a distinguished career, would be the first Hispanic on the prestigious Court of Appeals for the District of Columbia Circuit, and yet I read on the front page of the Wall Street Journal today that Democrats are gearing up to do to him what they did to Judge Pickering.

He may be a minority, but he is the wrong kind of a minority, apparently, in the eyes of some of these people. I think that is awful.

Clarence Thomas was a minority, but he was the wrong kind of a minority in the eyes of some of these people. That is awful.

Diversity appears not to include intellectual diversity—diversity of personal viewpoints or religious conviction, that have nothing to do with ability to follow the law.

Some of my Democrat colleagues have openly sought to introduce ideology into the judicial confirmation process, something which I repudiate. I am now concerned that the abortion litmus test would have the same effect as a religious test.

Indeed, most people who are prochoice hold their position as a matter of ideology. Some even allow their chosen ideology to trump the tenets of their religion. They do so in good conscience no doubt, and I respect that.

But the great majority of people who are pro-life come to their positions as a result of their religious convictions. We view unborn life as sacred. We believe in the words of the Declaration of Independence that we are ''endowed by our Creator with certain inalienable rights'' and that among these is ''life.'' Many Americans hold this view as a religious tenet, but this view does not affect their ability to interpret the law and precedent, just as skin color does not.

In effect, what is ideology to my Democrat friends is a matter of religious conviction to a large portion of the American people.

When one Senator asked Judge Pickering about Roe versus Wade, Judge Pickering's response was unequivocally that he viewed it as the law of the land and would follow it as a judge, without regard to his private views. Surely, this should be enough. Otherwise, this will mean that no judges with private pro-life views, who derive these views from religious conviction, will ever again be confirmed in a Democrat-led Senate.

To impose an abortion litmus test on private views—call it ideological if you want to—is to exclude from our judiciary a large number of people of religious conviction, who are perfectly prepared to follow the law.

I fear this is the door this Democrat-led Senate could be opening. I can understand why people would believe that a religious test is being imposed.

Certainly, as a former president of the Mississippi Southern Baptist Convention, Judge Pickering's nomination makes concern over a religious test understandable. The recorded attacks of the extreme left, special interest groups based on Judge Pickering's religious views are repugnant, and I do hope that my Democrat colleagues will indeed repudiate such tactics.

Judge Pickering's record on the bench shows that he, in good faith, does understand the difference between the law and private views, and that he has followed the law regardless of personal beliefs.

Judge Pickering has never had an abortion case during his 11 years on the bench, but he has ruled on cases in which the issue of sexual privacy was involved.

Conveniently, opponents ignore Judge Pickering's record on gay issues. It is not surprising that Log Cabin Republicans, the largest, national gay Republican organization, recently issued a press release calling on this Committee to approve the nomination of Judge Pickering and to send it to the floor of the U.S. Senate.

Let me quote from the release. According to Rich Tafel, the executive director of Log Cabin Republicans:

> Judge Pickering reiterated to me his strong belief that all Americans should be treated equally under the law, including gay and lesbian Americans, and his record as a federal judge clearly demonstrates it.

They go on to say:

> Among several cases he has heard, two key cases from 1991 and 1994 demonstrated Pickering has followed the principle of equality under the law for gay Americans going back over a decade.
>
> In 1991, Pickering sharply rebuked an attorney who tried to use a plaintiff's homosexuality in a fraud trial. ''Homosexuals are as much entitled to be protected from fraud as any other human beings,'' Pickering instructed the jury. ''The fact that the alleged victims in this case are homosexuals shall not affect your verdict in any way whatsoever.''
>
> In 1994, an anti-gay citizens group in the town of Ovett, Mississippi launched a crusade of intimidation and threats to drive out Camp Sister Spirit, a lesbian community being built by a lesbian couple. When the group took Camp Sister Spirit to court, Judge Pickering threw their case out.

They go on:

> His civil rights record is long and distinguished. In 1967, Judge Pickering testified for the prosecution in a criminal hate-murder case against Ku Klux Klan Imperial Wizard Sam Bowers in the death of an African American civil rights worker. When Jones County, Mississippi schools were racially integrated in the 1970's, Judge Pickering and his wife kept their children in the public school system when other white families removed their children. He was a featured speaker at Mississippi NAACP meetings as far back as 1976, when he was chairman of the Mississippi GOP.
>
> In 1981, he defended an African American man who was falsely accused of robbing a white girl at knife point, forcing the case to a second trial after a hung jury and an eventual acquittal. In 1988, he convened and chaired a bipartisan, biracial committee to promote better race relations in Jones County, Mississippi.

And then remarkably Tafel says:

> The judge who threw out the anti-Camp Sister Spirit case and rebuked homophobia from the bench in the Deep South over ten years ago deserves a promotion, not a rebuke.

That is what Tafel said.

I fear that the Judiciary Committee was not as fair to Judge Pickering's record. I am greatly disappointed and profoundly concerned for our country.

What is now occurring is far beyond the mere tug-of-war politics that unfortunately surrounds Senate judicial confirmation since Robert Bork. My Democrat colleagues are out to effect a fundamental change in our constitutional system. Rather than seeking to determine the judiciousness of a nominee and whether a nominee will be able to rule on the law or the Constitution without personal bias, my Democrat colleagues are out to guarantee that our judges are in fact biased. And certainly no person who holds certain religious convictions need apply.

In the America that the Senate Democrats would reshape, citizens will have to worry about the personal politics of the judge to whom they come for justice under the law.

The legitimacy of our courts, and especially the Supreme Court, comes from much more than black robes and a high bench. It comes from the people's belief that judges and justices will apply a judicial philosophy without regard to personal politics or bias.

What my Democrat colleagues are pursuing is an end to the independence of our judiciary with unforeseeable, unintended consequences to the strength of the Republic.

Today is the Ides of March. I would call on my Senate colleagues to ''Beware.'' The fight they started with Judge Pickering is one that others may end. I hope, however, to quote Shakespeare further, that they have not crossed the Rubicon, that the die is not cast.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMENDING SENATOR LEAHY AND THE JUDICIARY COMMITTEE

Mr. REID. Mr. President, I have sat in the Chamber for several hours, all last night and this morning, and when I have not been right here physically in the Chamber, I have listened to some of the statements that have been made regarding what the Judiciary Committee did yesterday; that is, do their job.

The main reason I am here—and it is coincidental my friend is in the building someplace; I saw him just a few minutes ago, Senator LEAHY, the chairman of the Judiciary Committee—during all this process, when the minority has been criticizing the committee, there has not been a word said about Senator LEAHY positive in nature.

I personally believe, speaking on behalf of 50 other Democrats—and if the truth were known, many of the Republicans—that there is not a Senator in this body who is held in higher regard than Senator LEAHY. But even if every Senator in the Senate had no regard for Senator LEAHY, the people of Vermont and the people of America hold him in high regard.

Here is a man who started talking about landmines and how bad they were before it became popular to do so. He was the first to speak out against landmines.

It is hard for me to get out of my mind a trip I took to Africa, Angola. Every place you go there, people are missing arms and legs. The No. 1 business is fixing people with prostheses, mainly women and children, because they are the ones who go out in the fields.

Senator LEAHY has spoken about landmines and our need to do something about them. And we have done things about them.

As to nutrition programs for children—principally children but also people less fortunate than everyone in this Chamber today—Senator LEAHY led the charge with Senators Dole and LUGAR to do something about nutrition programs so that this land of plenty should not have hungry children and people.

In talking about constitutional rights, there is no one—no one—who has been more protective of our Constitution than Senator LEAHY. The first amendment is something he is known for protecting.

Who was the one who slowed down the antiterrorism bill? It was done by Senator LEAHY. And after the bill was written, people gave him accolades for doing that. It was a good bill, and it was as good a bill as it was because Senator LEAHY had the guts—for lack of a better word—after September 11, to say: Whoa. This is the United States. We have a Constitution.

Probably the leading exponent of the Internet, other than Senator LEAHY, is the Presiding Officer, but Senator LEAHY was using his computer before I even knew what one was. He really was one of the first to use, in a modern way, the computer.

Now, the two of you—I am referring to Senator LEAHY and the Presiding Officer, Senator WYDEN—have done wonderful things as the co-leaders of a task force, assigned by Senator DASCHLE, to bring the Senate Democrats up to snuff on the new technology around the country. And a good job has been done there.

One of the really thankless jobs in the Senate is to be a chairman of the Foreign Operations Subcommittee of Appropriations. Senator LEAHY is a person who has a lot of seniority and would have his pick of many different subcommittees. There are 13 of them on Appropriations in the Senate. But he has taken the Foreign Operations Subcommittee because he believes it renders a service to this body, to the country, and the world. It is difficult, but he has been judicious in his leadership of that subcommittee.

I could go on and describe what Senator LEAHY has done that has made a difference in this country. But for people to criticize his chairmanship of the Judiciary Committee is something I will not allow to happen without speaking out.

I am not only proud of Senator LEAHY, but I am proud of the Judiciary Committee—not for what they did yesterday or did not do yesterday—because I am proud of the fact that they have tremendous responsibility.

When I served in the State legislature, I served on the Judiciary Committee. It seemed then, and it seems now in this body, that every difficult issue comes to the Judiciary Committee. Whether it is antiterrorism legislation, abortion matters, or judicial nominations, all the tough stuff comes to the Judiciary Committee. Those 19 people who serve on the Judiciary Committee have a very tough task, led by the senior Senator from Vermont.

(Mr. LEAHY assumed the chair.)

Mr. REID. I rise to defend the Senate Judiciary Committee, not for what they did or didn't do yesterday but because I believe they have a tremendously difficult job. I also wish to defend individually the members of the Judiciary Committee—the Democratic members specifically—on unfounded attacks against these men and women who voted their conscience on the nomination of a judge. This judge was being asked to be elevated to the second highest court we have. The only one above it is the Supreme Court. Reasonable people can disagree about whether this man deserved a promotion, given his record as a judge. I am terribly concerned, however, that some people, even some colleagues, are making this committee vote over one person into an unfortunately acrimonious fight.

It is not the vote of people of goodwill on the confirmation of a judge but the voices of anger and disappointment that will hurt our institution.

I hope we are not entering the era in which any disagreement is vilified and harsh, inappropriate rhetoric is employed to make points with the fringes. We have to have disagreements here. That is what this institution is all about. We have an aisle here that separates Democrats from Republicans. We have different philosophies about a lot of issues. The fact that there was a person who was not approved by a committee doesn't mean the institution is falling apart. It shows the strength of the institution. The American people should be glad we don't agree on everything.

I have heard a lot of talk, as I have listened since yesterday evening, about religion. I have had three Democratic Senators come to me and say they had no idea what Judge Pickering's religion was. I have since learned he is a Baptist. I don't think it had anything to do with what happened. I know it had nothing to do with what his religion is. I never heard it mentioned in the hearings I watched. It was not anything I read about in the newspaper. This is just a red herring people have thrown out to try to make this into a much more difficult situation than it should be.

Whether a nominee goes to a church, a temple, a mosque, or not, has not been used by Congress in the consideration of any judicial nomination, and it should not be. Article VI of the Constitution requires that no religious test shall ever be required as a qualification for any office or public trust under the United States. But the responsibility to advise and consent on the President's nominees is one that the Senators take very seriously.

I have attended meetings where individual Senators have been very concerned about what they do on any particular issue, whether it deals with antiterrorism, a specific part of that legislation, whether it deals with a specific matter dealing with abortion, or a judicial nomination. Some of our Democratic Senators have been receiving calls and criticism based on their religious affiliations.

The Judiciary Committee is made up of Catholics, Jews, Protestants. People who are Democratic members of that committee have been receiving phone calls since last night saying: You did this because you are a Jew; you don't like Baptists; you are Catholic; you don't like Baptists. This is really a big stretch.

There are strong views on both sides regarding this matter of yesterday. But so what? There is nothing wrong with that.

One of the subjects I want to touch on briefly today is to express some concern about statements from the administration, including from the President, that the Senate's treatment of judicial nominees ''hurts our democracy.'' His statement is unsettling, unfounded, and it is a misunderstanding of the fundamental separation of powers in the Constitution, the checks and balances in the Founders' design.

In our democracy, the President is not given unchecked powers to pack the courts and give lifetime appointments to anyone who shares his view. Instead, the Constitution provides a democratic check on the power of appointment by requiring the advice and consent of the Senate.

This little document was given to me by Senator ROBERT BYRD. He signed this little worn document. It means a lot to me personally. I carry it with me almost every day. Sometimes I forget it, but not often. It gets in the way of a lot of things we try to do around here. The Constitution gets in our way because the Constitution prevents us from doing certain things.

We have three separate but equal branches of government. That is the way it is. This little document established three separate but equal branches of government. The legislative branch of government has all the power that the executive branch of government has and all the power the judicial branch of government has. We have responsibilities also given to us by the Constitution. For someone to say that the Senate's treatment of judicial nominees hurts our democracy is a terrible disappointment.

George W. Bush is President of the United States, not King of the United States. He is President Bush. He is President George, not King George.

I also want to take a minute and respond to the criticism that circuit court nominees are being treated unfairly. I believe nothing could be further from the truth. By having fair hearings and voting on nominees, up or down, the Judiciary Committee is proceeding as it should. Unlike the many judicial nominees who did not get hearings or were accorded a hearing but were never allowed to be considered for a vote by the committee, we are trying to accord nominees whose paperwork is complete and whose blue slips are returned both a hearing and a fair up-or-down vote.

Senator DASCHLE on this floor and in press conferences has said that we are not going to be in a payback mode. We are not going to treat them like they treated us. If we did, Judge Pickering would not have had two hearings. I said last night in closing, after I listened to all the speeches, as we were going out: Isn't it interesting the item of business today, Friday, that what we are going to do is a judicial approval. We voted on a judge. We approved an Arizona judge. Arizona has two Republican Senators. This is not payback time.

Until Judge Edith Clement received a hearing on her nomination to the Fifth Circuit court last year, there had been no hearings on Fifth Circuit nominees since 1994 and no confirmations since 1995. If Senator LEAHY wanted to get even, he had a lot of even to get because he was not very well treated as a ranking member of that committee. In 1999 the Fifth Circuit declared an emergency because it had three vacancies that had not been filled. Last year, in 2001, we were able to confirm the first new judge in the Fifth Circuit in 6 years.

Jorge Rangel was nominated to the Fifth Circuit in 1997 by Bill Clinton and never received a hearing on his nomination or a vote by the committee—never. His nomination to a Texas seat on the Fifth Circuit languished without action for 15 months.

Enrique Moreno was first nominated to the Fifth Circuit in 1999 and never received a hearing on his nomination or a vote by the committee. His nomination to a Texas seat on the Fifth Circuit languished without action for 17 months.

H. Alston Johnson was first nominated to the Fifth Circuit in 1999 and never received a hearing on his nomination or a vote by the committee in 1999, 2000, or the beginning of 2001. His nomination to a Louisiana seat on the Fifth Circuit languished without action for about 2 years.

In contrast, under the Leahy-led Judiciary Committee, President Bush's nominees to the Fifth Circuit: Edith Brown Clement and Judge Pickering, were treated fairly. Both received hearings less than 6 months after their nominations. In fact, Judge Clement was the first Fifth Circuit nominee to receive a hearing since Judge James Dennis had a hearing when Senator BIDEN chaired the Judiciary Committee in 1994. She is the first person confirmed to that circuit since Judge Dennis's confirmation almost 7 years ago.

Those who assert that the Democrats have caused a vacancy crisis in the Federal courts are, regrettably, ignoring recent history. At the end of the 106th Congress, December 15, 2000, there were 76 vacancies on the Federal courts. There were 80 when President Bush took office. There were an unusual number of retirements taken by Federal judges during the first 6 months of this Republican President. By the time the Senate was permitted to reorganize after change in minority, the number reached 111. Since then, 41 judicial nominees have been confirmed, and another one was confirmed this morning. there will be another one on Monday. There are currently nine vacancies due to retirements and deaths, but our rate of confirmation is greater than the rate of attrition. We have made more progress than was made in 4 of 6 years of Republican leadership.

On January 3 of last year, there were 26 vacancies on the Federal appellate courts, some of these seats had been vacant for years, since 1994, 1995, 1996, 1997, 1998, 1999, and 2000. Because of these long standing vacancies, President Clinton renominated nine court of appeals nominees who had either not been given a hearing or a vote by the Senate Judiciary Committee under Republican leadership. None of those nominees received hearings or votes last spring before the change in majority, and in fact no nominees were confirmed by the time the Democrats became the majority.

By the time the Senate was permitted to reorganize last summer there were 32 vacancies on the circuit courts. Since that time, an additional six vacancies have arisen on the circuit courts. In spite of the extraordinary rate of attrition since the presidential election, combined with the number of long-standing vacancies that were not acted upon during years of Republican control, we have kept up with the rate of attrition and exceeded it. We are doing what the Republican majority did not do: keep up with the rate of attrition and move in the right direction. While there are now 31 seats open on the appellate courts—most of which were left vacant by Republican tactics in the previous six years—seven nominees to the court of appeals have already been confirmed, and next week we will have a hearing on another circuit nominee who I hope will turn out to be uncontroversial and well regarded by people from both sides of the aisle. Our task is made easier when the President works with members of both parties to nominate consensus nominees who are not outside of the mainstream and whose record demonstrates that they will follow precedent—not try to find a way around it.

The one thing I have not mentioned, Mr. President, is not only have we had a change in leadership, but keep in mind what happened since the change in leadership: September 11. We didn't have places to hold hearings. I attended a hearing down here in the Capitol. People were jammed into this room. I don't think most people would have had the hearing. Senator LEAHY decided to have the hearing. If that wasn't enough, we had an anthrax scare that closed down our building, and 50 Senators in the Hart Building were told they couldn't come in and their staffs couldn't come in. That anthrax threat was directed toward Senator DASCHLE. Then we had one directed toward Senator LEAHY.

As I said as I began my remarks today, there should be accolades given to the chairman of the Judiciary Committee for what he has done to allow the process to proceed as fast as it has. Our friends on the other side of the aisle didn't even have excuses for holding up action. This Judiciary Committee has had lots of reasons for holding it up, but they pushed it ahead anyway. September 11, anthrax—they go ahead anyway.

Through the efforts of the Democratic Senators on the Senate Judiciary Committee 14 hearings have been held on judicial nominees. In only nine months of Democratic leadership, seven circuit court nominees have been confirmed. Only seven circuit court nominees were confirmed on average in each year of Republican leadership. During the Republican majority in the past six years, there was even one year in which no, zero, court of appeals nominees were voted out of Committee.

At the beginning of the year, Senate Judiciary Committee Chairman LEAHY outlined his plan to reform the process and practices used in the past, under Republican leadership, to deny Committee consideration of judicial nominees. Almost 60 judicial nominees never received a hearing by the Senate Judiciary Committee or received a hearing but were never voted on by the Committee. We are holding more hearings for more nominees than in the recent past. We have moved away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

Mr. President, I repeat, as a Senator, there is no more difficult committee on which to serve than the Judiciary Committee. The issues are complex, difficult, hard. But this Judiciary Committee is one that has done extremely well. And if there were a Super Bowl, this committee would be placed in it. If there were a coach of the year, it would be the chairman of the Committee, Senator PAT LEAHY.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. I thank the Chair.

(The remarks of Mr. SMITH are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SMITH of Oregon. I thank the Chair, and I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

STATES WITH MORE GUNS HAVE MORE GUN DEATHS AMONG CHILDREN

Mr. LEVIN. Mr. President, a few weeks ago the Harvard School of Public Health released a study that shows children are dying from gun violence at higher rates in States with higher levels of gun ownership. The study, ''Firearm Availability and Unintentional Firearm Deaths, Suicide, and Homicide among 5 to 14 Year Olds,'' appears in the February 2002 issue of The Journal of Trauma.

According to Center for Disease Control and Prevention statistics cited in the study, only motor vehicles and cancer claim more lives than do firearms among children 5 to 14 years old. The Harvard study presents evidence of a correlation between the level of gun ownership in a State and the number of gun related deaths on the State level. The study asserts that children living in the five States with the highest levels of gun ownership were more than 16 times more likely to die from unintentional firearm injury, almost seven times more likely to die from firearm suicide and more than three times more likely to die from firearm homicide than children in the five States with the lowest levels of gun ownership.

Most fatal firearm accidents and suicides occur when children and teens discover firearms at home that have been left loaded or unsecured. The Child Access Prevention Act is a common sense approach that attempts to address one part of this problem. This legislation would hold adults who fail to lock up a loaded firearm or an unloaded firearm with ammunition accountable. Adults who fail to lock up their firearm and ammunition would be held liable if the weapon was taken by a child and used to kill or injure another person or him or herself. The bill would also increase the penalties for selling a gun to a juvenile and create a gun safety education program that includes parent-teacher organizations

and local law enforcement. The legislation is similar to a State law which President Bush signed into law during his tenure as the Governor of Texas. The Harvard study only reinforces my support for this legislation.

SETTLING THE SOFTWOOD LUMBER DISPUTE: POSSIBILITIES AND PROBLEMS

Mr. KYL. Mr. President, the Bush administration is currently involved in negotiations to settle a dispute regarding the importation of Canadian softwood lumber.

Softwood lumber is essential for building quality, affordable homes in the United States.

Its price and availability have a major impact on the U.S. economy, workers and consumers. The U.S. homebuilding industry employs 6.5 million people. The Census Bureau estimates a price increase of $1,500 for the average new home—expected if an export tax or duty is imposed on Canadian softwood lumber coming into the U.S.—which would prevent approximately 450,000 families from qualifying for a home mortgage. These families are likely to be less advantaged groups in the population.

Quite simply, Canadian softwood lumber is needed here. It has different qualities than the lumber produced in the U.S. and is used for different purposes. The southern yellow pine produced in the U.S. cannot replace Canadian spruce-pine-fir, which is used by American home builders for interior walls. These homebuilders use U.S. southern yellow pine for decks and flooring because of its strength and ability to accept hard treatment. But if southern yellow pine were used in interior walls, unlike Canadian spruce-pine-fir, it could twist, warp and shrink causing nails to ''pop.'' Obviously, this would result in problems for home builders and consumers.

There are a number of proposed settlements that raise legal and practical concerns. These proposed settlements range from the imposition by the Canadian government of an ''export tax'' on the sale of Canadian lumber to U.S. companies, to mandated minimum prices established by both governments. Such settlements will cause volatility in lumber markets without adequately considering the disadvantages for U.S. consumers.

I urge the administration to base its decision on existing U.S. and international trade law, and I implore the administration to exclude from any settlement provisions that would impose a de facto, foreign country-imposed sales tax on U.S. homebuyers.

90TH ANNIVERSARY OF THE GIRL SCOUTS

Mr. ROBERTS. Mr. President, today I would like to recognize the Girl Scouts of America who are celebrating their 90th anniversary. As the largest organization for girls in the world, the Girl Scouts promote self confidence, values, integrity, and leadership. Through this worthwhile organization, girls are able to build character, skills for success, and have fun while doing it.

For a moment, I would like to brag about the Girl Scouts of Kansas. With over 40,000 girls and over 10,000 adult members in Kansas, the Girl Scouts are an active and necessary presence in my home State.

Throughout Kansas, the Girl Scouts are involved in various volunteer and community activities. Some programs include: Promoting anti-violence education; helping children of parents who are going through divorce; reaching out to immigrant children; organizing activities between girls and their incarcerated mothers; partnering with the Boys and Girls Club of America on various projects.

I am proud of all our Girl Scouts, most especially the ones in Kansas. Through the promotion of science, technology, health, fitness, and friendship, these girls will grow up to be outstanding young women. I commend all the Girl Scouts on their success and their commitment to this organization.

Ms. SNOWE. Mr. President, I rise today to recognize the 90th anniversary of the founding of the Girl Scouts, and congratulate the organization for its outstanding and unflagging efforts to make a positive impact on America's girls and young women for the past 90 years.

While the Girl Scouts Organization has successfully adapted to the changing times since its founding in 1912, thankfully its core values have remained the same, to teach young girls about their physical health and well-being, provide a place for them to acquire self-confidence and expertise, help them achieve their full potential, encourage them to act with integrity and character, and instill in them the importance of contributing to society and their community.

The Girl Scouts of Maine exemplify these values. In addition to fostering the programs that are at the core of girl scouting, the Girl Scouts of Maine have been visionary in creating an initiative to provide young girls, ages 9–12, education on bone health awareness. Considering that the National Osteoporosis Foundation recently found that 30 million women over the age of 50 have some form of osteoporosis, it is critical that girls learn to foster these healthy habits during their formative years.

In another example of the innovative work of the Girl Scouts of Maine, the Kennebec Council has launched the Women Investing In Girl Scouts, or WINGS, program. This effort strives to link Maine's vulnerable young girls with successful working women to provide these young girls with guidance and mentoring through their most pivotal and difficult years, in the hopes of decreasing the numbers of Maine girls who fall victim to eating disorders, drug and alcohol abuse, and illegal activity and providing a positive influence at a crucial time.

I was heartened to recently learn that one in every seven girls in the State of Maine participates in the Girl Scouts. That's over 12,000 girls, a remarkable level of participation in a State of just one-and-a-quarter million people. Worldwide, the Girl Scouts boast a thriving membership of 3.8 million strong, and this membership continues to grow and prosper.

I again want to congratulate the Girl Scouts for 90 years of success, and wish the organization all the best as it embarks on its next 90 years.

Mr. KOHL. Mr. President, I rise today to enthusiastically commend the good work of the Girl Scouts of the USA, on this week of their 90th Anniversary. For nine decades, this organization has been instrumental in the nurturing and development of millions of American youth in all communities, reaching beyond racial, ethnic, and socioeconomic barriers. Today, Girl Scouting has a membership of 3.8 million, making it the largest organization for girls in the world. In my home State of Wisconsin, there are 77,000 girls, one in five, who currently participate in Scouts.

One cannot quantify the positive impact the Girl Scouts have had on this country and our youth. Countless girls have emerged from this wonderful organization with the qualities and values we hope our children will embody. Countless girls have left Scouts strong and confident; thoughtful and creative; dedicated and involved; responsible and trustworthy. Countless girls have used their experiences in Scouts to develop a deep sense of justice, honor and integrity. Countless girls have matured into role models, leaders and public servants in their communities. I have had the pleasure of talking with numerous Girl Scouts and Girl Scouts alumni who have described the positive role Scouts has played in their lives. There are so many more stories that have, and can, be told about the extraordinary impact this organization has had.

I believe the best example of what the Girl Scouts represent is the Girl Scout Gold Award Young Women of Distinction. Each year, 10 young women receive this achievement, the organization's highest, for their exemplary sense of community service. I am proud to recognize one of those women: Elsa, a 17-year-old, who hails from Shorewood, WI. Elsa established the Avenue Store, a clothing ministry for low-income individuals in the Milwaukee area. As chairman of the board of the store, Elsa worked with a board of adults, established guidelines for the store, and designed and implemented a voucher system for obtaining clothes. She also worked with more than 60 schools and agencies in her community and trained over 50 volunteers. In the project's first year, the Avenue Store

served over 500 people from several homeless shelters. Elsa is a fine citizen, who embodies the profound impact Girl Scouts have on their community and society.

Today, Girl Scouts of the USA continues to flourish, helping millions of girls grow strong. Girl Scouts continues to empower girls to develop their full potential; to relate positively to their peers; and to develop values that provide the foundation for good decision-making. It is my great honor to congratulate the Girl Scouts for 90 years of strengthening America's youth, and I wish them all the best as they extend this tradition for 90 years and beyond.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in August 1991 in Longview, WA. A gay man was beaten by two attackers. The assailants, Mark H. Granger, 27, and Michael J. Watts, 39, were charged with first degree assault in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

THE 99th BIRTHDAY OF REAR ADMIRAL ELLIOTT BOWMAN STRAUSS, USN (Retired)

• Mr. McCAIN. Mr. President, I rise today to speak on the occasion of the 99th birthday of a true American patriot Rear Admiral Elliott Bowman Strauss, USN (Ret.). His lifetime of extraordinary service to this great Nation has been an inspiration to us all.

Elliott Bowman Strauss was born in Washington, DC on March 15, 1903, son of the late Admiral Joseph Strauss, USN, and Mrs. Mary Sweitzer Strauss, and grandson of the late Brigadier General N. B. Sweitzer, USA. He attended Hotchkiss School in Lakeville, CT, and entered the U.S. Naval Academy, Annapolis, Maryland, on appointment at large in June 1919. He was graduated and commissioned Ensign on June 7, 1923, and subsequently progressed in rank to that of Captain, to date from May 1, 1943. On July 1, 1953, he was transferred to the Retired List of the U.S. Navy and advanced to the rank of Rear Admiral on the basis of citation for actual combat.

After graduation from the Naval Academy in June 1923, he had four months' duty in the Bureau of Ordnance, Navy Department, Washington, DC, then reported to the plant of William Cramp and Sons, Philadelphia, to assist in fitting out the USS *Concord*. He served on board that light cruiser from her commissioning, November 3, 1923, until September 1925, during her shakedown cruise to South Africa. He next served in the USS *Hannibal*, assigned to survey duty on the southern coast of Cuba, and from November 1926 until November 1927, served in the USS *Arkansas*, flagship of Battleship Division Two, Scouting Fleet.

He remained at sea for 2 years, serving successively in the destroyers *Toucey* and *Blakeley*, then had a tour of shore duty at the Naval Torpedo Station, Newport, Rhode Island. In June 1932, he joined the USS *Manley*, operating in the Atlantic, and later in the Pacific, and from May until September 1934 served as her Executive Officer. He returned to Newport for a tour of duty at the Naval Training Station after which, from November 1935 until September 1937, he was Assistant U.S. Naval Attache at the American Embassy, London, England. While there he was a Delegate to the Third Assembly, International Union of Geodesy and Geophysics, at Edinburgh, in 1936, and on May 12, 1937, was awarded the British Coronation Medal at the coronation of King George VI of England.

Upon his return to the United States in the Fall of 1937, he was designated Aide and Flag Lieutenant on the Staff of Rear Admiral Alfred W. Johnson, USN, Commander Training Detachment, U.S. Fleet, and was attached to the flagship, USS *New York*. He later served in the same capacity when Admiral Johnson was made Commander Atlantic Squadron, U.S. Fleet. During the period October 1939 until December 1940, he commanded a destroyer, the USS *Brooks*, after which he served as Navigator of the USS *Nashville*, light cruiser, until October 29, 1941, participating in the expedition which took the first Marines to Iceland in July 1941.

He returned to London, England as U.S. Naval Observer just prior to the outbreak of World War II in December 1941, and served on the staff of Admiral Lord Louis Mountbatten, Chief of Combined Operations, during the early war period, taking part in the Allied raid on Dieppe, August 19, 1942. In November 1943, he reported to Commander U.S. Naval Forces, Europe, and was assigned duty with Task Force One Hundred Twenty-two, later serving on the Staff of the Allied Naval Commander in Chief, Admiral Sir Bertram Ramsey, until August 1944.

He was awarded the Bronze Star Medal, with Combat ''V'', and the following citation: ''For meritorious achievement as the United States Naval Representative on the Staff of the Chief of Combined Operations in the Dieppe Raid, and while serving on the Staff of the Allied Naval Commander in Chief during the Invasion of Normandy. Embarked as an observer in a British destroyer which rendered close fire support during the Allied raid on Dieppe on August 19, 1942, Captain (then Commander) Strauss obtained information of great value to the United States and Great Britain in the planning and execution of subsequent operations. Ordered to the Normandy beaches on D plus 2–Day, he applied his comprehensive knowledge of the build-up procedure in solving far shore shipping problems which threatened to delay the operation. Serving with distinction, skill and courage despite enemy air and ground attack throughout these missions to halt German aggression, Captain Strauss upheld the highest traditions of the United States Naval Service.''

On October 12, 1944, he assumed command of the USS *Charles Carroll*, an attack transport which finished her share of the follow-up operations in connection with the Southern France campaign, and sailed on October 25 for Norfolk, Virginia. Assigned to Transport Division Fifty-two, Pacific Fleet, she left on January 4, 1945, for the South Pacific, carrying supplies and personnel to Guadalcanal, Manus and Bougainville. In February, with Transport Squadron Eighteen, she became a part of Amphibious Group Four, Task Force Fifty-one, in preparation for a major operation, and on April 1, 1945, successfully landed her assault troops and their equipment on the designated beaches at Okinawa Jima. She had aboard the late Ernie Pyle, beloved newspaper man who covered her assault operations in his articles shortly before his death. The *Charles Carroll* served as Flagship of Commander Transport Division Sixty-three from May until July 1945.

Detached from that command on August 6, 1945, Rear Admiral, then Captain, Strauss returned to the United States for duty in the Office of the Chief of Naval Operations, Navy Department, Washington, DC. From July until September 1946, he was attached to the Military Staff Committee of the Security Council of the U.S. in New York serving as a naval advisor to the First General Assembly of that body in January 1946, then reported to the Federal Shipbuilding and Drydock Company, Kearney, New Jersey. There, he had charge of fitting out the USS *Fresno*, CL–121, and from her commissioning on November 27, 1946, until December 1947, commanded that light cruiser.

He returned to London, England, and from January 6 to December 10, 1948, was a student at the Imperial Defense College. In February 1949, he reported to the Navy Department to serve as Head of the Strategic Applications and Policy Branch of the Strategic Plans Division, under the Deputy Chief of Naval Operations, Operations. Two

years later he was detached for sea duty organizing and in command of Destroyer Flotilla Six, and in March 1952 was again ordered to the Office of the Chief of Naval Operations where he was Head of the Long Range Plans Branch.

On August 11, 1952, he was ordered to the Office of the Deputy for Defense Affairs, Office of Special Representative in Europe for Mutual Security Administration, Paris, France. On September 28, 1953, after his retirement in July of that year, he was ordered detached from that assignment, but to continue duty in Paris as Staff Assistant Secretary of Defense for International Security Affairs, Office of Foreign Economic Defense Affairs, with his duty station in the U.S. Mission to NATO and European Regional Organization, Paris.

From August 1956 until March 1957, Rear Admiral Strauss was Director of Engineering at Bucknell University, Lewisburg, PA.

On April 6, 1957, Rear Admiral Strauss was named Chief of the new American Foreign Aide Mission to Tunisia. There he directed a $5.5 million program providing commodities and technical assistance for the rest of the fiscal year ending June 30, a program which in 1958 had risen to more than $20 million, and by the time of his detachment in August 1960, had put more than $100 million into the Tunisian economy. In 1960, he served as personal representative of the Secretary of State as a member of a three-man team to evaluate the effectiveness of the Mutual Aid program to Pakistan, this assignment extended from September 1960 to January 1961. In January 1961, Rear Admiral Strauss initiated, as Director, the A.I.D. mission to the Malagasy Republic and served there until February 1963. He retired from A.I.D. in May 1963. In July 1965, Rear Admiral Strauss became a public member of the Foreign Service Inspection Corps. He was a member of the team inspecting Embassy, Tel Aviv and Consulate General Jerusalem, July—September 1965.

In addition to the Bronze Star Medal with Combat ''V'', Rear Admiral Strauss has the American Defense Service Medal; European-African-Middle Eastern Campaign Medal; Asiatic-Pacific Campaign Medal; World War II Victory Medal; Navy Occupation Service Medal, Europe Clasp; and National Defense Service Medal. He was made an honorary Commander of the Order of the British Empire and has the Croix de Guerre of France, with palm.

Rear Admiral Strauss was married in 1951 to Miss Beatrice Schermerhorn Phillips, daughter of former Ambassador and Mrs. William Phillips of Beverly, MA. He has three children by a former marriage: Elliott MacGregor Strauss, Armar Archbold Strauss, and Lydia Saunderson Strauss Delaunay. His usual residence is Washington, DC.

Rear Admiral Strauss is a member of the Pilgrims of the United States, the Chevy Chase Club and Army and Navy Club of Washington, DC; the New York Yacht Club; and the Buck's Club, and the International Sportman's Club, both of London, England.●

TRIBUTE TO HOOSIER ESSAY CONTEST WINNERS

● Mr. LUGAR. Mr. President, I rise today to congratulate a group of young Indiana students who have shown great educative achievement. I would like to bring to the attention of my colleagues the winners of the 2001–2002 Eighth Grade Youth Essay Contest which I sponsored in association with the Indiana Farm Bureau and Bank One of Indiana. These students have displayed strong writing abilities and have proven themselves to be outstanding young Hoosier scholars. I submit their names for the CONGRESSIONAL RECORD because they demonstrate the capabilities of today's students and are fine representatives of our Nation.

This year, Hoosier students wrote on the theme, ''World-Wide Meals from Hoosier Farms.'' I submit for the RECORD the winning essays of Crista Dismore of Scott County and Joseph Jochim of Gibson County. As State winners of the Youth Essay Contest, these two outstanding students are being recognized on Friday, March 15, 2002 during a visit to our Nation's Capitol.

The essays follow:

WORLD-WIDE MEALS FROM HOOSIER FARMERS

(By Christa Dismore, Scott County)

Indiana farms can contribute significantly to the production of food for people around the world. Agriculture in Indiana is a large industry with 65,000 farms containing 15.5 million acres of farmland. Hoosier farmers will use new technologies to increase their crop yield, produce healthier food, and sell their crops to more specialized markets.

Farming is becoming more like science. In Indiana, corn production is king. Through improvements in technology such as new equipment, safer pest control, and hybrid seed the yield per acre has increased from 40 to 150 bushels per acre. Also, the farmers will be able to raise livestock that is less fattening for our bodies because of a new science, genomics, which allows researchers to make changes in plants and animals. This technology will be important in keeping Indiana a leader in food production since Indiana farmers supply our dinner tables with bacon, eggs, steaks, and milk. Indiana farms will become more specialized in that they will only raise one type of animal instead of a variety of animals. An example is Rose Acre Farms in southern Indiana which raises chickens to produce eggs.

Indian agriculture affects my daily life because my grandfather grows a large garden and my father sells farming equipment. I eat tomatoes, corn, green beans, potatoes, beets and broccoli from the garden. My dad tells me abut tillers, loaders, backhoes, and trailers that farmers use. In Austin, Indiana, Morgan Foods is one of the nation's largest condensed soup manufacturers and many of my friends' families work there.

Hoosier farmers will do their part in providing the world with food. Indiana has three of the most well-known research universities, a prominent agricultural school, and many science-based companies that will help Indiana to become a leader in meeting the world-wide demands on the food supply.

WORLD-WIDE MEALS FROM HOOSIER FARMS

(By Joseph Jochim, Gibson County)

As I sit next to my Dad in his combine, I watch as it husks, shells, and cleans the bright yellow kernels of corn. I'm amazed at the large amount of corn, soybeans, and wheat he can grow and harvest to help feed our world. He pays close attention to the markets world-wide as well as international trade agreements between countries that affect our prices.

Indiana, as well as the rest of the U.S. grain belt states, supply two-fifths of the world's supply of corn. Corn is Indiana's leading crop. Much of this corn is fed to Indiana's livestock like hogs, cattle, and poultry. This meat is exported to countries like Japan, Canada, China, and Mexico. Since October 1, 2001, we had corn sales to South Korea, Russia, Israel, Uganda/Angola, and Montenegro. Locally, Azteca Milling processes white corn purchased from area farmers into white flour. This is sold world-wide for products like tortillas and tamale shells.

Soybeans are another of Indiana's valuable farm products. So far this year, sales of our soybeans have increased to Indonesia, Canada, China and Mexico. We also export soybeans to Japan, Algeria, South Korea, Peru, and China.

With increasing technology, mechanization, productivity, and soil conservation, Indiana's farmers are increasing their yields. Improvements and discoveries in genetics and plant breeding are helping us to produce more nutritious foods that require less pesticides and herbicides. For example, in Indiana we commonly use soybeans resistant to the herbicide Roundup. Therefore, less herbicide, field cultivating, and fuel is used.

In addition, Indiana helps supply whole meal food assistance to the needy in areas like Southeast Asia.

I'm proud that Indiana and my dad help produce whole meals like grains, vegetables, fruit, dairy products, and meats to feed the world's growing population.

2001–2002 DISTRICT ESSAY WINNERS

District 1: Eric Jensen (Starke County) and Anne LaFree (St. Joseph County).

District 2: Zach Heimach (DeKalb County) and Melinda Hohler (DeKalb County).

District 3: Kevin Lange (Benton County) and Brittany Scherer (Benton County).

District 4: Aaron Poole (Jay County) and Heather Meitzler (Huntington County).

District 5: Jason Allen (Vermillion County) and Marina Nicholson (Morgan County).

District 6: Aaron Nees (Marion County) and Hillary Foltz (Delaware County).

District 7: Matt Steves (Greene County) and Christina Riggle (Daviess County).

District 8: Greg Rennekamp (Rush County) and Lauren Haas (Franklin County).

District 9: Joseph Jochim (Gibson County) and Lynn Fletcher (Warrick County).

District 10: Jonathan Raichel (Scott County) and Christa Dismore (Scott County).

2001–2002 COUNTY ESSAY WINNERS

Bartholomew: Sarah Michael and Sam McAleese, St. Bartholomew Catholic School.

Benton: Kevin Lange and Brittany Scherer, Benton Central Jr. HS.

Cass: Heath Karnafel and Kayla Somers, Columbia Middle School.

Clay: MacKenzie Watson, Clay City Jr. HS.

Daviess: Christina Riggle, Washington Jr. HS.

Delaware: Zachary Rabenstein and Hillary Foltz, Heritage Hall Christian School.

DeKalb: William Zachary Heimach and Melinda Hohler, DeKalb Middle School.

Franklin: Andrew Sparks, Laurel School, and Lauren Haas, St. Michael School.

Gibson: Joseph Jochim, Owensville Community School.

Greene: Matt Steves, Linton-Stockton Jr. HS, and Laura Bartlow, Calvary Christian School.

Hamilton: Brett Finkelmeier and Claire Harwood, Carmel Jr. HS.

Hancock: Curtis Merlau, Greenfield Middle School.

Hendricks: Chris Beard and Jana Emmelman, Kingsway Christian School.

Henry: Brian Butler and Amy Wenning, Tri Jr. HS.

Howard: Eric Talbert and Rachele Carter, Western Jr. HS.

Huntington: Heather Meitzler, Huntington Catholic School.

Jackson: Ryan Hirtzel and Laura Kilpatrick, Seymour Middle School.

Jasper: Jason Simmons and Amy Streitmatter, Rensselaer Middle School.

Jay: Aaron Poole and Shannon Rines, East Jay Middle School.

Knox: Martha Vance, North Knox Jr. HS.

Lake: Matt Trocha, DeMotte Christian School, and Stephanie Strnatka, St. Michael School.

Madison: Aron Brown and Alison Denny, Southside Middle School.

Marion: Aaron Nees and Tracy Horan, St. Jude School.

Monroe: Brandon Petesch, Batchelor Middle School.

Morgan: Matt Gegg and Marina Nicholson, Mooresville Christian Academy.

Posey: Kelley Clem, North Posey Jr. HS.

Rush: Greg Rennekamp, Benjamin Rush Middle School.

St. Joseph: Michael Chartier, St. Matthew Cathedral School, and Anne LaFree, Jackson Middle School.

Scott: Jonathan Raichel and Christa Dismore, Austin Middle School.

Spencer: Matt Kaufman and Breanna Faulkenberg, Heritage Hills Middle School.

Starke: Eric Jensen and Andrea Bastin, Oregon-Davis Jr. HS.

Vanderburgh: Chris Mutschler, St. James School.

Vermillion: Jason Allen and Elisha Marie Chancey, North Vermillion Jr. HS.

Wabash: Cody White and Erica Grossman, Northfield Jr. HS.

Warrick: Nathan Rice and Lynn Fletcher, Boonville Jr. HS.

Washington: Casey Nesmith and Casey Parker, West Washington Jr. HS.

Wayne: Timothy Mosley and Kaitlin Vaughn, Centerville Jr. HS.

Wells: Nathan Meyer and Janelle Meyer, Bethlehem Lutheran School.●

PASSING OF JOHN M. EISENBERG

● Mr. FRIST. Mr. President, John Eisenberg, director of the Agency for Healthcare Research and Quality, AHRQ, succumbed to a brain tumor this past Sunday. Although John had battled his illness for months, his death was a disturbing shock to many. He had done so much to improve healthcare in this Nation, and I know there was much more he wanted to do. Still, John leaves a legacy—both professional and personal—so large that it cannot and will not be forgotten.

John Eisenberg was an outstanding public servant. He did not play partisan politics. Nor could he be corrupted by power. Simply put, he was passionate about people. It was his mission to improve the quality of health care in America. He dedicated his life to that mission as the director of the Agency for Healthcare Research and Quality, as a founder of the Congressional Physician Payment Review Commission, and as a member and leader of countless other societies, associations, and institutes. For John, public service was more than his job; it was his life's calling, which he answered with distinction and excellence.

I consider myself privileged to have worked with John Eisenberg for many years and on many issues. He taught me so much not just about improving the quality of healthcare, but about being a leader by transforming the way people think about issues and institutions. I know he had an impact on leaders in all branches of government, and men and women at all levels of government respected him. And as for the medical community: John was one of them. I have heard this often and, even with the event of his passing, I still hear it today.

As a physician, John Eisenberg saved the lives of many. As a leader, he enhanced the lives of millions. As a friend, he touched the lives of us all. The largeness of his life and legacy will endure in our memories and warm our hearts for many years to come. John Eisenberg will be known as more than one of the good ones, but one of the best there ever was and ever will be.●

MESSAGE FROM THE HOUSE

At 11:23 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2146. An act to amend title 18 of the United States Code to provide life imprisonment for repeat offenders who commit sex offenses against children.

MESSAGES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2146. An act to amend title 18 of the United States Code to provide life imprisonment for repeat offenders who commit sex offenses against children; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5733. A communication from the Assistant Director, Office of General Counsel, Federal Bureau of Prisons, transmitting, pursuant to law, the report of a rule entitled ''Inmate Personal Property'' ((RIN1120–AA46) (64 FR 36750)) received on March 14, 2002; to the Committee on the Judiciary.

EC–5734. A communication from the Director of the Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled ''Exemption Amendments Under 18 U.S.C. 208(b)(2)'' (RIN3209–AA09) received on March 14, 2002; to the Committee on Governmental Affairs.

EC–5735. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report on the certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–5736. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulate'' (22 CFR Parts 22, 41, 42, and 51) received on March 14, 2002; to the Committee on Foreign Relations.

EC–5737. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2002–3'' received on March 12, 2002; to the Committee on Finance.

EC–5738. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the Check the Box Regulations, section 301.77701–3'' ((RIN1545–AY16) (TD 8970)) received on March 12, 2002; to the Committee on Finance.

EC–5739. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Waiver of Certain Accuracy-Related Penalties Upon Disclosure of Tax Shelter'' (Ann. 2002–2, 2002–2 IRB) received on March 12, 2002; to the Committee on Finance.

EC–5740. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Requirement Relating to Certain Exchanges Involving a Foreign Corporation'' ((TD 8938) (LR–230–76)) received on March 13, 2002; to the Committee on Finance.

EC–5741. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Average of Farm Income'' ((RIN1545–AW05) (TD 8972)) received on March 13, 2002; to the Committee on Finance.

EC–5742. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Dollar-Value LIFO Regulations; Inventory Price Index Computation Method'' (RIN1545–AX20) received on March 13, 2002; to the Committee on Finance.

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Health, Education, Labor, and Pensions pursuant to the order of March 15, 2002:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Maribeth McGinley, of California, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

Amy Apfel Kass, of Illinois, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Andrew Ladis, of Georgia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Wright L. Lassiter, Jr., of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS—MARCH 14, 2002

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 2018. A bill to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes; to the Committee on Indian Affairs and the Committee on Energy and Natural Resources; jointly, pursuant to the order of March 14, 2002, with instructions that if one Committee reports, the other Committee have twenty calendar days, excluding any period where the Senate is not in session for more than three days, to report or be discharged.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS—MARCH 15, 2002

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GREGG:

S. 2020. A bill to establish the Department of National Border Security; to the Committee on Governmental Affairs.

By Mr. ENZI:

S. 2021. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

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

S. 2022. A bill to amend the Internal Revenue Code of 1986 to modify the unrelated business income limitation on investment in certain debt-financed properties; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. BOND, Mr. HUTCHINSON, and Mr. SMITH of Oregon):

S. 2023. A bill to amend the Internal Revenue Code of 1986 to provide for an increase in expensing under section 179; to the Committee on Finance.

By Mr. SMITH of New Hampshire:

S. 2024. A bill to amend title 23, United States Code, to authorize use of electric personal assistive mobility device on trails and pedestrian walkways constructed or maintained with Federal-aid highway funds; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 159

At the request of Mrs. BOXER, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 159, a bill to elevate the Environmental Protection Agency to a cabinet level department, to redesignate the Environmental Protection Agency as the Department of Environmental Protection Affairs, and for other purposes.

S. 490

At the request of Mr. EDWARDS, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 490, a bill to provide grants to law enforcement agencies that ensure that law enforcement officers employed by such agencies are afforded due process when involved in a case that may lead to dismissal, demotion, suspension, or transfer.

S. 1258

At the request of Mr. DORGAN, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1258, a bill to improve academic and social outcomes for teenage youth.

S. 1335

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1335, a bill to support business incubation in academic settings.

S. 1617

At the request of Mr. DODD, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1617, a bill to amend the Workforce Investment Act of 1998 to increase the hiring of firefighters, and for other purposes.

S. 1876

At the request of Mrs. CLINTON, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1876, a bill to establish a National Foundation for the Study of Holocaust Assets.

S. 1961

At the request of Mr. GRAHAM, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1961, a bill to improve financial and environmental sustainability of the water programs of the United States.

S. 1984

At the request of Mr. BUNNING, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1984, a bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to pregnant women needing such services, and for other purposes.

S. 1991

At the request of Mr. HOLLINGS, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from North Dakota (Mr. DORGAN), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1991, to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 1995

At the request of Ms. SNOWE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1995, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. RES. 206

At the request of Mr. MURKOWSKI, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Res. 206, a resolution designating the week of March 17 through March 23, 2002 as ''National Inhalants and Poison Prevention Week.''

S. RES. 219

At the request of Mr. GRAHAM, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S.Res. 219, a resolution expressing support for the democratically elected Government of Colombia and its efforts to counter threats from United States-designated foreign terrorist organizations.

AMENDMENT NO. 3008

At the request of Mr. DAYTON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3008 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG:

S. 2020. A bill to establish the Department of National Border Security; to the Committee on Governmental Affairs.

Mr. GREGG. Madam President, I rise today to introduce a piece of legislation which tries to address one of the oppressive problems we have in confronting the issues of terrorism in our country as we move forward; that is, checking our borders and making sure we have control over the people who are coming into our country and how they can come into our country.

As a nation, we have traditionally had very open borders, which is something in which we take great pride. Unfortunately, people who wish to cause us harm, people who wish to kill Americans, people who wish to kill Americans by the thousands, and who have stated that their sole purpose in life is to kill Americans, have taken advantage of that openness. Certainly we saw on September 11 the situation that occurred.

We have 100,000 miles of coastline, 2,000 miles of land border with Mexico, and 4,000 miles of land border with Canada. Last year, we had 127 million automobiles come across those borders, 11 million trucks, 2 million railcars, and 1 million commercial airplanes. More than 500 million people were admitted to the United States last year. You can see that our borders are aggressively used.

There is great international commerce, which there should be, and we want to continue that. But one of the problems we have is that the agencies responsible for managing our borders have been disoriented, dysfunctional, spread about, and uncoordinated. We have seen some really horrendous instances of mismanagement. We have also seen instances that have occurred as a result of failure of communication. We have seen failures that have

occurred as a result of turf fights between different agencies. We have seen agencies which have found their purpose to be unfocused in their execution of the protection of the borders.

The most recent and startling and almost unbelievable example, of course, was the delivery of visas to a Florida flight school just this week for two people who committed the atrocities in New York. America is outraged. Clearly, the President was shocked. All of us were shocked that that would happen. That was a total example of an incredible breakdown in the systems which are managing our borders; that is, the INS.

What I propose today is to try to get some coherence into this effort, to bring together the agencies which are responsible to protect our borders, to put them all under one management structure, and to create a new Cabinet-level Department, which would be called the ''Department of National Border Security.''

Under this Department, we would take the various agencies which have responsibility for managing our borders and protecting our Nation and put them into this Department so that they would be communicating with each other and have a streamlined management and command process—something which they do not have today.

Included in this Department would be, for example, the U.S. Customs Service, the U.S. Coast Guard, large elements of the Immigration and Naturalization Service, including, of course, Border Patrol, and elements of the DEA which have responsibility for border security in the area of drugs, and the Agriculture Quarantine Inspection Program, which obviously controls food that comes into the country.

The result of putting all these groups together in one management structure will be that there will be, hopefully, a coordinated approach to managing our borders. It doesn't guarantee it. But it is very clear that the system we have today, because of the lack of coordination, because of the overlapping authority, because of the turf issues, and because of the lack of centralized directional command is not working.

I happen to be ranking on a committee which has specific jurisdiction over funding for the Justice Department and the State Department and which has a large percentage of responsibility for our border activities, especially the INS. I can tell you from my own experience as the ranking member, and formerly as chairman, of that Subcommittee on Commerce, Justice, State, and the Judiciary of the Appropriations Committee, that unless we get these parties together functioning under one umbrella of leadership, we are simply not going to get our borders under control.

Is this the full answer to the problem—the reorganizing of these Departments? Absolutely not. There also has to be the intention on the part of the parties who are serving these Departments to accomplish the goal. There has to be leadership on the part of the administration to accomplish the goal of border security and making it more efficient.

But as a practical matter, without this first step I personally do not think we are ever going to get the type of coordination that is required in order for leadership in this area to be effective.

What we have today in this arena is that these various Departments are spread across the Government. On top of it, we have each reporting to a separate Department Secretary. On top of that, we have the Homeland Security Director, of course. Overseeing all of it, we have the President. As a result, even though everybody wants to go in the same direction, it is like six or seven horses pulling in opposite directions. By bringing them all under the same tent, we will have a centralized activity.

We should not, for example, be housing the Customs Service in one building, the Border Patrol in another building, the DEA in another building, and have them not generally communicating with each other at a border crossing point; or have the resources of one agency be in surplus at one border crossing point while the resources of another agency are strapped at the same crossing point and not having them be able to work together to try to more effectively manage those resources so that we get the most efficient use out of the people, the parties, and the items involved.

All of that problem which exists today with tremendous dysfunctionalism between these various agencies as they try to relate to each other, all of that problem is a function of the fact that they all report up separate stovepipes, and the only generally coordinating event that occurs comes from the President and the new Homeland Security Director. But that person, Governor Ridge, has no legislative authority and no budget authority. Therefore, as a practical matter, other than having the good will of the President behind him, he does not have a whole lot of authority.

So when you have one Department over here—let's say, Treasury, with Customs—and one Department over here—let's say, INS, with the Border Patrol, and Justice heading that Department up—you tend to have people who are functioning independent of each other, who, although they may have the good intentions to communicate with each other, really do not and do not work effectively as a result of that. We do not get the best responsiveness.

So it is just logic, it is just good governance, and, for that matter, good management—which I recognize maybe is anathema to government—that all the people who are responsible for one function of the Government, which is protecting our borders, be functioning under the same leadership structure and, therefore, reading off of the same page. That is what this new Department will create.

This new Cabinet level Department will set up a structure where everybody who is responsible for the border will report to a single Cabinet leader and, as a result, will be functioning off the same page relative to the way the border is managed. Hopefully, then we will be getting the most efficient and effective use of those people who are making a genuinely good effort today but a lot of which is involving just the spinning of wheels because of the lack of coordination. Then we will get coordination into that good effort and, as a result, get better border protection.

This is a thought which is not necessarily original to me. However, it is obvious to me. As the ranking member and former chairman of the committee which has jurisdiction over a chunk of this area of responsibility, it is something I believe we need to do. I believe there are other groups who have looked at the border who have agreed with this approach.

The Third Annual Report to the President and the Congress of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, which essentially was Governor Gilmore's commission, came to the same conclusion: that there had to be a better centralization. They did not do it in the terms of forming a new Department, but they came to the same substantive conclusion that there had to be a better coordination, collection, and organization of the information coming into the country and of the tracking of people coming into the country.

The Hart-Rudman Commission, Roadmap to National Security, Imperative for Change, which reported on February 15, came to the exact conclusion that I am proposing in the bill:

> Steps must be taken to strengthen the three individual organizations themselves.

They were talking here about Customs, Border Patrol, and the Coast Guard.

> We recommend the creation of an independent Homeland Security Agency with responsibility for planning, coordinating, and integrating various U.S. Government activities involving homeland security.

This does not go completely to that point, but it goes a long way in the area of border activity in that it creates a Centralized Border Center. They also suggested that that group, which they called the Homeland Security Agency, should include the Coast Guard, the Customs, the Border Patrol, and it should have Cabinet level operational effect.

Even the White House has acknowledged there is a lack of coordination in this area. It was interesting, in relation to that, Governor Ridge made the statement: If you asked me today who is responsible for the border, I would say to you, in response, what part of the border? The borders remain disturbingly vulnerable to terrorism.

There is no direct line of accountability for agencies charged with protecting them.

So I think Governor Ridge clearly sees the problem as I see it, which is that we do not have a coordinated central management point for all border crossing activity. It makes no sense to have Customs in Treasury, INS in Justice and DEA in Justice, and the Coast Guard over in Transportation with no coordinated central management point for all border crossing activity. When these agencies serve to protect the border as their primary responsibility, and with the threat of terrorism that we confront today, they should clearly be together managing the issue of protecting our border as a coordinated unit under a Cabinet level Secretary.

That is what the legislation which I am introducing today does.

By Mr. ENZI:

S. 2021. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI. Mr. President, I appreciate this opportunity to speak this morning. I will speak on a favorite topic of our area of the country, the packer concentration. It is a huge problem for our ranchers in keeping them from getting what they should be getting for raising the livestock for this country. So I rise to introduce a bill that amends the Packers and Stockyards Act to reform livestock formula price contracts. This bill aims to rid the livestock industry of pricing schemes which take advantage of hard-working ranchers. It requires contracts to contain a fixed base price and to be traded in open public markets.

Currently, there are four packers that slaughter 80 percent of the cattle in the United States. They hold the supply of livestock captive in a number of ways.

Captive supply is when packers either own livestock or contract to purchase livestock more than 2 weeks before slaughter. Packers use captive supply to ensure their slaughter lines have consistent inventory. I will not argue with that original goal, for that goal. Captive supply makes good business sense. All businesses want to maintain a steady supply of inputs to ensure their production and control costs.

But packers go beyond good organization and business performance to market manipulation. I have been working on this problem for 5 years and, so far, all we have been able to do is prove that there is a packer concentration.

With captive supply, packers can purposefully drive down the market price by refusing to buy in the open market. This deflates all livestock prices and limits the market access of producers who have not aligned with specific packers.

Most of us have not signed a formula price contract to sell a load of livestock, but many of us have sold a house. To illustrate the seriousness of this problem, and make it a little easier to understand, let's explore how you would sell a house with a formula price contract in a market structured like the current livestock market.

It is March, and you know you will be selling your home in July. As a wise seller, you want to have a buyer for your home before that time. Now, what if it turns out that the other people do not really buy homes from each other anymore, and what if, in fact, you found out there were only four main companies that handled over 80 percent of all of the real estate transactions? You would have no choice but to deal with one of those companies.

Now, one of them would offer you a contract stating that you will receive $10,000 over the average price of what other similar homes are selling for in your area in July. Sounds like a good deal, doesn't it?

To manage your risk and ensure a buyer, you have been practically forced to sign a contract that does not specify how much you will receive. It says you will receive $10,000 over the average price at that time. There should be a tingle of fear in the pit of your stomach and it will mature to full-fledged panic when you close the deal in July. This is why. The four real estate companies have been planning. They decide to pull away from the market so all the home selling in July that is not contracted to these four companies floods the market and the price for homes in your area drops $12,000.

What have you done? By trying to manage your risk in a limited market, you sold your home for $2,000 less than what the average price should have been, if there would have been a normal open market such as we have in the housing market.

Livestock producers face that same problem. Yesterday there were 91,906 head of cattle arriving at packing plants for slaughter. Forty-four percent of those were bought by a formula price marketing arrangement. Now you know what that means.

Just like the housing example, the money that producers lose in formula price contracts adds up over a year. When totaled, captive supply costs producers an estimated average of $1 billion per year, according to a study done by an Oregon State University professor.

I am sure you didn't notice when you went to the grocery store to buy your beef that the price was lower because it is not. The packer concentration controls the price at that end, too.

Another Senator from Wyoming faced the same concentration of market power in the packing industry 80 years ago. A predecessor to the Senate that held the seat I hold now, Senator John B. Kendrick, said:

> [The packing industry] has been brought to such a high degree of concentration that it is dominated by a few men. The packers, so-called, stand between hundreds of thousands of producers on one hand and millions of consumers on the other. They have their fingers on the pulse of both the producing and consuming markets and are in such a position of strategic advantage they have unrestrained power to manipulate both markets to their own advantage and to the disadvantage of over 99 percent of the people of this country. Such power is too great, Mr. President, to repose in the hands of any men.

This great power Senator Kendrick talked about resides in the hands of the packers once again.

My bill does two things to change the situation. It requires that livestock producers have a fixed base price in their contracts. It also puts these contracts up for bid in the open market where they belong. Under this bill, livestock contracts must contain a fixed base price on the day the contract is signed. This prevents packers from manipulating the base price at the point of sale and time of sale.

You may hear allegations that this bill ends quality driven production, but this bill does not prevent adjustments to the base price for quality grade or other factors that are outside of the packer control. It prevents packers from changing the base price based on factors that they do control. You also may hear that this bill ends traditional forward contracting. However, contracts that are based on the futures market are also exempted from the bill's requirements because the futures market is not controlled by the packers.

My bill also limits the size of contracts to the equivalent of a load of livestock, meaning 40 cattle or 30 swine. It doesn't limit the number of contracts that can be offered by an individual. This key portion prevents small and medium-sized livestock producers from being shut out of deals that contain thousands of livestock per contract.

In the past I have tried to get some transparency of reporting. The packer concentration has influenced the rules so they didn't have to report on the prices they are paying. You go into a market blind. We thought we had the problem solved, and they helped to influence a little 3/60 rule so if less than three packers or contracts were sold in a day, or if more than 60 percent of the market was by one of them, they didn't have to report. It virtually wiped out reporting in the sheep industry. We have some changes in that, but some changes for transparency need to be made.

There are a number of benefits accompanying this bill. It effectively increases buyer competition without resorting to increasing buyer numbers through a messy packer breakup. It gives fair access to all producers to compete for contracts on a level playing field with big producers. This bill encourages public and electronic trading of great numbers of livestock, providing greater price transparency. That is where we are trying to go on all of this.

Simply put, this bill makes packers and livestock producers bid against

each other to win a contract—no more secret deals. We know the packers are engaging in secret deals.

Mr. President, I ask unanimous consent to print in the RECORD this advertisement I have collected.

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

[From Argus Leader, Sioux Falls, SD, Feb. 3, 2002]

SENATOR JOHNSON'S FARM BILL AMENDMENT IMPERILS THE JOB SECURITY OF HIS OWN CONSTITUENTS AND WOULD DESTROY THE PORK AND BEEF INDUSTRY

To The Argus Leader Editor and the People of Sioux Falls and South Dakota: We want to call your attention to and correct certain misleading and untrue statements that have been made by or attributed to Senator Tim Johnson and published in the Argus Leader on January 27, 2002 about Smithfield Foods, John Morrell, and our plant in Sioux Falls.

SENATOR TIM JOHNSON FALSE STATEMENT NUMBER ONE

''The bipartisan Johnson-Grassley Amendment does not negatively affect the John Morrell pork slaughter and processing plant in Sioux Falls.''

Fact: The Johnson Amendment (S. Amdt. 2534) to the Senate Farm Bill (S. 1731) prohibiting meat packers from owning livestock farms or controlling livestock for more than 14 days would have a huge negative impact on the future of the Morrell plant in Sioux Falls and its 3,200 employees. Our company is both a meatpacker and a producer and we have made major investments in our system to provide a healthy product to consumers at the lowest possible price and to assure them of food safety, uniformity, and consistency in those products. The Johnson Amendment, if it becomes law, would have a major negative impact on our company and the red meat industry as it exists today. A clear choice for packers that own livestock or contract for livestock would be to sell or close facilities. The Sioux Falls plant, which is nearly 100 years old, and the oldest hog processing plant in our system by far, would head the list of candidates. Critical to this plant's future and continued operation is an assured and stable supply of high-quality hogs grown to our demanding specifications as to care, quality and food safety. Hogs represent the ''fuel'' that drives the plant. Without an assured and stable quality livestock supply, we cannot meet the demands and requirements of our customers.

Restrictive laws such as the Johnson-Grassley-Wellstone Amendment already have had a major negative impact on the agri-business economy of South Dakota. As a result of the state's restrictive farming practices (Amendment E), the hog supply to our plant now comes 20% from South Dakota, 40% from Minnesota, 20% from Canada, and the remaining 20% from other midwestern states. As a result of unnecessary government regulations such as Amendment E, hog production in South Dakota declined 50% during the period 1995 to 2001.

Senator Johnson and his staff have offered no study or analysis of the impact that his Amendment would have on the agri-business economy not only of South Dakota but also on the entire country. On the other hand, eight leading agri-business economists from the country's leading land-grant universities, led by Wayne Purcell (Alumni Distinguished Professor of Agricultural and Applied Economics, Virginia Tech University) and including Dillon Feuz (Professor of Agricultural Economics, University of Nebraska), Glenn Grimes (Emeritus Professor of Agricultural Economics, University of Missouri), Marvin L. Hayenga (Professor of Economics, Iowa State University), Stephen R. Koontz (Professor of Agriculture and Resource Economics, Colorado State University), John D. Lawrence (Professor of Economics and Director ISU Beef Center, Iowa State University), Ted C. Schroeder (Professor of Agricultural Economics, Kansas State University), and Clement E. Ward (Professor of Agricultural Economics, Oklahoma State University), have recently published an independent study that concludes that the Johnson Amendment would have disastrous effects on major sectors of the agri-business economy.

Their study says that the amendment would actually lower hog prices because of the great glut of supply that would result from divestiture; that it would give back the advantage and gain that the U.S. industry has made over the last 15 years to foreign countries such as Argentina, Brazil, Canada and Australia; that it would cause companies like ours to essentially forfeit billions of dollars of investments that we have made to move the U.S. to the forefront of the industry; that it would have a major negative impact on credit availability of farmers who would no longer be able to rely on firm contracts with packers to use as security with their bank lenders; and that it would give the efficient, vertically-integrated poultry industry an even greater competitive advantage over the pork and beef industries than it now currently enjoys.

Had Senator Johnson bothered to conduct any study or analysis, or reviewed any public USDA figures, he would have found that in the last ten years, producers have been profitable in 8 of those years, and the division of the pork dollar shows retailers with the greatest share, producers with the second greatest share, and the packers in a distant third position.

SENATOR TIM JOHNSON FALSE STATEMENT NUMBER TWO:

''Johnson said he has been assured by Morrell and its parent company, Virginia-based Smithfield Foods Inc., that the Sioux Falls plant operates within the restrictions of the amendment.''

Fact: This is a false statement and we are astonished that Senator Johnson would place his name behind it. Senator Johnson has never extended the courtesy or taken the time to meet with senior officers of Smithfield Foods. In recent years, I personally traveled to Washington, once with Richard Poulson, another senior officer of Smithfield Foods, and on another occasion with Patrick Boyle, president and chief executive officer of the American Meat Institute, to meet with Senator Johnson by prior scheduled appointment to discuss issues in South Dakota. On both occasions, Senator Johnson was ''too busy'' to meet with us and delegated a junior staffer to attend the meeting in his stead.

Despite the fact that Senator Johnson has had no interest in meeting with Smithfield officials, his staff was fully advised of the precarious nature of the Sioux Falls plant prior to his introducing his Amendment to the Farm Bill. Our Sioux Falls plant manager traveled to Washington on December 28, 2001 to meet with Senator Johnson and his aides and told them that the greatest negative impact of his Amendment would be on his own constituents and that the Amendment in the end will benefit no one but the poultry industry. Smithfield Foods wants to make it quite clear to Senator Johnson that he can take full credit for putting 3,200 jobs at peril by causing South Dakota's third-largest employer to reconsider it's prior decision to pursue a major renovation, update, and expansion of the Sioux Falls plant, or to build a new, more modern plant in South Dakota to take advantage of the strong local work force and rural ethic that is so important to our business.

Smithfield Foods will dedicate its resources and make its future investments in states and countries where we are welcomed by the elected and appointed state, federal or other governmental officials. We consider Senator Johnson's actions in pursuing his Amendment to be hostile to the survival of the pork industry, Smithfield Foods, the Morrell plant, and to our employees in Sioux Falls because he was made fully aware of the consequences of his amendment before he introduced it.

It is unfortunate that Senator Johnson would sponsor such an ill-conceived piece of legislation even after the Senate Agriculture Committee had voted it down in December by a vote of 12–9. He doesn't seem to understand that his state's anti-corporate farming laws have already delivered a near fatal blow to South Dakota's hog growing industry and that his current action is simply another nail in the coffin. One of the more puzzling things about Senator Johnson's Amendment is that he apparently seeks to destroy the red meat industry while leaving the poultry industry untouched. For years the poultry industry has taken major market share away from the red meat industry because of its ability to own and control by contract the quality of its livestock supply.

Background: Smithfield Foods' involvement with John Morrell and the Sioux Falls Plant.

After all the other major industry players had for years rejected the opportunity to buy John Morrell and to keep the plants open, Smithfield Foods agreed to purchase the company in 1995. The Sioux Falls plant was losing money at the time Smithfield purchased it and would have closed had we not purchased it. Today, the plant is profitable. It contributes in excess of $1 billion a year to the South Dakota economy. How did this transformation happen? The answer is quite simple: Smithfield has invested over $65 million in the Sioux Falls plant since 1995. Studies have shown that every new job at John Morrell creates several additional new jobs in South Dakota.

While the plant today is stable and profitable, we are faced with the reality that we need to make improvements to the nearly 100-year-old facility or to build a new plant in Sioux Falls or elsewhere. Prior to Senator Johnson's ill-conceived Amendment, our planning was focused on maintaining the plant location in South Dakota. But we will not invest our resources in states where we cannot have a responsible relationship with elected and appointed officials.

Conclusion: We are not certain whose interests Senator Johnson thinks he represents with his Amendment to the Farm Bill. He certainly does not represent the interests of the 3,200 workers at our John Morrell plant. He has taken no steps to acquaint himself with the true facts, nor has he commissioned any studies to determine the true impact and cost of his Amendment, and he has totally ignored the considered decision and vote (12 to 9) of the Senate Agriculture Committee not to approve his Amendment.

We want Senator Johnson to understand the true impact of his ill-conceived Amendment and it is as follows:

If the Johnson Amendment becomes law, Smithfield Foods will neither rebuild the Sioux Falls plant, or build a new plant in South Dakota, nor will we make any further investment in South Dakota, or for that

matter in any other state whose public officials are hostile to our ongoing operations and our industry.

Very Truly Yours,

JOSEPH W. LUTER III,

Chairman and Chief Executive Officer,

Smithfield Foods, Inc.

Mr. ENZI. This ad was run on February 3, 2002, in the Sioux Falls, SD, newspaper, the Argus Leader, in response to an amendment banning packer ownership of livestock that we did on the farm bill recently. It was paid for by Smithfield Foods, Inc., a large hog producing and pork processing company. The advertisement claims that the company wants Senator JOHNSON to understand the true impact of his ill-conceived amendment. I also supported his amendment and was a cosponsor, and I voted for it along with 50 of my colleagues. The advertisement, as you can see, from the Argus Leader, states:

If the Johnson amendment becomes law, Smithfield Foods will neither rebuild the Sioux Falls plant, or build a new plant in South Dakota, nor will we make any further investment in South Dakota, or for that matter in any other state whose public officials are hostile to our ongoing operations and our industry.

If the packers are dealing fairly, why would they resort to scare tactics such as this? Does this mean my State will be blacklisted, too? Let me tell you what has happened in Wyoming. When we were doing this amendment, people who had contracts were being called, saying, you are going to lose 3 cents per pound on your beef if this goes through. They are buying all the beef. They are paying the prices, and they are setting them.

Packer ownership of livestock is only a small portion of the packer captive supply problem. My bill would put an end to the rest of the packers' manipulative power. What they are referring to there takes care of 5 percent of the problem. It is the best we have been able to do against the packers. What I am proposing will only take care of another 35 percent of the problem. There is a long way to go. Eventually the consumer should get the best prices and the people taking the most risk ought to get a fair price.

It is important to remember why we are doing this. All producers should have a fair chance to compete against each other in an honest opportunity to get the highest price for their product. Cattle grown on family ranches in Wyoming help to feed the entire United States. I value the small and medium-sized producers' ability to provide quality products for consumers. Big business may be more efficient, but it lacks the loyalty to a locale that our small producers have. We can see this in the advertisement I have just added to the RECORD.

The packers are threatening to leave an area that has been economically dependent upon them for over 90 years. That isn't loyalty to a community. That is the behavior of a bully. In Wyoming, we must encourage our small producers to remain in business and compete. The loyalty to small communities that our small and medium-sized businesses have ensures they will continue to enrich our main streets.

Some of my colleagues may be wondering why this bill is needed after we passed the amendment banning packer ownership of livestock. The ban on packer ownership of livestock would address one small portion of the captive supply problem—about 5 years—but it would not address the large number of contracts based on the formula prices that I explained using the housing market example. Formula contracts provide the packers with monopolistic power over the livestock market.

I ask my colleagues to rid the livestock industry of pricing schemes which take advantage of hard-working ranchers and farmers. I mentioned that this amendment only affects 5 percent of the market. It is a very important 5 percent of the market. It is a very important start. I am hoping the people on the conference committee will make sure this provision remains in the bill and makes a start toward fairness in the livestock industry—fairness for the small producer versus the packing concentration.

We need to end the secret deals and the unfair contracts. I ask my colleagues to give your constituents the opportunity to compete on a level playing field.

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

S. 2022. A bill to amend the Internal Revenue Code of 1986 to modify the unrelated business income limitation on investment in certain debt-financed properties; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce the Small Business Investment Company Capital Access Act of 2002, whose purpose is to increase the amount of venture capital available to small businesses. I am pleased that my good friend from Iowa, Senator GRASSLEY, the ranking member on the Senate Finance Committee, has agreed to be the principal cosponsor of this important bill.

During the past 18 months, there has been a significant contraction of the private-equity market. During this same period, the Small Business Administration's Small Business Investment Company program has taken on a significant role in providing venture capital to small businesses seeking investments in the range of $500,000 to $3 million.

Small Business Investment Companies, SBICs are government-licensed, government-regulated, privately managed venture capital firms created to invest only in original issue debt or equity securities of U.S. small businesses that meet size standards set by law. In the current economic environment, the SBIC program represents an increasingly important source of capital for small enterprises.

While Debenture SBICs qualify for SBA-guaranteed borrowed capital, the government guarantee forces a number of potential investors, namely pension funds and university endowment funds, to avoid investing in SBICs because they would be subject to tax liability for unrelated business taxable income, UBTI. More often than not, tax-exempt investors generally opt to invest in venture capital funds that do not create UBTI. As a result, 60 percent of the private-capital potentially available to these SBICs is effectively ''off limits.''

The Small Business Investment Company Capital Access Act of 2002 would correct this problem by excluding government-guaranteed capital borrowed by Debenture SBICs from debt for purposes of the UBTI rules. This change would permit tax-exempt organizations to invest in SBICs without the burdens of UBTI record keeping or tax liability.

In 1958, Congress created the SBIC program to assist small business owners in obtaining investment capital. Forty years later, small businesses continue to experience difficulty in obtaining investment capital from banks and traditional investment sources. Although investment capital is readily available to large businesses from traditional Wall Street investment firms, small businesses seeking investments in the range of $500,000–$3 million have to look elsewhere. SBICs are frequently the only sources of investment capital for growing small businesses.

Often we are reminded that the SBIC program has helped some of our Nations best known companies. It has provided a financial boost at critical points in the early growth period for many companies that are familiar to all of us. For example, when Federal Express needed help from reluctant credit markets, it received a needed infusion of capital from two SBA-licensed SBICs at a critical juncture in its development stage. The SBIC program also helped other well-known companies, when they were not so well-known, such as Intel, Outback Steakhouse, America Online, and Callaway Golf.

What is not well known is the extraordinary help the SBIC program provides to Main Street America small businesses. These are companies we know from home towns all over the United States. Main Street companies provide both stability and growth in our local business communities. A good example of a Main Street company is Steelweld Equipment Company, founded in 1932, which designs and manufacturers utility truck bodies in St. Clair, Missouri. The truck bodies are mounted on chassis made by Chrysler, Ford, and General Motors. Steelweld provides truck bodies for Southwestern Bell Telephone Co., Texas Utilities, Paragon Cable, GTE, and GE Capital Fleet.

Steelweld is a privately held, woman-owned corporation. The owner, Elaine Hunter, went to work for Steelweld in 1966 as a billing clerk right out of high school. She rose through the ranks of

the company and was selected to serve on the board of directors. In December 1995, following the death of Steelweld's founder and owner, Ms. Hunter received financing from a Missouri-based SBIC, Capital for Business, CFB, Venture Fund II, to help her complete the acquisition of Steelweld. CFB provided $500,000 in subordinated debt. Senior bank debt and seller debt were also used in the acquisition.

Since Ms. Hunter acquired Steelweld, its manufacturing process was redesigned to make the company run more efficiently. By 1997, Steelweld's profitability had doubled, with annual sales of $10 million and 115 employees. SBIC program success stories like Ms. Hunter's experience at Steelweld occur regularly throughout the United States.

In 1991, the SBIC program was experiencing major losses, and the future of the program was in doubt. Consequently, in 1992 and 1996, the Committee on Small Business worked closely with the Small Business Administration to correct deficiencies in the law in order to ensure the future of the program.

Today, the SBIC Program is expanding rapidly in an effort to meet the growing demands of small business owners for debt and equity investment capital. And it is important to focus on the significant role that is played by the SBIC program in support of growing small businesses. When Fortune Small Business compiled its list of 100 fastest growing small companies in 2000, 6 of the top 12 businesses on the list received SBIC financing during their critical growth year.

The Small Business Investment Company Capital Access Act of 2002 is important for one simple reason: once enacted it paves the way for more investment capital to be available for more small businesses that are seeking to grow and hire new employees. According to the National Association of Small Business Investment Companies, NASBIC, a conservative estimate of the effect of this amendment would be to increase investments in Debenture SBICs by $200 million from tax-exempt investors in the first year and $400 million in the second year. Government-guaranteed SBIC leverage commitments equal to $400 million in year one and $800 million in year two would be added to the private capital. Thus, total year one capital available for investment would equal $600 million and total year two capital would equal $1.2 billion.

Data developed by Venture Economics for the period 1970–1999 indicates that one job is created for every $22,600 investment in a small company. At that rate, this bill could be responsible for the creation or support of as many as 62,000 jobs within the next two years, whether within companies receiving investments directly or within those firms benefiting indirectly through increased sales of goods and services to the former companies.

And the cost? Industry experts estimate that if the change were effective now, there would be less than a $1 million in lost tax revenues. About $1.5 billion in private capital is invested in Debenture SBICs. A NASBIC poll of Debenture SBICs indicates $30.3 million of that amount is from tax-exempt investors. For the previous 10 years, Debenture SBIC returns have averaged 7.78 percent. Applied to the $30.3 million, that would result in lost taxable income of $2.36 million per year. If all of that were taxed at the top 39 percent rate, the tax revenue loss would be $922,000 per year.

The cost is low and the potential for economic gain is great. Passage of the bill will make the Government's existing SBIC program more effective in providing growth capital for America's small business entrepreneurs.

And most importantly, it will provide sorely needed capital for the sector of our economy that provides about 75 percent of the net new jobs, small businesses. That is a real stimulus that would cause new investments to be made and the creation of critically needed new jobs. Our economy is primed for this kind of support, and I urge my colleagues to support this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2022

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 ''Small Business Investment Company Capital Access Act of 2002''.

SEC. 2. MODIFICATION OF UNRELATED BUSINESS INCOME LIMITATION ON INVESTMENT IN CERTAIN DEBT-FINANCED PROPERTIES.

(a) IN GENERAL.—Section 514(c)(6) of the Internal Revenue Code of 1986 (relating to acquisition indebtedness) is amended—

(1) by striking ''include an obligation'' and inserting ''include—

''(A) an obligation'',

(2) by striking the period at the end and inserting '', or'', and

(3) by adding at the end the following:

''(B) indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

''(i) issued by such company under section 303(a) of such Act, or

''(ii) held or guaranteed by the Small Business Administration.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to acquisitions made on or after the date of the enactment of this Act.

By Ms. COLLINS (for herself, Mr. BOND, Mr. HUTCHINSON, and Mr. SMITH of Oregon):

S. 2023. A bill to amend the Internal Revenue Code of 1986 to provide for an increase in expensing under Section 179; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce legislation to benefit our Nation's small businesses—the backbone of our economy. I am very pleased to be joined by several of my colleagues, including Senator BOND, Senator TIM HUTCHINSON, and Senator GORDON SMITH. All of these Senators have been steadfast proponents and supporters of small businesses throughout their Senate career. Today, we are introducing legislation to allow small businesses to expense more of their investments in equipment and property. In short, we are introducing legislation to help small businesses grow.

The importance of small businesses to our economy cannot be overstated. According to the Small Business Administration, small firms account for three-quarters of our Nation's employment growth and almost all of the net new jobs. That is certainly true in my home State of Maine. These are good jobs, jobs that make our communities strong.

Mr. President, last Friday the Senate overwhelmingly passed a critical piece of legislation designed to boost our economy. The legislation extends benefits for an additional 13 weeks to an estimated 3 million unemployed workers who have exhausted, or will soon exhaust, their regular unemployment benefits before being able to find new work. This program will help put food on the table for an estimated 23,000 unemployed workers in Maine by providing money for extended benefits.

The economic recovery legislation also includes ''bonus depreciation'' provisions that will encourage mostly larger firms to invest in new property and equipment. Again, that is another provision I support. It includes a number of other important proposals, including one that is near and dear to me providing tax relief to teachers who reach deep into their own pockets to buy supplies and materials for their students. Yet my biggest regret about the economic recovery package we passed last week is that it does very little for smaller businesses. I think that is disappointing and I think that is wrong because it is small businesses that tend to lead our economy out of recession.

Often, I think we take smaller businesses for granted. When times are good, we expect small businesses to create vast numbers of good, new jobs for American workers, and when times are tough, we count on small businesses to resuscitate our sluggish economy. Time and time again, entrepreneurs lead the Nation down avenues of new economic opportunity, and our expectations rise with each remarkable success story. But if we expect so much from small businesses, if we count on them to this degree, we owe it to them to create a climate that nurtures and rewards entrepreneurship.

That is why we have come together to introduce this straightforward legislation. Under section 179 of the Tax Code, a taxpayer with a relatively small amount of annual investment may elect to deduct up to $24,000 of the cost of qualifying property and equipment placed in service in any given

year. The deduction is phased out for taxpayers who invest over $200,000 per year.

Our bill would permit small businesses to expense their new equipment purchases up to $40,000 per year. In other words, we would be increasing the section 179 expensing limit from $24,000 to $40,000. That is a fairly significant increase, but it should be; the last time Congress increased the small business expensing limit was back in 1996. An adjustment is well overdue.

Section 179 is critically important to small businesses. Direct expensing allows a small employer to avoid the complexities of the depreciation rules as well as unrealistic recovery periods for many assets. For example, under current law, a computer must be depreciated over 5 years. Now, all of us know that the useful life of most computers is only 2 or 3 years, at best.

Expensing also addresses a top concern of small businesses that has been exacerbated by the recent recession. The concern is access to capital.

I served for a time as the New England Administrator of the Small Business Administration, and I know there are so many small companies where the owner of the company has a wonderful concept, a workable business plan, yet lacks access to capital to get the business underway or to grow it to the next level. The concern is access to capital, which the Small Business Administration has called the ''greatest economic policy challenge'' for rapidly growing businesses.

One indication of the need for additional financing is the amount of venture capital invested into the United States. In the year 2000, a record $103 billion was invested. But in 2001, that total fell by 65 percent, to $36.5 billion. When we see this decrease in access to venture capital, inevitably, it seems, women-owned companies and minority-owned firms are disproportionately affected and are shut out of the capital market.

By raising the section 179 limit, our bill, in effect, will reduce the cost of capital for small businesses nationwide and it will free up additional capital for small businesses to purchase more plant and equipment.

I have spoken to small business owners in my home State of Maine, and they have told me time and again that an increase in the small business expensing limit would make a real difference to them. It would allow them to expand their businesses, thus create more good, new jobs.

Terry Skillins of Skillins Greenhouses is a fourth-generation Maine family business founded in 1885. It is a good example of what I am talking about. Skillins Greenhouses employs between 70 and 120 employees, depending on the season, in its landscaping, greenhouse, and floral businesses. Terry told me the company is looking to expand but that to do so takes money. From tractors, to conveyor belts, to specialized machinery, the equipment needed to expand is expensive. Terry said raising the small business expensing limit to $40,000 would help tip the scales in favor of his proceeding with an expansion, particularly if the increase were made permanent. Terry said his business plan extends over a number of years and, hence, knowing the expensing limit would be increased permanently, he could and would use a significant multiyear savings to expand his business.

We offered a small business expensing amendment to the economic recovery bill back in January. The amendment was offered by my colleague from Missouri, Senator BOND, and myself. It included exactly the same increases as I am proposing in the bill we are introducing today. I point out that our amendment passed the Senate by an overwhelming vote of 90 to 2. So, clearly, there is an understanding among our colleagues that this tax change is long overdue and that it would make a real difference to the small businesses in our country.

Today, I am inviting all of our colleagues to join us in cosponsoring this bill, which is strongly supported and has been endorsed by the National Federation of Independent Business, our Nation's largest small business organization. In that regard, I ask unanimous consent that a letter from Dan Danner, senior vice president of the NFIB, be printed in RECORD.

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

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, March 14, 2002.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I commend you for introducing The Section 179 Small Business Expensing Bill. The Collins-Bond-Hutchinson-Smith bill will increase the amount of equipment purchases, allow small businesses to expense each year from the current $24,000 to $40,000 and most importantly, make this language permanent.

Many small businesses are currently struggling to cope with the recession and the events of September 11th. Increasing the expensing limit would provide small and growing firms with the funds to make critical investments and keep their firms running and growing, creating new jobs.

This legislation will also help small business by eliminating burdensome record keeping involved in depreciating equipment. And it adjusts the investment limit on expensing from 200,000 to $325,000.

Small business is the major job generator for the economy. Let's give them the tools to grow, hire more employees, and lead this country out of recession.

Sincerely,

DAN DANNER,
Senior Vice President, Public Policy.

Ms. COLLINS. Mr. President, this is a change that makes sense. I hope we will adopt it this year. It is long overdue to change our tax policy to reflect the modern-day realities of running a small business.

Mr. BOND. Mr. President, the bill offered by Senator COLLINS today is intended to simplify the tax rules for small businesses as they purchase new equipment to sustain and expand their businesses. I am pleased to be the lead co-sponsor on this important small business legislation.

The bill parallels the amendment that Senator COLLINS and I offered to the economic-stimulus legislation considered on the floor in January and makes the increase in the expensing limits permanent. The Bond-Collins amendment was approved by the Senate by a vote of 90–2.

While some may think that small business is not that important, let's be clear about the role they play in our economy. Small business: represents 99 percent of all employers; employs 51 percent of the private-sector workforce; provides about 75 percent of the net new jobs; contributes 51 percent of the private-sector output; and represents 96 percent of all exporters of goods.

In short, size is the only ''small'' aspect of small business.

Our bill would permit small businesses to expense their new equipment purchases up to $40,000. The current annual limit is $24,000.

The bill also increases the limitation on the total amount of property that a small business can place in service during a year before triggering a phase-out of the annual expensing amount. Under the amendment, a business would be able to claim the full $40,000 in expensing if it purchased no more than $325,000 of property during the year. Under current law, the phase-out limitation is only $200,000. To the extent that a business exceeds the phase-out limit, the annual expensing amount declines.

Direct expensing allows small businesses to avoid the complexities of the depreciation rules as well as the unrealistic recovery periods for most assets. For example, under current law a computer must be depreciated over 5 years even though the useful life is most likely 2–3 years at best.

These provisions have several important advantages, especially in light of the current economic conditions.

By allowing more equipment purchases to be deducted currently, we can provide much needed capital for small businesses.

With that freed-up capital, a business can invest in equipment, which will benefit the small enterprise and, in turn, stimulate other industries.

In addition, that's more money available to keep employees working and hopefully hire new employees.

Moreover, new equipment will contribute to continued productivity growth in the business community, which Federal Reserve Chairman Alan Greenspan has repeatedly stressed is essential to the long-term vitality of our economy.

Finally, these modifications will simplify the tax law for countless small businesses. Greater expensing means less equipment subject to the onerous depreciation rules.

In short, the equipment-expensing change I propose are a win-win for small businesses consumers, equipment manufacturers, and our national economy as a whole.

Mr. SMITH of Oregon. Mr. President, I rise today to respond to the urgent needs of small businesses in my home State of Oregon. Oregon small businesses are in need of help as the state's economy deals with poor growth and high unemployment.

In an effort to boost both small business and the Oregon economy I am proud to introduce legislation with Senator COLLINS that will provide tax relief for small firms, the section 179 small business expensing bill.

Economic recovery must include job creation. In Oregon most new jobs are created by the State's 270,000 small businesses. Small businesses have a broad impact on Oregon's economy and are essential to its well-being.

Oregon ranks third in the Nation in small businesses per capita. Oregonians are independent and creative and much of this creativity goes into the wide diversity of small businesses that exist in my State. Therefore it is imperative that we bolster and strengthen the small business community in Oregon.

One critical way in which we can help small firms is by raising the threshold for expensing equipment purchases.

Currently, companies may expense equipment purchases up to $24,000 of the cost of equipment and depreciate the remainder.

This legislation will increase the amount small businesses can expense per purchase to $40,000 and increase the total investment from the current $200,000 to $325,000 annually.

This limit of $325,000 on total purchases of equipment in a single year applies to the smallest of companies.

Only the smallest of firms that are struggling to stay afloat and seek to grow by buying equipment would be able to take advantage of this expensing.

This would provide a greatly needed boost to small businesses in Oregon, allowing them to move forward on job hiring and capital investment plans that they have had to put aside during the downturn of recent days.

This legislation is strongly supported by the National Federation of Independent Businesses and I would like to enter into the RECORD a letter from Dan Danner expressing the importance of this increase to small businesses.

I believe these changes will ease the record-keeping burden of depreciating such equipment and fill free up capital that can be used to create and sustain new jobs, expand current small businesses, and encourage the creation of new businesses as well.

All of these economic actions will boost the Oregon economy at a time it is still sorely needed. Businesses will use the extra money to purchase new equipment, which will help an economic expansion.

Creating new jobs for Oregonians who were laid off last year lessens the burden on the State economy and puts unemployed Oregonians back to work.

In conclusion, I would like you to know that this critical legislation that would boost small businesses in Oregon was initially part of the economic stimulus legislation that the Senate passed overwhelmingly in January. I call on all of my colleagues to support this legislation and swiftly give small businesses across the Nation and in my State this important boost.

I ask unanimous consent that the letter to which I referred previously be printed in the RECORD.

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

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, March 15, 2002.

Hon. GORDON SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I commend you for introducing The Section 179 Small Business Expensing bill. Your bill will increase the amount of equipment purchases, allow small businesses to expense each year from the current $24,000 to $40,000 and most importantly, make this language permanent.

Many small businesses are currently struggling to cope with the recession and the events of September 11th. Increasing the expensing limit would provide small and growing firms with the funds to make critical investments and keep their firms running and growing, creating new jobs.

This legislation will also help small business by eliminating burdensome record keeping involved in depreciating equipment. And it adjusts the investment limit on expensing from $200,000 to $325,000.

Small business is the major job generator for the economy. Let's give them the tools to grow, hire more employees, and lead this country out of recession.

Sincerely,

DAN DANNER,
Senior Vice President, Public Policy.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''Child Care: Helping Parents Work and Improving the Well-being of Children'' during the session of the Senate on Friday, March 15, 2002, at 9:30 a.m.

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

ORDERS FOR MONDAY, MARCH 18, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 3 p.m. on Monday, March 18; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin consideration of H.R. 2356, the Campaign Finance Reform Act; further, that at 5:30 p.m., the Senate proceed to executive session to consider Calendar No. 705, with 30 minutes for debate, equally divided between the chairman and ranking member of the Judiciary Committee, prior to a vote on the nomination, with no intervening action or debate; further, that it be in order to request the yeas and nays on the nomination at this time.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I ask unanimous consent that following the disposition of the nomination, the motion to reconsider be laid upon the table, any statements relating to the nomination be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

EXECUTIVE SESSION

NOMINATIONS DISCHARGED AND EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the HELP Committee be discharged from further consideration of the nominations of Amy Apfel Kass, Andrew Ladis, Wright Lassiter, Jr., to be members of the National Council on the Humanities, and Maribeth McGinley to be a member of the National Council on the Arts. I further ask unanimous consent that the Senate proceed to the consideration of Calendar No. 727, the nomination of Sally Stroup to be an Assistant Secretary for Postsecondary Education; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations considered and confirmed are as follows:

NATIONAL COUNCIL ON THE HUMANITIES

Amy Apfel Kass, of Illinois, to be a Member of the National Council on the Humanities for a term expiring January 26, 2004.

Andrew Ladis, of Georgia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

Wright Lassiter, Jr., of Texas, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

NATIONAL COUNCIL ON THE ARTS

Maribeth McGinley, of California, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

DEPARTMENT OF EDUCATION

Sally Stroup, of Virginia, to be Assistant Secretary for Postsecondary Education, Department of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL INHALANTS AND POISON PREVENTION WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 325, S. Res. 206.

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

The legislative clerk read as follows:

A resolution (S. Res. 206) designating the week of March 17 through March 23, 2002 as ''National Inhalants and Poison Prevention Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motions to reconsider be laid upon the table; and that any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 206) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 206

Whereas according to the National Institute on Drug Abuse, inhalant use ranks third in popularity behind use of alcohol and tobacco for all youths through the eighth grade;

Whereas the over 1,000 products that are being inhaled to get high are legal, inexpensive, and found in nearly every home and corner market;

Whereas using inhalants even once to get high can lead to kidney failure, brain damage, or even death;

Whereas inhalants are considered a gateway drug, one that leads to the use of harder, more deadly drugs; and

Whereas because inhalant use is difficult to detect, the products used are accessible and affordable, and abuse is so common, increased education of young people and their parents regarding the dangers of inhalants is an important step in our Nation's battle against drug abuse: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 17 through March 23, 2002, as ''National Inhalants and Poison Prevention Week'';

(2) encourages parents to learn about the dangers of inhalant abuse and discuss those dangers with their children; and

(3) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate activities.

NATIONAL CIVILIAN CONSERVATION CORPS DAY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 326, S. Res. 207.

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

The legislative clerk read as follows:

A resolution (S. Res. 207) designating March 31, 2002, and March 31, 2003, as ''National Civilian Conservation Corps Day.''

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on the Judiciary with an amendment in the nature of a substitute, with an amendment to the preamble, and an amendment to the title, as follows:

Whereas the Civilian Conservation Corps, commonly known as the CCC, was an independent Federal agency that deserves recognition for its lasting contribution to natural resources conservation and infrastructure improvements on public lands in the United States and for its outstanding success in providing employment and training to thousands of Americans;

Whereas March 31, 2002, is the 69th anniversary of the signing by President Franklin D. Roosevelt of the Emergency Conservation Work Act, a precursor to the Civilian Conservation Corps Act that established the CCC;

Whereas, between 1933 and 1942, the CCC provided employment and vocational training for more than 3,000,000 men, including unemployed youths, more than 250,000 veterans of the Spanish American War and World War I, and more than 80,000 Native Americans in conservation and natural resources development work, defense work on military reservations, and forest protection;

Whereas the CCC coordinated a mobilization of men, material, and transportation on a scale never previously known in time of peace;

Whereas the CCC managed more than 4,500 camps in every State and the then-territories of Hawaii, Alaska, Puerto Rico, and the Virgin Islands;

Whereas the CCC left a legacy of natural resources and infrastructure improvements that included planting more than 3,000,000,000 trees, building 46,854 bridges, restoring 3,980 historical structures, developing more than 800 state parks, improving 3,462 beaches, creating 405,037 signs, markers, and monuments, and building 63,256 structures and 8,045 wells and pump houses;

Whereas the benefits of many CCC projects are still enjoyed by Americans today in national and state parks, forests, and other lands, including the National Arboretum in Washington, DC, Bandelier National Monument in New Mexico, Great Smoky Mountains National Park in North Carolina and Tennessee, Yosemite National Park in California, Acadia National Park in Maine, Rocky Mountain National Park in Colorado, and Vicksburg National Military Park in Mississippi;

Whereas the CCC provided a foundation of self-confidence, responsibility, discipline, cooperation, communication, and leadership for its participants through education, training, and hard work, and participants made many lasting friendships in the CCC;

Whereas the CCC demonstrated the commitment of the United States to the conservation of land, water, and natural resources on a national level and to leadership in the world on public conservation efforts; and

Whereas the conservation of the Nation's land, water, and natural resources is still an important goal of the American people: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 31, 2002, as ''National Civilian Conservation Corps Day''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Amend the title so as to read: ''Designating March 31, 2002, as 'National Civilian Conservation Corps Day'.''

Mr. REID. Mr. President, I ask unanimous consent that the substitute amendment be agreed to, the resolution be agreed to, as amended, the amendment to the preamble be agreed to, the preamble, as amended, be agreed to, the amendment to the title be agreed to, the motions to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The amendment in the nature of a substitute was agreed to.

The resolution (S. Res. 207), as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The amendment to the title was agreed to.

COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY LAW ENFORCEMENT OFFICERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 327, S. Res. 221.

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

The legislative clerk read as follows:

A resolution (S. Res. 221) to commemorate and acknowledge the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, I am proud to be an original cosponsor of this resolution to honor our Federal, State, and local law enforcement officers who gave the ultimate sacrifice for our public safety. I commend Senator CAMPBELL for his leadership in submitting Senate Resolution 221, which recognizes May 15, 2002, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty.

I want to recognize the other cosponsors of this resolution: Senators HATCH, BIDEN, DEWINE, CANTWELL, ALLARD, ALLEN, BINGAMAN, BUNNING, COCHRAN, GREGG, HUTCHINSON, ROCKEFELLER, and THOMAS.

Since my time as a State prosecutor, I have always taken a keen interest in law enforcement in Vermont and around the country. Vermont has the reputation of being one of the safest States in which to live, work and visit,

and rightly so. In no small part, this is due to the hard work of those who have sworn to serve and protect us, and we should do what we can to honor them and their families.

Our Nation's law enforcement officers numbering more than 700,000 men and women—put their lives at risk in the line of duty everyday. No one knows when danger will appear and what form it will take. Unfortunately, in today's violent world, even pulling over a driver for speeding may not necessarily be ''routine.'' The events of the past year and the ensuing relentless vigilance on the part of our peace officers in guarding against further such attacks have proven this.

Guardians of the peace face more risks than ever in these times. All law enforcement officers across the Nation deserve our heartfelt respect and appreciation on Peace Officers Memorial Day.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 221) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 221

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 70 peace officers died at the World Trade Center in New York City on September 11, 2001, the most peace officers ever killed in a single incident in the history of the Nation;

Whereas more than 220 peace officers across the Nation were killed in the line of duty during 2001, 57 percent more police fatalities than the previous year, and the deadliest year for the law enforcement community since 1974;

Whereas every year, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 4,400 peace officers is killed in the line of duty; and

Whereas on May 15, 2002, more than 15,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2002, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

ORDER FOR RECORD TO REMAIN OPEN

Mr. REID. Mr. President, I ask unanimous consent that the RECORD remain open today, Friday, March 15, until 2 p.m., for the introduction of legislation and the submission of statements.

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

PROGRAM

Mr. REID. Mr. President, the next rollcall vote will occur on Monday, March 18, at 6 p.m.

ADJOURNMENT UNTIL 3 P.M. MONDAY, MARCH 18, 2002

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:17 p.m., adjourned until Monday, March 18, 2002, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 15, 2002:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MARIBETH MCGINLEY, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006.

AMY APFEL KASS, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2004.

ANDREW LADIS, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006.

WRIGHT L. LASSITER, JR., OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2006.

THE JUDICIARY

DAVID C. BURY, OF ARIZONA, TO BE UNTIED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

DEPARTMENT OF EDUCATION

SALLY STROUP, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.