

(2) JUDICIAL PROCEEDINGS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A), by striking “, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust”;

(B) in paragraph (1)(B), by striking “The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought.”; and

(C) in paragraph (3), by striking “, unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust”.

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Not later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—Not later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

Mr. HUTCHINSON. Mr. President, I rise today, with my colleague Senator FEINGOLD, to introduce the Equal Access to Justice, EAJA, Reform Amendments of 2000. I do so because I firmly believe that small business owners and individuals who prevail in court against the federal government should be automatically reimbursed for their legal expenses—fulfilling the true intent of EAJA when passed in 1980.

EAJA's initial premise was to reduce the vast disparity in resources and expertise which exists between small business owners or individuals and federal agencies and to encourage the government to ensure that the claims it pursues are worthy of its efforts. Twenty years ago, former Senator Gaylord Nelson, the author of the original, bipartisan EAJA bill, clearly explained EAJA's intent when he stated, “All I can say is the taxpayer is injured, and

if the taxpayer was correct, and that is the finding, then we ought to make the taxpayer whole.” I commend former Senator Nelson. His steadfast commitment to our nation's businesses as Chairman of the Senate Small Business Committee is worthy of admiration. As a result of a political compromise, however, the final version of EAJA does not provide for an automatic award of attorneys' fees. Rather, it provides for an award of attorneys' fees only when an agency or a court determines that the government's position was not “substantially justified” or that “special circumstances” exist which would make an award unjust.

Agencies and courts have strayed far from the original intent of EAJA by repeatedly using these provisions to avoid awarding attorneys' fees to small businesses and individuals who have successfully defended themselves. The bill that Senator FEINGOLD and I are introducing today, the Equal Access to Justice Reform Amendments of 2000, would amend EAJA to provide that a small business owner or individual prevailing against the government will be automatically entitled to recover their attorneys' fees and expenses incurred in their defense.

Unfortunately, EAJA is not making the taxpayers of this nation whole after they defend themselves against government action. Thus, I ask that my colleagues join Senator FEINGOLD and myself in our effort to make these American taxpayers whole by cosponsoring and supporting the Equal Access to Justice Reform Amendments of 2000.

#### ADDITIONAL COSPONSORS

S. 808

At the request of Mr. JEFFORDS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for land sales for conservation purposes.

S. 1140

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1140, a bill to require the Secretary of Labor to issue regulations to eliminate or minimize the significant risk of needlestick injury to health care workers.

S. 1880

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1880, a bill to amend the Public Health Service Act to improve the health of minority individuals.

S. 1898

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1898, a bill to provide protection against the risks to the public

that are inherent in the interstate transportation of violent prisoners.

S. 2084

At the request of Mr. LUGAR, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the charitable deduction allowable for contributions of food inventory, and for other purposes.

S. 2408

At the request of Mr. BINGAMAN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Nebraska (Mr. KERREY), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2408, a bill to authorize the President to award a gold medal on behalf of the Congress to the Navajo Code Talkers in recognition of their contributions to the Nation.

S. 2615

At the request of Mr. KENNEDY, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2615, a bill to establish a program to promote child literacy by making books available through early learning and other child care programs, and for other purposes.

S. 2676

At the request of Mr. HUTCHINSON, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2676, a bill to amend the National Labor Relations Act to provide for inflation adjustments to the mandatory jurisdiction thresholds of the National Labor Relations Board.

S. 2718

At the request of Mr. SMITH of New Hampshire, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2718, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 2723

At the request of Mr. INHOFE, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2723, a bill to amend the Clean Air Act to permit the Governor of a State to waive oxygen content requirement for reformulated gasoline, to encourage development of voluntary standards to prevent and control releases of methyl tertiary butyl ether from underground storage tanks, to establish a program to phase out the use of methyl tertiary butyl ether, and for other purposes.

S. 2733

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2733, a bill to provide for the preservation of assisted housing for low income elderly persons, disabled persons, and other families.

S. 2787

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2787, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 2879

At the request of Ms. COLLINS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2879, a bill to amend the Public Health Service Act to establish programs and activities to address diabetes in children and youth, and for other purposes.

S. CON. RES. 60

At the request of Mr. FEINGOLD, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Con. Res. 60, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S.J. RES. 48

At the request of Mr. CAMPBELL, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Oklahoma (Mr. NICKLES), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S.J. Res. 48, a joint resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the Helsinki Final Act.

S. RES. 304

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 304, a resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as "National Veterans Awareness Week" for the presentation of such educational programs.

AMENDMENT NO. 4011

At the request of Mr. HARKIN, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of amendment No. 4011 proposed to H.R. 4461, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration and Related Agencies programs for the fiscal year ending September 30, 2001, and for other purposes.

**SENATE RESOLUTION 339—DESIGNATING NOVEMBER 18, 2000, AS "NATIONAL SURVIVORS OF SUICIDE DAY"**

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 339

Whereas the 105th Congress, in Senate Resolution 84 and House Resolution 212, recog-

nized suicide as a national problem and suicide prevention as a national priority;

Whereas the Surgeon General has publicly recognized suicide as a public health problem;

Whereas the resolutions of the 105th Congress called for a collaboration between public and private organizations and individuals concerned with suicide;

Whereas in the United States, more than 30,000 people take their own lives each year;

Whereas suicide is the 8th leading cause of death in the United States and the 3rd major cause of death among young people aged 15 through 19;

Whereas the suicide rate among young people has more than tripled in the last 4 decades, a fact that is a tragedy in itself and a source of devastation to millions of family members and loved ones;

Whereas every year in the United States, hundreds of thousands of people become suicide survivors (people that have lost a loved one to suicide), and there are approximately 8,000,000 suicide survivors in the United States today;

Whereas society still needlessly stigmatizes both the people that take their own lives and suicide survivors;

Whereas there is a need for greater outreach to suicide survivors because, all too often, they are left alone to grieve;

Whereas suicide survivors are often helped to rebuild their lives through a network of support with fellow survivors;

Whereas suicide survivors play an essential role in educating communities about the risks of suicide and the need to develop suicide prevention strategies; and

Whereas suicide survivors contribute to suicide prevention research by providing essential information about the environmental and genetic backgrounds of the deceased: Now, therefore, be it

*Resolved*, That the Senate—

(1)(A) designates November 18, 2000, as "National Survivors of Suicide Day"; and

(B) requests that the President issue a proclamation calling on Federal, State, and local administrators and the people of the United States to observe the day with appropriate programs, ceremonies, and activities;

(2) encourages the involvement of suicide survivors in healing activities and prevention programs;

(3) acknowledges that suicide survivors face distinct obstacles in their grieving;

(4) recognizes that suicide survivors can be a source of support and strength to each other;

(5) recognizes that suicide survivors have played a leading role in organizations dedicated to reducing suicide through research, education, and treatment programs; and

(6) acknowledges the efforts of suicide survivors in their prevention, education, and advocacy activities to eliminate stigma and to reduce the incidence of suicide.

Mr. REID. Mr. President, I rise today to submit a Senate resolution which would designate November 18, 2000 as "National Survivors of Suicide Day." The term "survivor" refers to anyone who has lost a loved one to suicide. As such, having lost my father to suicide in 1972, I am viewed as a survivor in the suicide prevention community. Nationally, more than 30,000 people take their own lives each year. Suicide is the eighth leading cause of death in the United States and the third major cause of death among people aged 15-19.

The suicide rate among young people has more than tripled in the last four decades. Today in our country, countless suicide survivors go on with their lives, many of them grieving in a very private way. This is because there still remains a stigma towards those who take their own life as well as those who are left behind to cope with the suicide of a loved one. I can't begin to tell you how many survivors have written me expressing the shame and guilt they feel about their loved one's suicide, many of whom are still unable to deal honestly with the tragic conditions which ultimately led to someone they love taking their own life.

I am pleased that this resolution passed the Senate by unanimous consent last year. Since then, there has been a fervor of activity and collaboration in both the federal and private sectors around suicide prevention. Most recently, the Senate Labor, Health and Human Services and Education Appropriations Subcommittee dedicated a hearing to suicide awareness and prevention. Among those who testified were Surgeon General Dr. David Satcher, National Institute of Mental Health Director Dr. Steve E. Hyman, psychologist and author Dr. Kay Redfield Jamison, and novelist Danielle Steele.

While we have taken some important first steps, we still have a long way to go in the area of suicide prevention and awareness. It is my intent to recognize the countless survivors who all are at various stages of healing in addressing the loss of their loved one to suicide. I ask you to support me in turning their grief into hope, a hope that with acceptance and understanding, can lead our nation in effectively addressing this very preventable public health challenge.

Mr. President, I ask unanimous consent that a letter of support be printed in the RECORD.

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

AMERICAN FOUNDATION

FOR SUICIDE PREVENTION,

New York, NY, July 20, 2000.

Senator HARRY REID,  
Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR REID: The American Foundation for Suicide Prevention supports the proposed Senate Resolution designating Saturday, November 18, 2000 as National Survivors of Suicide Day. We believe this resolution will build on the momentum started last year by Senate Resolution 99, which recognized for the first time the unique problems faced by survivors and their important contributions to suicide prevention.

Specifically, the proposed Survivors of Suicide Day Resolution will be instrumental in fostering the involvement of people who have lost a loved one to suicide in prevention activities. I will also encourage them to come forward, break the silence and join with other survivors as a way to promote their healing.

As you know, our Foundation is actively organizing survivor conferences across the