House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, January 25, 2002.

I hereby appoint the Honorable John ARNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord our God, You whose dwelling is in heaven and on Earth and in that undisclosed mystery beyond us, come and bless this place, the House of the United States Representatives.

At the beginning of this new session, surround us with Your Holy Spirit. Encompass with Your power all the walls and the dome of this building, truly a symbol to the world of inalienable rights and the freedom of people.

May Your divine blessing shield and protect this place from all attack, destruction, storm, sickness, and all that might bring evil to Your people or shake the soul of this Nation.

Guide and protect Your elected servants in government and all who work in this place. May all who visit here be treated with respect and kindness.

May the comings and goings of Your people be under the seal of Your loving care and all work give glory to Your holy name, now and forever. Amen.

ADJOURNMENT

The SPEAKER pro tempore, without objection, the House stands adjourned until 12:30 p.m. on Tuesday next for morning hour debates.

There was no objection.

Accordingly (at 10 o'clock and 3 minutes a.m.), under its previous order, the House adjourned until Tuesday, January 29, 2002, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker’s table and referred as follows:

- 5222. A letter from the Deputy Chief of Naval Operations, Department of Defense, transmitting notification that the Department of the Navy intends to convert to performance by the private sector the Facilities and Environmental Safety functions at Pensacola, Florida and its detachment in Pascagoula, MS, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.


- 5226. A letter from the Deputy Chief, Accounting Policy Division, Federal Communications Commission, transmitting the Commission’s final rule—Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers [CC Docket No. 98-45]; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation [CC Docket No. 98-77]; Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers [CC Docket No. 98-106]; to the Committee on Energy and Commerce.


- 5228. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department’s final rule—Mandatory Ship Reporting
PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HOBSHON:
H.R. 3635. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Ways and Means.

By Mr. WYNN:
H.R. 3636. A bill to amend title 31, United States Code, to require the provision of a written prompt payment policy to each subcontract under a Federal contract and to require a clause in each subcontract under a Federal contract that outlines the provisions of the prompt payment statute and other related information; to the Committee on Government Reform.

By Mr. WYNN:
H.R. 3637. A bill to amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, and for other purposes; to the Committee on Small Business.

By Mr. WYNN:
H.R. 3638. A bill to amend the Small Business Act to increase the minimum Government-wide goal for procurement contracts awarded to small business concerns; to the Committee on Small Business.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 1360: Mr. SABO.
H.R. 1397: Ms. NORTON, Mrs. MORELIA, and Mr. HOYER.
H.R. 3478: Mr. HAYES.
H.R. 3524: Mr. MATSUI.
H.R. 3614: Mr. PALLONE and Mr. WINTER.
H.J. Res. 40: Mr. ROTHMAN.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4 by Mr. RANDY "DUKE" CUNNINGHAM on House Resolution 271; Shelley Berkley.
Petition 3, by Mr. JIM TURNER on House Resolution 203; Thomas E. Petri, Charles F. Bass, Corrine Brown, and Richard E. Neal.
The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. BYRD).

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

Spirit of the Living God, infuse our minds with wisdom, our hearts with patriotism, our wills with yielded obedience, and our bodies with energizing strength. Set on fire our spirits with Your love so that we can love even those we find it difficult to love. Burn away any self-centeredness so we can care for the needs of others. Breathe Your life-giving breath into our souls so we can serve, unrestricted by self-serving attitudes. Thank You that You do not tailor our opportunities to our abilities, but rather give us courage to match life’s challenges.

As this workweek comes to a close, we are amazed at what You can do through us when we put You and our Nation above partisanship, and we are alarmed by how quickly we can be divided by party spirit. Grant the Senators a special measure of greatness to unite in oneness under Your sovereignty. May they glorify You in all that is said and done this day. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE
The PRESIDENT pro tempore 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.

RECOGNITION OF THE ACTING MAJORITY LEADER
The PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE
Mr. REID. Mr. President, this morning there will be 30 minutes of closing debate on the Smith of Oregon amendment regarding bonus depreciation prior to a 10:30 a.m. rollover vote in relation to the amendment.

Following this vote, the Senate will go into executive session to consider the nominations of Marcia Krieger to be a United States District Judge for the District of Colorado and James Mahan to be a United States District Judge for the District of Nevada. There will be 20 minutes for debate, followed by rollover votes on these nominations.

Following these votes, the Senate will resume consideration of the Daschle economic recovery amendment. In working with the manager of the bill for the Republicans and Senator BAUCUS, we have worked out an arrangement for amendments this afternoon. So there will be activity on the economic stimulus package this afternoon.

RESERVATION OF LEADER TIME
The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

HOPE FOR CHILDREN ACT
The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 622, which the clerk will report.

The legislative clerk read as follows: A bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

Pending: Daschle/Baucus amendment No. 2698, in the nature of a substitute.

Smith of Oregon amendment No. 2705 (to the language proposed to be stricken), to amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after September 10, 2001, and before September 11, 2004.

AMENDMENT NO. 2705
The PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided and controlled for debate on the Smith amendment No. 2705.

The Senator from Oregon is recognized on his amendment.

Mr. SMITH of Oregon. I thank the President pro tempore.

Mr. President, it is a privilege this morning to speak about a component of the stimulus package which I think does garner wide bipartisan support. There are many good ideas. And I, as a Republican, stand in this Chamber to say I look forward to voting to extend unemployment benefits and health care benefits. I think these ideas add to the demand side of the equation by giving dollars to consumers—taxpayers—who very much need to make ends meet and to meet life’s necessities.

There is a supply side to this debate that actually is central to an economic recovery, and that is the supply side of doing things which truly stimulate the economy, because if we want to get back to surpluses, the best way we can do that is by pursuing policies that will lend themselves to growth.

The bonus depreciation amendment, which I have before the Senate this morning, does that very thing. It has won verbal support from the likes of Chairman Greenspan and former Clinton Treasury Secretary Robert Rubin, who uniformly endorse a stimulus package, and specifically the immediate stimulative effect on the economy of the temporary enactment of bonus depreciation.

I commend the majority leader for much improving his proposal as to the budget, as to the bonus depreciation from its initial offering. But for reasons I will point out, I think it still falls short of what it needs to be if we are truly serious about stimulating the economy.

Senator DASCHLE’s proposal will allow 30-percent bonus depreciation from only September 11 of last year to September 11 of this current year. This
means it will only stimulate business purchases for the next 8 months, as-
suming we can get the stimulus package passed by February 1. It is 12
months, but it is simply an inadequate period when you figure that 8 months to
make business decisions is all that is allowed. The Senate is left with a pro-
posal to stimulate business that just simply lacks the weight that it needs to
do the job.

If you look at the facts on business investment, it has fallen precip-
tously since August of 2000. Consumer spend-
ing in this recession has been surpris-
ingly resilient, but business invest-
ment has fallen off the table.

Today’s recession is caused primarily by a decline in business investment.
Chairman Greenspan made that clear in his remarks to the Budget Com-
mittee yesterday. It is the central rea-
son for this recession.

So what kind of investment can we stimulate in the 8 months that remain
under the underlying proposal? It prob-
ably gives businesspeople time to buy a chair and perhaps some new waste-
baskets, a rug for the front office, but 8 months is not enough time to start
major projects that would, in fact, em-
ploy thousands of people. It does not allow time to build heavy equipment, modernize a lumber mill, restart a coal mine, rebuild a rail bed, or even to construct an airplane. It does not allow time to build new construction, perform environ-
mental reviews, complete architectural or engineering studies.

My amendment allows bonus depre-
ciation for farm equipment and im-
provements and special purpose agri-
cultural and horticultural buildings. Farmers, unfortunately, may not see
the turnaround they need in the next 8
months, I wish it were so. It may take
longer than that. But when the farm econ-
omy does pick up, we will need to update their equipment, and they ought to have the advantage of the bonus depreciation that we are offering long enough so they can have that ad-
vantage, too.

Consider the airplane. If you want to build an airplane, the average is it
takes about 18 months. So, clearly, that important industry, that very
American industry, is left out of the calculation before the Senate, if my
amendment is defeated. Eight months is simply not enough time to build an airplane.

Moreover, an 8-month bonus depre-
ciation period does not provide insur-
ance against future down ticks in our
recovery cycle. These commonly occur when an economy struggles to throw
off the shackles of a recession. We need to create a booming economy, not only
for today but for the next several years. So I emphasize that the major-
ity’s 8-month depreciation proposal lacks the weight that our econ-
omy now needs. I plead with my colleagues on both sides of the aisle, let’s recognize the realities of the busi-
ness world and provide the kind of stimulus which is meaningful, weighty,
and effective.

Mr. President, I have been requested to add the names of Senators COLLINS
and ALLARD as cosponsors. I ask un-
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and ALLARD as co
The Senator from North Dakota, Mr. CONRAD, is recognized.

Mr. CONRAD. Mr. President, in order to understand and evaluate this amendment, the first thing we have to do is understand our current economic condition. Before yesterday, the Director of the Congressional Budget Office, Mr. Crippen, informed us that the projection of $5.6 trillion of surpluses over the next 10 years that was made only 1 year ago has now been eroded dramatically, and that what is available to us over the next 10-year period is not $5.6 trillion but $1.6 trillion. That is a loss of $4 trillion of projected surpluses in only 1 year.

If we look to the causes for that dramatic change in our fiscal condition, what we see, according to the Congressional Budget Office, is that tax cuts accounted for 42 percent of the reduction in projected surplus; 23 percent is the result of economic changes from the economic slowdown; 18 percent is from interest, mostly as a result of the attack on this country of September 11 of last year; 17 percent is the result of certain technical changes. Examples of that are increased costs of Medicare and Medicaid.

I think it is critically important, as we evaluate these amendments, to understand our current fiscal condition. The implications of this dramatic drop in the projected surpluses are that we have gone from a circumstance in which we were told last year that we would be virtually debt free as a Nation in the year 2008 to now Director Crippen telling us that instead of being debt free in 2008, we will have $2.7 trillion in non-trust fund surpluses. Now what we see is a shift in the budget from a surplus to a deficit in the projected surpluses in only 1 year.

Mr. President, I believe that sets the very high bar with respect to any of these proposals. Now there is a well-intended amendment. I have high regard for the Senator offering this amendment. He is a respected member of the Budget Committee. I support bonus depreciation as part of a stimulus package, but bonus depreciation over 3 years defeats the purpose of a stimulus package. Stimulus packages, as Secretary Rubin described it to us, as Chairman Greenspan described it to us, are designed to change economic behavior now—not 3 years from now but now. And if instead of 3-year depreciation, we do 3 years’ depreciation, what we have actually done is to encourage people to wait to make the investment. That is precisely what we should not do. What we need to do is encourage people to invest now.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. Isn’t it, in fact, correct that this proposal, the 3-year bonus depreciation, is contradictory within its own terms? What you want to do with a stimulus—and I am for a 1-year bonus depreciation because I think that may serve as an incentive for additional investment in order to realize the benefit of the bonus depreciation in the first year—if you make it a 3-year bonus depreciation, the latter part of the bonus depreciation is countering the front part of the bonus depreciation exactly what we do not want. We want to do the 1 year.

We will see what the 1 year gives us, where the economy is at the end of the 1 year and whether an additional effort is needed. But to do 3 years so someone can say, I will not do it this year, I will not do it next year, I will not do it the year after, I will do it in the third year of the bonus depreciation, is exactly contrary to what we are trying to accomplish. Isn’t that, in fact, the case?

Mr. CONRAD. It is precisely the case. Again I say, I am a supporter as well of bonus depreciation. I agree with everything the Senator from Oregon said, and I think he is correct. I agree with everything the Chairman said. I think that, as a Senate, we have an obligation to do as much as we can to provide, first of all, to stimulate the economy now. The message that is right out of the payroll taxes of the taxpayers of America—taxes they were told were being levied to pay for Social Security and Medicare and are now being taken not to pay for Social Security and Medicare—oh, no—but now to pay for any tax relief provisions that is being considered in this Chamber.

Mr. President, I believe that sets the very high bar with respect to any of these proposals. Now there is a well-intended amendment. I have high regard for the Senator offering this amendment. He is a respected member of the Budget Committee. I support bonus depreciation as part of a stimulus package, but bonus depreciation over 3 years defeats the purpose of a stimulus package. Stimulus packages, as Secretary Rubin described it to us, as Chairman Greenspan described it to us, are designed to change economic behavior now—not 3 years from now but now. And if instead of 3-year depreciation, we do 3 years’ depreciation, what we have actually done is to encourage people to wait to make the investment. That is precisely what we should not do. What we need to do is encourage people to invest now.

Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. In fact, as I understand it, the Congressional Budget Office said in a report evaluating the various stimulus options:

Extending the period during which such expenditure could be used would reduce the bang for the buck because it would reduce businesses’ incentive to invest in the first year and increase the total revenue cost.

We would lose on the stimulus front, and we would add to the deficit problem, which the Senator has so ably outlined, that we confront as we look out into the future.

Mr. CONRAD. Actually, the result of passing the Smith amendment would have the perverse result of decreasing the impact of the stimulus and increasing the debt, increasing the deficits, which is the worst stew you could cook.

Mr. President, I point out that as we started this whole question of stimulus, the budgeteers on the House side and the Senate side on a bipartisan basis agreed to a set of principles to apply. One of them was a stimulus sunset. That principle says: All economic stimulus proposals should sunset within 1 year, to the extent practicable.

This amendment, as well intended as it is, violates that basic principle.

Yesterday we heard from Chairman Greenspan. The headline in the Washington Post today is: Greenspan Doubts Need for Tax Cuts.” While we may agree or disagree on that question, I frankly think additional stimulus would be a good insurance policy, but I think it should be, with respect to this provision, 1 year. I think that gives us the greatest stimulus and does the least damage to our long-term deficit situation.

Mr. SARBANES. Chairman Greenspan yesterday said he is very conflicted about a stimulus package. He said:

Since the nature of the coming recovery remains uncertain and may be relatively weak, having some additional stimulus could be helpful. I agree with him on that. He said:

On the other hand, such a package would deepen the budget deficit this year which would not be a good idea.

Mr. Greenspan went on:

There is a possibility, depending on the provisions of a stimulus plan, that it could have a modest negative effect on the long-term economic outlook.
Mr. President, it is very clear that the best advice we have gotten is that we should have stimulus, that we should have it limited to 1 year so we do not dig the hole deeper in the out-years in light of the dramatic change in our fiscal condition. I will conclude by showing what the amendment of the Senator will do. The revenue lost this year is $39 billion, but that pales in comparison to the loss from 2002 to 2006 of $82 billion. Mr. SARBANES. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield. The PRESIDENT pro tempore. The time of the Senator has now expired. Mr. SARBANES. Mr. President, I ask unanimous consent for 30 seconds. The PRESIDENT pro tempore. Is there objection? Mr. SARBANES. And 30 seconds for the other side.

Mr. GRASSLEY. I will not object if we have 30 seconds. The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. Mr. SARBANES. I thank the Chair. I thank my good friend from Iowa.

Mr. President, I want to add one dimension of this—the loss of cost in Federal revenue. There is also an impact on State revenue. One of the problems we are confronting by this economic downturn is what it has done to State budgets. Bonus depreciation over a 3-year period will cost significantly more to the State government whose revenue structures are tied to the Federal revenue structure, than the 1-year plan. It is estimated, in fact, that it will probably cost the States in the billions just in the second year of a bonus depreciation. This is a further complication that arises out of this proposal. Mr. CONRAD. Mr. President, I ask for an additional 30 seconds on both sides.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senator is recognized.

Mr. CONRAD. Mr. President, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDENT pro tempore. The point of order is immaterial while time remains.

Mr. GRASSLEY. Mr. President, I yield the remainder of our time this way: 1 minute to the Senator from Oklahoma, the remaining time to the Senator from Kansas, and the Senator from Kansas will go first.

Mr. SMITH of Oregon. Mr. President, if I may in response—

The PRESIDENT pro tempore. Time is running.

Mr. GRASSLEY. I have to yield time: 1 minute, half a minute, and the remaining time to the Senator from Kansas.

The PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. I thank the Chair. Mr. President, I rise to speak on behalf of the Smith amendment but more to speak on behalf of the Boeing workers around my State and around the country. I have great respect for the Senator from North Dakota and the Senator from Maryland for the efforts they are putting forward.

In the proposal they are putting forward, which basically has an 8-month window, we do not build any additional planes based upon that. We need the longer depreciation period because a plane is a major investment project. It takes decisionmaking time to put that forward, and we need this greater depreciation.

I have been in close touch with the Boeing workers in Wichita. We have other aircraft manufacturers that are located in Wichita, whether it is Cessna or Raytheon or Lear Jet, and they are saying we have to have this if we are actually going to stimulate people to buy airplanes.

This is a major decision they have to make, and they need the longer time period for that to occur. We are talking about thousands of jobs in this industry that were directly hit because of September 11. That is why I speak on their behalf, and I ask my colleagues to consider what impact this has had to aircraft manufacturing workers who were directly hit by the September 11 events. They need this longer depreciation schedule for major companies to make the decision to buy the planes.

In an 8-month time period—that is the basic framework of this 1-year proposal—we will only have 8 months to act on it. Those decisions cannot and will not be made in that period of time that would be involved for a company to decide to put millions of dollars out for aircraft.

They have been contacting me and are strongly supportive of the longer depreciation time period saying that is what they need for long-term investment and they consider what happens to the aircraft workers. That is what we ought to be thinking about on this particular amendment. If we want to stimulate this work, if we want to stimulate manufacturing, we need the Smith amendment for the longer timeframe.

I reserve the remainder of our time, and I yield to the Senator from Oklahoma for his 1 minute.

The PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to compliment my colleague from Oregon, Senator Smith, for his amendment because he is trying to put some stimulus in the stimulus package. Right now the Daschle package, there is no beef. There is nothing that is going to create jobs. The only thing that could even remotely be called a stimulus would be the depreciation section, and when one reads the depreciation section there is nothing there.

I have heard colleagues say Senator Daschle’s amendment has a depreciation section for 12 months. Well, 4 months of those 12 months have already expired. How many jobs are we going to create for the past 4 months? That has already happened. There are only 8 months remaining. I doubt this is going to be enacted into law today, and it is going to be strictly less than 8 months. So the stimulative portion of this might last for 7 months.

Senator Smith happens to have a business background. I used to be in the private sector. We cannot pass a bill to say to the business community, go out and make investments, and by the way you have to make the investment in the next 6 months and it has to be put into action, according to the Daschle amendment, by December. One just does not do it.

One might buy a few little things but they are not going to make a significant investment. It will not happen. Jobs are not going to be created.

The PRESIDENT pro tempore. The Senator from Oklahoma has used 1 minute.

Mr. NICKLES. Mr. President, how much time do we have remaining on our side?

The PRESIDENT pro tempore. Thirty-five seconds.

Mr. NICKLES. I will use the remainder of the time unless others want it.

I, again, thank my colleague from Oregon because he is trying to put stimulus in this so-called stimulus package. If we want to have a spending bill, let’s have a spending bill. That is really what most of the Daschle package is.

The Smith amendment says, let us have some stimulus. This has passed the House. It was part of the bipartisan bill that we had Democrats and Republicans say we can pass. It is one of the things for which the President has asked. Let us do something that would help create jobs. If we do not pass this amendment, I do not think the under-laying amendment is worth passing. That is my observation.

I urge my colleagues to support the Gordon Smith amendment.

The PRESIDENT pro tempore. The time has expired.

Mr. CONRAD. Mr. President, in my role as Budget Committee chairman, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, in my role as Budget Committee chairman, I raise a point of order that the pending amendment violates section 311(a)(2)(B) of the Congressional Budget Act of 1974 and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I move to waive the respective section of the Budget Act with regard to my amendment and ask for the yeas and nays on this motion.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.
Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mrs. CLINTON) and the Senator from North Dakota (Mr. DORGAN) would each vote "no."

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Oklahoma (Mr. INHOFE), the Senator from Alaska (Mr. MUKOSKOWSKI), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Oklahoma (Mr. INHOFE), the Senator from Alabama (Mr. SHELBRY), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Alabama (Mr. MCCAIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would vote "yea..." The yeas and nays resulted—yeas 39, nays 45, as follows:

[Roll Call Vote No. 3 Leg.]

YEAS— 39

Aliott
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Cochran
Collins
Craig
Crapo
DeWine
NOMINATIONS OF MARCIA S. KRIEGER, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO AND JAMES C. MAHAN, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

The President is pro tempore. Under the previous order, upon the disposition of the Smith amendment No. 2706, the Senate will now go into executive session and proceed with the consideration of Executive Calendar Nos. 644 and 645.

The nominations will be stated.

The assistant legislative clerk read the nomination of Marcia S. Krieger, of Colorado, to be United States District Judge for the District of Colorado, and James C. Mahan, of Nevada, to be United States District Judge for the District of Nevada.

The President is pro tempore. Under the previous order, there will now be 10 minutes for debate to be equally divided between the chairman and ranking minority members of the Judiciary Committee, and 10 minutes for debate under the control of the Senator from Iowa, Mr. HARKIN.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be recognized after these two votes for such time as I may need to speak about the nominations. I know a number of Senators have schedules they want to keep.

Mr. HATCH. Mr. President, reserving the right to object—I will not object—I would like to be given time immediately following the distinguished Senator from Vermont.

The President pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized. Mr. HARKIN. Mr. President, I say to my colleagues here in the Chamber today that I announced last year before we adjourned for the holiday recess that because of the failure of the Senate to provide for cloture on the farm bill so that we could have a reasonable amount of time for debate and come to a conclusion on it, the Senator from Iowa, this Senator, was not going to agree to any unanimous consent on any judges or anything else that came before the Senate until we completed the farm bill.

I was approached the other day and was asked if we would let a couple of these judges go. It was my intention at that time to say no. I am not interested in anything passing here until we got a farm bill finished and sent to conference. But it has come to my attention that there seems to be some movement towards reaching some agreement to have either a defined list of amendments and/or a time limit so that we could bring this farm bill to some closure.

So in the spirit of trying to work on a bipartisan basis and trying to reach some agreement, I withdrew my objection so we could go forward. These two judges to go through. I asked for this 10 minutes of time only to hope that in the ensuing few days—I know that next week we are not going to be here much more than 1 day, and I think we are out Wednesday, Thursday, and Friday for the party conferences. That means we will have a short day Monday, a day Tuesday, and that is it. Then we are in the week after that. I am hopeful that sometime before we adjourn next week for our party conferences the leadership on the Republican side and on the Democratic side can reach an agreement on a defined list of amendments on the farm bill and/or some time limit so we can reach closure on it. Hopefully we will do that the week after next.

This is becoming even more important because the Department of Agriculture just came out last week with their economic forecast for agriculture this year. I will read from the AP report on their forecast.

With crop prices priced near record lows, the government says farm income will drop nearly 20 percent this year unless Congress enacts a new farm program quickly, or approve more emergency payments.

There you have it.

There are three things we can do: Sit back, do nothing, and let farm income drop 20 percent, we can come up with more emergency payments; or we can enact a new farm bill, go to conference with the House, and have a more reasonable approach.

I hope we can do the latter; that is, pass the farm bill, go to conference, come back, and let the House and the Senate work its will.

We have had a lengthy debate on the farm bill already. We have been here 12 days; 1 more day on the farm bill means we will have broken all records for length of time for the farm bill to be considered in this Chamber. Just 1 more day and we will have that. It looks as if we are going to break the record.

We had three substitutes for this farm bill. It was well debated. We had the Lugar substitute, we had the Roberts-Cochran substitute, and we had the Hatch substitute, which is basically the House bill. Neither of them got over 40 votes. One got 30, one got 38, one got 40. So it looks as if the bipartisan bill that we came out of committee with is the bill that has the most votes.

I know there are things in this bill not everyone likes. There are some things in the bill I personally as chairman of the committee do not like. But
I recognize there are other reasons for things and for different parts of the country. There is agriculture all over America. Maybe what is good in one place is not good in other places. That is why there are varying interests. I believe on the other side of the aisle that good job of balancing those interests.

We have a good bipartisan bill. That doesn’t mean we can’t have more amendments considered. Of course we can. There are payment limitation amendments. There are other amendments that will come up. That is just fine. I have never taken the position we should not have amendments. Let us have a reasonable time limit, get the amendments up, have a reasonable debate, and then move on.

Again, I hope my friends on the other side of the aisle will permit us to move ahead week after next on this farm bill, either with a defined list of amendments, get the time agreement or vote cloture on the bill so we can move ahead on it expediously.

Again, I do not intend to hold up these judges in the spirit of comity and working together. But I say to my friends on the other side of the aisle, if we cannot get some reasonable agreement to have this bill up and passed the week after next, then this Senator from Iowa will again say nothing else is going to pass here until we get that farm bill passed.

So I have removed my objection to these judges because of what I have heard. And I have talked with some people and have heard that there may be some movement to get this farm bill debated and passed. If that is the case, that is fine. I hope we can do that. But we cannot afford to tarry any longer. We have to get this bill passed, get to conference with the House, and, hopefully, get it to the President.

We have farmers getting ready to go into the fields in the South already. I think the wheat harvest in Texas is probably going to start next month. We have farmers up in the northern parts of the country—where I am from—who do not know whether they can go out and buy a new combine or a new tractor or something similar because they do not know what they are going to get this year. The bankers are uncertain.

The President was just out at John Deere a couple weeks ago. I was with him at a John Deere plant in Illinois. The CEO of John Deere said that we have to get a farm bill passed because no one is buying the implement because they do not know what the bill is going to be. There is that uncertainty out there.

So I know we are talking about a stimulus package, my friends, but stimulus in rural America is the farm bill. If we get that farm bill passed, it will stimulate economic activity in rural America. It will let bankers know how much they can lend. Farmers will be able to say OK, now I can buy that tractor or that combine or that new piece of equipment. But until we do all that, all that uncertainty and that cloud is hanging over them.

So, again, I took this time only to say that I will not object to these judges in that spirit of comity, but I hope by next Wednesday we will have an agreement worked out so when we come back the week after next, after the party conferences and the party issues are worked out, we can move up the farm bill, have a reasonable time for debate, and then have final passage on the bill.

With that, Mr. President, I yield back the balance of my time.

The PRESIDENT pro tempore. All time has expired.

Mr. BURNS. Mr. President, is there any time to respond to the statement made by the Senator from Iowa?

The PRESIDENT pro tempore. Under the unanimous consent order, there is none.

Mr. BURNS. Mr. President, I ask unanimous consent that I be recognized for 5 minutes. And I daresay I would not use that much time.

The PRESIDENT pro tempore. All time has expired.

Mr. BURNS. Five minutes.

Mr. REID. Mr. President, reserving the right to object, I say to my friend from Montana, the chairman and ranking member of the Judiciary Committee agreed to speak after the votes. We have people here who have schedules to meet. If my friend really wants to speak now, I will not object.

Mr. BURNS. No objection.

Mr. REID. Mr. President, I would ask unanimous consent the Senator from Montana be allowed to speak after the chairmen and ranking members of the party conferences, we can bring up the bill. If we get that farm bill passed, it will stimulate economic activity in rural America. If we get the farm bill passed, the bankers will have more confidence to lend. Farmers will be able to say OK, now I can buy that combine or that new piece of equipment. That is just fine. I hope we can do that. But we cannot afford to tarry any longer. We have to get this bill passed, get to conference with the House, and, hopefully, get it to the President.

We have farmers getting ready to go into the fields in the South already. I think the wheat harvest in Texas is probably going to start next month. We have farmers up in the northern parts of the country—where I am from—who do not know whether they can go out and buy a new combine or a new tractor or something similar because they do not know what they are going to get this year. The bankers are uncertain.

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So, again, I took this time only to say that I will not object to these judges in that spirit of comity, but I hope by next Wednesday we will have an agreement worked out so when we come back the week after next, after the party conferences and the party issues are worked out, we can move up the farm bill, have a reasonable time for debate, and then have final passage on the bill.

With that, Mr. President, I yield back the balance of my time.

The PRESIDENT pro tempore. All time has expired.

Mr. BURNS. Mr. President, is there any time to respond to the statement made by the Senator from Iowa?

The PRESIDENT pro tempore. The unanimous consent order, there is none.

Mr. BURNS. Mr. President, I ask unanimous consent that the Senator from Montana be allowed to speak after the chairmen and ranking members of the party conferences, we can bring up the bill. If we get that farm bill passed, it will stimulate economic activity in rural America. If we get the farm bill passed, the bankers will have more confidence to lend. Farmers will be able to say OK, now I can buy that combine or that new piece of equipment. That is just fine. I hope we can do that. But we cannot afford to tarry any longer. We have to get this bill passed, get to conference with the House, and, hopefully, get it to the President.

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With that, Mr. President, I yield back the balance of my time.

The PRESIDENT pro tempore. All time has expired.

Mr. BURNS. Mr. President, is there any time to respond to the statement made by the Senator from Iowa?

The PRESIDENT pro tempore. The unanimous consent order, there is none.

Mr. BURNS. Mr. President, I ask unanimous consent that the Senator from Montana be allowed to speak after the chairmen and ranking members of the party conferences, we can bring up the bill. If we get that farm bill passed, it will stimulate economic activity in rural America. If we get the farm bill passed, the bankers will have more confidence to lend. Farmers will be able to say OK, now I can buy that combine or that new piece of equipment. That is just fine. I hope we can do that. But we cannot afford to tarry any longer. We have to get this bill passed, get to conference with the House, and, hopefully, get it to the President.

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The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand under the unanimous consent request I am to be recognized, but the distinguished Senator from Illinois and the distinguished Senator from Oregon are here, and I ask unanimous consent it be in order first to recognize the distinguished Senator from Illinois for 2 minutes, then the distinguished Senator from Oregon for 1 minute, and the distinguished Senator from Oklahoma, the Senator from Arkansas (Mr. Hutchinson), the Senator from Arizona (Mr. McCain), and the Senator from Tennessee (Mr. Thompson) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. Inhofe) and the Senator from Arizona (Mr. Kyl) would each vote “aye.”

Mr. NICKLES. I annouce that the Senator from New Mexico (Mr. Domenici), the Senator from Oklahoma (Mr. Inhofe), the Senator from Arizona (Mr. Kyl), the Senator from Alaska (Mr. Murkowski), the Senator from Kansas (Mr. Roberts), the Senator from Alabama (Mr. Sessions), the Senator from Alabama (Mr. Shelby), the Senator from Ohio (Mr. Voinovich), the Senator from Arkansas (Mr. Hutchinson), the Senator from Arizona (Mr. McCain), and the Senator from Tennessee (Mr. Thompson) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. Inhofe) and the Senator from Arizona (Mr. Kyl) would each vote “aye.”

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

The result was announced—yeas 81, nays 0, as follows:

(ROLLCall Vote No. 5 Ex)

YEAS—81

(Alist text of those voting “yeas”)

NOT VOTING—19

(Alist text of those voting “nays”)

The nomination was confirmed.

LEGISLATIVE SESSION

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

HOPE FOR CHILDREN ACT—Continued

The PRESIDENT pro tempore. The clerk will report the title.

The assistant legislative clerk read as follows:

A bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the chairman of the Judiciary Committee for allowing me a minute to simply notify the Senate that I will redo my amendment and try to get 60 votes. It will come back and be filed later today. It will have a 2-year time period beginning January 1 of this year and going for 2 years, with a 30-percent depreciation so that it will also specifically include the motion picture industry so that they can have the advantage of this stimulus as well.

I think it is critical we do what the Senator from Illinois is talking about, and it is also critical we do something that is actually stimulatory of the economy. Two years is the absolute minimum, if we are serious about this part of the stimulus bill.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Oklahoma, Mr. Nickles.

Mr. NICKLES. I ask unanimous consent that it be in order I ask for the yeas and nays on amendment No. 2008.

The PRESIDENT pro tempore. Is there objection to the request that it be in order?

Mr. LEAHY. Reserving the right to object—I understand there is no objection.

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

Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

Mr. NICKLES. I thank my colleague, the PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Is the Senator from Vermont correct that after the following statement I am to be recognized, the distinguished senior Senator from Utah is to be recognized? The PRESIDENT pro tempore. That is correct.

JUDICIAL NOMINATIONS

Mr. LEAHY. I thank the distinguished Presiding Officer.

Mr. President, I appreciate the fact that the majority leader and the assistant majority leader moved to consider additional judicial nominations today. Both Senator Daschle and Senator Reid have been working very diligently to clear these nominations which were put on the Executive Calendar as we went out of session prior to the new year. They have worked very hard to return the Senate’s consideration of judicial nominations to a more orderly and open process. I compliment the Senator from South Dakota and the Senator from Nevada for their efforts and thank them for their leadership. Along with our Senate leaders, many Senators have been working to move away from the anonymous holds and inaction on judicial nominations that characterized so much of the period from 1996 through the year 2000. Since the change in majority last summer, we have already made a difference in terms of both the process and its results. The number of vacancies and the number of confirmations have finally begun to move in the right directions.

As we begin this new session, I will take a moment to report where we are
in the handling of judicial nominations and to outline the road ahead. The distinguished Presiding Officer knows more of the history of this body than any of the nearly 260 or 270 Senators with whom I have served—I suspect more than a few Senators with whom I have not served. I hope he will not feel it presumptuous if I take a few minutes to touch on the history and legacy of the last 6 years as it relates to judicial nominations.

The last 6 years have left a residue of problems that I think are going to take a continuing effort to purge. We are not going to do it in 1 day or 1 weekend, but it is going to have to be a continuing effort of both parties, Republicans and Democrats, and the White House.

After going through that history, I am going to offer the steps that we in the majority will take in good faith to undo the damage of the last 6 years. Then I am going to call on the White House at some point in the future to help move the process forward. I do this both in my capacity as the Senator from Vermont—a position I honor, and I am always thankful to the people of my great and beautiful State for letting me do that. It also carries with it the responsibility my caucus has given me by allowing me to be chairman of the Senate Judiciary Committee.

One of the lessons I learned early on in this body from the distinguished President pro tempore is that if you are the chairman of a committee, you have a responsibility to that committee, to your caucus, but also to the Senate, the whole Senate. I respect that.

So let me talk about the Judiciary Committee. In a span of less than 6 months, and in a year that was tumultuous for the Nation and the Senate, the Judiciary Committee, between July and the end of the session in December, held hearings on 34 judicial nominations and the Senate confirmed 28. As of today, we add 2 more and the Senate has now approved 30 of those judicial nominations.

They are conservative Republicans, but nearly all were unanimously approved by Democrats, Republicans and Independent alike on the Judiciary Committee and by the Senate, in a democratically-controlled Senate.

We reported more judicial nominees after the August recess than in any of the previous sessions, and more than in any similar period over the preceding 6½ years. The Senate Judiciary Committee during the time I have been chairman did not have and has not had a year in which to work. Last session we had less than 6 months. Still, in the last 5 months of last year, the Senate confirmed almost twice as many judges as were confirmed in the first year of the Clinton administration. The Senate confirmed the first new member of the Fifth Circuit in 7 years, the first new judge for the Fourth Circuit in 3 years, and the first new judge for the Tenth Circuit in 6 years.

Of course, more than two-thirds of the Federal court vacancies continue to be on the district courts, and the administration is working hard to make nominations to the vacancies in these trial courts. In the last 5 months of last year, the Senate confirmed a higher percentage of the President’s district court nominees than a Republican majority had allowed the Senate to confirm through the first 29 and 30th since the change in majority last summer.

Of course, that estimate of 5 was accurate. An upward trend of nominating judges on the other side of the aisle, after the midyear change of majority, had proclaimed that the Democratic majority would not confirm a single judge. The White House, I think, trying to appear more bipartisan, upped the estimate from zero to 5. Of course, we achieved much more than that and confirmed more than 5 times the number of judges that the White House counsel had predicted.

One might have thought from the constant barrage of partisan criticism that 2001 resembled 1996, a year in which a Senate Republican majority confirmed only 17 judges, none of them appellate-level nominees.

The worst fear of some, it has been clear, is that Democrats would treat Republican nominees as poorly as Democratic judicial nominees were treated by a Republican Senate. That is not what has happened. Last 5 months we went on to confirm 28 additional judges, as I have said, more than five times the number the White House predicted we would confirm. Think of that, Mr. President—five times what the White House was telling the American people we would confirm.

The Senate can be proud of its record in the first session of the 107th Congress of beginning to restore steadiness in its handling of judicial nominees. I want to build on that record in the second session of the 107th.

Yesterday the Judiciary Committee held another hearing for judicial nominees. That was the 12th since July. It is pleasing that confirming the first two judges of this session and the 29th and 30th since the change in majority last summer.

The legacy of strife over the filling of judicial vacancies that has engulfed the last 6 years, and the final judgment of those actions by the American people, we would confirm.

The Judiciary Committee simultaneously, during those last 5 months of last year, held 16 confirmation hearings for executive branch nominees. We sent to the Senate nominees who were confirmed for 77 senior executive branch positions, including the FBI, the head of the Drug Enforcement Administration, the Commissioner of the Immigration and Naturalization Service, the Director of the U.S. Marshals Service, the Associate General Counsel of ONDCP, the Director of the Patent and Trademark Office, 7 assistant attorneys general, and 59 U.S. attorneys.

Senators may recall that soon after the Senate confirmed Judge Roger Gregory as the first new Federal judge nominated by this President last July, the White House counsel said in an interview that he did not expect the Senate to confirm more than five judges before the end of 2001. Just the opposite happened. The White House said last July that they did not expect the Senate to confirm more than five judges before the end of 2001.

Of course, that estimate of 5 was accurate. An upward trend of nominating judges on the other side of the aisle, after the midyear change of majority, had proclaimed that the Democratic majority would not confirm a single judge. The White House, I think, trying to appear more bipartisan, upped the estimate from zero to 5. Of course, we achieved much more than that and confirmed more than 5 times the number of judges that the White House counsel had predicted.

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Later that year, outside groups began forming to raise money on their pledge to block action on judicial nominees and to “kill” Clinton nominees.

As the new session opened in 1997, efforts were launched on the Republican side of the aisle to slow the pace of Judicial Committee and Senate proceedings on judicial nominations and to erect new obstacles for nominees. Thus began a two-year period in which about 50 men and women were never given a vote.

During those years, the Republican majority in the Senate went an entire session without confirming even a single judge for the Courts of Appeals. As few as three appellate nominees were granted hearings and committee votes, and sometimes not at all. During that time, the Republican majority averaged eight hearings a year for judicial nominees and had as few as six during one entire session. One session of Congress, the Republican majority allowed only 50 names to be considered for appointment to the judiciary, and that included not a single judge to any Court of Appeals. All the while, the judicial vacancy rate continued to worsen.

The problems did not end when President Clinton left office. New problems have arisen through unilateral actions taken by the Bush administration in its handling of judicial nominations.

Fifty years ago, President Dwight D. Eisenhower followed Judge James A. Beaty, Jr., Judge James Wynn, and J. Rich Leonard, nominees to longstanding vacancies on the Fourth Circuit; Judge Helene White, Kathleen McCree-Lewis and Professor Kent Mark, nominees to the Sixth Circuit; Allen Snyder and Professor Elwood Kegan; nominees to vacancies on the D.C. Circuit; and James Duffy and Barry Goode, nominees to the Ninth Circuit; Bonnie Campbell, the former Attorney General of Iowa and former head of the Violence Against Women Office at the Department of Justice, nominated to the Eighth Circuit; Jorge Rangel, H. Alston Johnson, and Enrique Moreno, each nominated to the Fifth Circuit; Robert Raymar and Robert Cindrich, nominees to the Seventh Circuit; and District Court nominees like Anabelle Rodriguez, John Binger, Michael Schattman, Lynette Norton, Legrome Davis, Fred Woocher, Patricia Coan, Dolly Gee, David Fineman, Ricardo Morado, David Cercone, and Clarence Sundram.

None of these qualified nominees was given a vote.

Over the course of those years, Senate confirmation of nominations was often delayed for not months but years. It took more than four years of work to get the Senate to vote on the nominations of Judge Richard Paez and Judge William Fletcher; almost three years to confirm Judges M. Paul Clark and Joseph W. Hatch; more than two years to confirm Judge Susan Mollway, Judge Ann Alken, Judge Timothy Dyk, Judge Marsha Byrd, and Judge Ronald Gould; almost two years to confirm Judge Margaret McKeown and Judge Margaret Morrow and more than a year to confirm several others during the preceding 6½ years of Republican control.

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During those years, the Republican majority in the Senate went an entire session without confirming even a single judge for the Courts of Appeals. As few as three appellate nominees were granted hearings and committee votes, and sometimes not at all. During that time, the Republican majority averaged eight hearings a year for judicial nominees and had as few as six during one entire session. One session of Congress, the Republican majority allowed only 50 names to be considered for appointment to the judiciary, and that included not a single judge to any Court of Appeals. All the while, the judicial vacancy rate continued to worsen.

The problems did not end when President Clinton left office. New problems have arisen through unilateral actions taken by the Bush administration in its handling of judicial nominations.

Fifty years ago, President Dwight D. Eisenhower followed Judge James A. Beaty, Jr., Judge James Wynn, and J. Rich Leonard, nominees to longstanding vacancies on the Fourth Circuit; Judge Helene White, Kathleen McCree-Lewis and Professor Kent Mark, nominees to the Sixth Circuit; Allen Snyder and Professor Elwood Kegan; nominees to vacancies on the D.C. Circuit; and James Duffy and Barry Goode, nominees to the Ninth Circuit; Bonnie Campbell, the former Attorney General of Iowa and former head of the Violence Against Women Office at the Department of Justice, nominated to the Eighth Circuit; Jorge Rangel, H. Alston Johnson, and Enrique Moreno, each nominated to the Fifth Circuit; Robert Raymar and Robert Cindrich, nominees to the Seventh Circuit; and District Court nominees like Anabelle Rodriguez, John Binger, Michael Schattman, Lynette Norton, Legrome Davis, Fred Woocher, Patricia Coan, Dolly Gee, David Fineman, Ricardo Morado, David Cercone, and Clarence Sundram.

None of these qualified nominees was given a vote.

Over the course of those years, Senate confirmation of nominations was often delayed for not months but years. It took more than four years of work to get the Senate to vote on the nominations of Judge Richard Paez and Judge William Fletcher; almost three years to confirm Judges M. Paul Clark and Joseph W. Hatch; more than two years to confirm Judge Susan Mollway, Judge Ann Alken, Judge Timothy Dyk, Judge Marsha Byrd, and Judge Ronald Gould; almost two years to confirm Judge Margaret McKeown and Judge Margaret Morrow and more than a year to confirm several others during the preceding 6½ years of Republican control.
House to help make the confirmation process more orderly and less antagonistic, and thus make it more productive.

Finding our way forward out of the legacy of the last 6 years is going to require a House-Senate cooperation. The President represents one of our three branches of Government. We in the Senate represent one. We are talking about working together in matters that affect our third branch. I take very seriously the advice and consent clause and its role.

It is one of the most important roles this body has ever had because it is exclusively in this great Chamber, in this great body. Senators really do not follow their oath of office if they do not uphold that right and that privilege and that duty of advice and consent.

I have heard the distinguished Presiding Officer speak of the number of Presidents with whom he has served. He very correctly has pointed out, we do not serve under a President, we serve with a President. I have enormous respect for all Presidents I have served with, Republicans and Democrats. They are a major part of our Democratic framework. Whoever is President carries an awesome burden and should be helped in carrying out that burden in an orderly manner. I worry about the burden on advice and consent, as well.

Let us try to bring the duties and rights and obligations at one end of Pennsylvania Avenue closer to the duties and rights and obligations at the other end of Pennsylvania Avenue and see how we might work together.

So today I ask the President, for his part, to consider several steps, each of which makes a tangible improvement in the consideration of judicial nominations.

First, the most progress can be made quickly if the White House would begin working with home State Senators to identify fair-minded, nonideological, consensus nominees to fill these court vacancies.

One of the reasons that the committee and the Senate were able to work as rapidly as we did in confirming now 30 judges in the last few months was because those nominations were strongly supported as consensus nominees by people from across the political and legal spectrums.

I have heard of too many situations, in too many States, involving too many reasonable and constructive home State Senators, in which the White House has shown no willingness to work cooperatively to find candidates to fill vacancies. The White House’s unilateralism is not the way the process has worked under past administrations. I urge the White House to show greater inclusiveness and flexibility and to help make this a truly bipartisan enterprise.

Logjams primarily in the peer review process, the legacy of the last 6 years. To make real progress, the White House and the Senate should work together to repair the damage and move forward.

As I said before, the Constitution directs the President to seek the Senate’s advice and consent in his appointment to the Federal courts. The lack of effort on the advice side of that obligation gives rise to a general impresssion in this body that the White House has shown no willingness to work cooperatively with some home State Democratic Senators, and by its unwillingness to listen to suggestions to continue the bipartisan commissions that have been a tradition, for years, in many States, that the White House and some in the Senate are intent on an ideological takeover of our courts.

With the circuits so evenly split in so many places, nominees to the Courts of Appeals may have a significant impact on the development of the law for decades to come. Some of us are concerned that there not be a rollback in the protection of individual rights, civil rights, workers’ rights, consumers’ rights, business rights, privacy rights, and environmental protection.

Secondly, I ask the President to reconsider his early decision on peer review vetting. It has needlessly added months to the time the White House’s refusal to work cooperatively with some home State Democratic Senators, and by its unwillingness to listen to suggestions to continue the bipartisan commissions that have been a tradition, for years, in many States, that the White House and some in the Senate are intent on an ideological takeover of our courts.

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In conclusion, whether we succeed in improving the confirmation process is going to depend on what we do with the two decisions that the White House can expressly ask the Senate to make as constructive a contribution as would the President’s resolution of this problem. I ask him to seriously and thoughtfully consider taking it. It would take 1 minute of decision; it would save months of time.

In conclusion, whether we succeed in improving the confirmation process is going to depend on whether our goals are shared by Republican Senators and the White House. We will not have repaired the damage that has been done if we make progress this year and the improvements we are able to make are not institutionalized and continued the next time a Democratic President or, for that matter, a different Republican President is the President. In the statements I have heard and read from the Republican side, I have not heard them concede any shortcomings in the practices they employed over the previous 6 years, even though since the change in majority last summer, we have exceeded their pace and productivity over the prior 6 years. If their efforts were acceptable or praiseworthy as some would argue, I would expect them to commend our better efforts since last July.

If they did things they now regret, those commissions were not set up to be tied to the White House’s refusal to work cooperatively with some home State Democratic Senators, and by its unwillingness to listen to suggestions to continue the bipartisan commissions that have been a tradition, for years, in many States, that the White House and some in the Senate are intent on an ideological takeover of our courts.

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Whether it occurs or not, I want to move forward. The nominees voted on this morning and those included at our most recent hearings yesterday are clear evidence, again, that consensus nominees with widespread bipartisan support are more quickly considered by the committee and confirmed by the Senate. I believe there was not a single vote against either of the judges confirmed today.

There are still far too many judicial vacancies. We have to work together to fill them. We have finally begun moving the confirmation and vacancy numbers in the right directions. The way forward is difficult. Democrats alone cannot achieve what should be our common goal of regaining the ground lost by the last Congress. Each of us together can achieve that. I invite each with a role in this process to join that effort.
If I could close on a personal note, as I said before, the ranking member of the Senate Judiciary Committee, the senior Senator from Utah, is a close personal friend. I have been in the position of ranking member of that committee while he was chairman, to meet on a regular basis with my friend from Utah to try to iron out as many problems as we can. I believe there is a mutual respect between the two of us. But I would also urge the White House to realize that they do not act in a vacuum, to understand it is a democracy, to take a moment to reread the advice and consent clause. Let us work together. Things will go a lot faster and a lot better that way.

I yield the floor.

The PRESIDING OFFICER (Mr. LEAHY). The distinguished senior Senator from Utah.

Mr. LATCH. Mr. President, I don’t want to take this time to engage in a statistical joust on judicial nominees. I personally have appreciated our chairman and the work he did last year. We are friends, and I intend to work very closely with him. Hopefully we can put through a lot of judges this year, as we did for President Clinton in his second year.

Mr. President, the record is clear. Here are the true facts, the numbers for the first year and for the current session. I gave an extensive speech at the end of last year, and it shows where we stand today and what we did to establish a new record with 371 Clinton judges. That is five fewer than for President Reagan, the all-time champion of confirmed judges. I can say, categorically, there would have been at least three more than what President Reagan had, had it not been for holds on him. Hopefully we can put through a lot of judges this year, as we did for President Clinton in his second year.

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One of the most pressing matters we must address this session is the vacancy crisis in the Federal court system. I was interested in some of the statistics from Vermont that I gave. In 1992, the Democrats controlled the Senate and therefore the Senate Judiciary Committee. On election day 1992, when William Jefferson Clinton was elected President of the United States, there were 97 vacancies and 54 of President Bush’s nominees left hanging without a vote. (Some of those 54 neglected nominees have now been renominated by the current President Bush.) Of the 54, there were about 6 who were nominated so late in the session that the Senate will do the right thing and confirm them, but a majority of those votes are going to be postponed.

II. ENSURING A WELL-QUALIFIED AND FULLY STAFFED JUDICIAL BRANCH

The federal courts were created by the Judiciary Act of 1789, which established a Supreme Court and divided the country into three circuits and 13 districts. This structure has obviously changed greatly since 1789, but one thing has not changed: the federal courts have functioned throughout wars, natural disasters, and terrorist attacks. During times such as these, the role of the courts becomes even more important in order to enforce the rule of law. To continue functioning effectively and efficiently, however, the courts must be appropriately staffed. This means...
that necessary judgeships must be created and judicial vacancies must be timely filled with well-qualified candidates.

**Promptly filling vacant judgeships**

It is becoming increasingly difficult to find qualified candidates for federal judicial vacancies. This is particularly true in the case of lawyers in private practice. There are two reasons for these difficulties: the relatively low pay for judges compared to the amount that a successful, experienced practicing lawyer can make, and the often lengthy and unpleasant nature of the confirmation process.

Of the inadequacy of judicial pay I have spoken again and again, without much result. Judges along with Congress have received little attention or reimbursement, and for this they are grateful. But a COLA only keeps judges from falling further behind the median income of the profession. I can only refer back to what I have previously said on this subject.

I spoke to delays in the confirmation process in my annual report in 1997. Then as now I recognize that part of the problem is endemic to the size of the federal Judiciary. With more judges, there are more retirements and more vacancies to fill. But as I said in 1997, the size of the federal judiciary, the President should nominate candidates with reasonable promptness, and the Senate should act within a reasonable time after receiving the nomination. The current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed during 1994.

At that time, President Clinton, a Democrat, made the nominations, and the Senate, controlled by the Republicans, was responsible for the confirmation process. Now the political situation is exactly the reverse, but the same situation obtains: the Senate confirmed only 28 judges during 2001. When the Senate adjourned on December 20th, 23 court of appeals nominees and 14 district court nominees were left awaiting action by the Judiciary Committee or the full Senate. When I spoke to this issue in 1997, there were 82 judicial nominations. They were adjourned on December 20th there were 94 vacancies. The Senate ought to act with reasonable promptness and to vote each nominee up or down. The Senate is not, of course, obliged to confirm any particular nominee. But it ought to act on each nominee and to do so within a reasonable time. I recognize that the Senate has been faced with numerous challenges this year, but I urge prompt attention to the challenge of bringing the federal judicial branch closer to full staffing.

The combination of inadequate pay and a drawn-out and uncertain confirmation process is a handicap to judicial recruitment across the board, but it most significantly restrains the supply of lawyers in private practice who are willing to be nominated for a federal judgeship. United States attorneys, public defenders, federal magistrate and bankruptcy judges, and state court judges are often nominated to be district judges. For them the pay is a modest improvement over their current income. Most academic lawyers are in a similar situation. But not damage their current income. Most academic lawyers are often nominated to be district judges. United States attorneys, public defenders, federal magistrate and bankruptcy judges, and state court judges are often nominated to be district judges.

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IV. THE YEAR IN REVIEW

The Supreme Court of the United States

The work of the Supreme Court continues to grow modestly, putting an increasing strain on the Supreme Court's building, the infrastructure has not been built in any basic way since the building was opened in 1935. I wish to thank Chairman Byrd, Ranking Minority Member Stevens, Chairman Specter and Ranking Minority Member Obey, Chairman Hollings, Ranking Minority Member Gregg, Chairman Wolf, and Ranking Minority Member Serrano for their efforts to secure authorization for our new Supreme Court building. I am hopeful that the remaining funds necessary to implement our building modernization program, which has been pending for several years, will be included in our Fiscal Year 2003 appropriation. Significant safety and security upgrades to the Supreme Court building are included in the project and should not be delayed.

The total number of case filings in the Supreme Court increased from 7,377 in the 1999 Term to 7,592 in the 2000 Term, an increase of 6.4%. Filings in the Court's in forma pauperis docket increased from 5,282 to 5,897—an 11.6% rise. The Court's paid docket decreased from 2,092 to 1,934, a 6.6% decline. During the 2000 Term, 86 cases were argued and 83 were disposed of in 77 signed opinions, compared to 83 cases argued and 79 signed opinions in the 1999 Term. No cases from the 2000 Term were scheduled for reargument in the 2001 Term. While the use of on-line legal resource materials is expanding and continues to show promise for increased use, the study consultants concluded that although there have been some tests or enhancements of electronic records. After extensive public comment, the Committee recommended that civil case documents be made available electronically, with complete documents, in the courthouse. Electronic records are available at the courthouse (except that certain personal identifiers will be partially redacted). A similar policy will be followed for bankruptcy court documents, assuming necessary statutory changes are enacted. The Committee recommended that the use of plain language in the notices they send to potential class members in class action suits and asked the Center to develop an alternative mechanism that federal courts have become. Courts must integrate technology with increasingly sophisticated decision-making tools, and deal with growing workload and judicial resources.

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U.S. delegation's visit to Mexico, which I described earlier, and will continue that relationship by organizing a seminar next May in Washington for interchange with Mexican judicial officials.

VII. THE UNITED STATES SENTENCING COMMISSION

On May 1, 2001, the newly reconstituted United States Sentencing Commission completed its first full sentencing guidelines amendment cycle and submitted to Congress a package of guidelines amendments covering all offenses. This package of amendments resolved 19 circuit conflicts and included responses to nine new congressional directives (five with emergency amendment authority). For the first time in years, there are congressional directives awaiting implementation by the Commission.

The amendment include a multi-part, comprehensive adjustment to their sentences under the Federal Sentencing Guidelines, co-sponsored by the Federal Judicial Center and the Administrative Office of the United States Courts. The amendment also increases the penalties for possession of weapons by felons, illegal aliens, violent offenders, and drug offenders, and extends the use of guidelines for fraud and child sex offenses; and the use of nuclear, biological, and chemical weapons. The Commission also expressed concern for first-time, non-violent offenders to obtain relief in sentencing defendants convicted for ecstasy and amphetamine trafficking; and the need to establish uniform guidelines for these violations. The amendments also increase the penalties for ecstasy and amphetamine trafficking; and the need to establish uniform guidelines for these violations. The amendments also increase the penalties for ecstasy and amphetamine trafficking; and the need to establish uniform guidelines for these violations.

For the first time in years, there are no conflicts among districts, our courts continue to serve as a standard of excellence around the world. At bottom, federal judges are able to administer justice day in and day out because of their commitment to the Commission’s work and hard work of court staff around the country. My thanks go out to all of them.

I extend to all my wish for a happy New Year.

END NOTES

1 Original proceedings surged 48%, largely as a result of a rise in habeas corpus petitions filed by prisoners. Criminal appeals grew 5%, administrative agency appeals increased 2%, and civil appeals rose 1%. Bankruptcy appeals fell 5%. Appeals filings have increased 22%.

2 Filings with the United States as plaintiff seeking the recovery of student loans dropped 47%. New FBI authority to investigate computer fraud cases has not resulted in an increase. Filings fell less than 1%. Filings related to federal question litigation were consistent with the total decline in revenue of 1% to 138,441. Diversity of citizenship and civil rights filings each rose less than 1%. Filings related to federal question litigation were greatly affected by the stabilization of personal injury-product liability case filings related to asbestos-related claims in asbestos-related cases.

3 Despite an 11% decrease in total filings with the United States as plaintiff or defendant, filings with the United States as plaintiff fell 19% to 40,644. This was mostly due to a 23% surge in federal prisoner petitions and an 8% rise in social security filings. Motions to dismiss cases filed by federal prisoners grew by 36%. Social security filings related to disability insurance and supplemental security insurance increased significantly from 1992 to 1995. Civil filings have increased 9% since 1992.

4 Filings of personal injury cases grew by 37 cases to 62,708, and the number of defendants decreased 1% to 81,252. As a result of the creation of 18 additional Article III judgeships, criminal cases per authorized district judgeship declined from 96 to 94. This was the first decrease in cases per judgeship since 1994, when the effect of a hiring freeze on assistant U.S. attorneys was being felt. In succeeding years, federal courts saw increases in criminal filings, primarily due to drug cases and gun-related cases in districts along the Southwestern border of the United States. This year, drug cases rose 5% to 51,345, firearms cases rose another record at 5,845, traffic cases rose 6% to 6,958, robbery cases rose 8% to 1,355, and sex offense cases rose 8% to 5,104. Of 1,041 cases dismissed, 77% decline over last year due to fewer immigration cases reported by the Western District of Texas, the Northern District of California, and the District of New Mexico. However, in the Western District of Texas and in the Southern District of California, the decline in immigration filings was offset by a rise in drug filings. As a result, overall criminal filings increased 2% in the Western District of Texas and declined 3% in the Southern District of California. Criminal filings since 1992 have increased 30%.

5 In 2001, the number of defendants activated in the prudential services system increased 1% to 86,140, and the number of prudential reports prepared rose 1%. Uniformity among district case activity and prudential reports prepared each rose 24%, persons interviewed grew 16%, and defendants released increased 25%. Annual case activations have risen each year since 1994, and this year’s total is 54% higher than that for 1994.

6 There is an army of people years before defendants found guilty and sentenced to prison appear in the probation numbers. Supervised release following parole continues to account for a growing percentage of those under supervision and now stands at 65% of this total. In contrast, the number of people on parole is one number that has not only increased and declining, composing only 4% of those under supervision. Of the 194,715 persons under probation supervision in 1999, 10% were for a drug-related offense. The number of persons on probation has increased 22% since 1992.

7 Nonbusiness petitions rose 14% and business petitions increased 7%. Filings increased under all chapters except Chapter 12, jumping 17% under Chapter 7, rising 7% under Chapter 11, and increasing 8% under Chapter 13. Bankruptcy filings under Chapter 12, which constituted 0.06% of all petitions filed, fell 31%. This decrease resulted from the expiration of the provisions for Chapter 12 on July 1, 2000. Since the Public Law 107-17 extended the deadline further to October 1, 2001. Bankruptcy filings have increased 47% since 1992.

Mr. HATCH. In his report, the Chief Justice stressed the urgent need to fill vacancies promptly and in light of the threats facing our Nation at present. He noted that although the structure and scope of the judiciary have changed dramatically since its creation in 1789, the role of the courts becomes even more important in order to enforce the rule of law. To continue functioning effectively and efficiently, however, courts must be properly staffed.

This means that necessary judgeships may have to be created and judicial vacancies must be filled with qualified candidates.

In light of the September 11 attacks, I would like to bring the Committee’s concern about the potential impact of the vacancies on the Federal judiciary and our Nation’s ability to fight the war on terrorism. Federal judges are instrumental in combating terrorism by precluding harmful hearings and trials and by imposing just sentences. What is more, they play a crucial role in protecting civil liberties by ensuring that our law enforcement officials abide by the letter and the spirit of the law.

In addition, the integral function in the criminal justice system, Federal judges preside over and decide civil cases that impact everyday business relationships.

Federal judges are tasked with preserving the rights of employers and workers alike. They also provide the certainty of dispute resolution necessary for future business and employment decisions. But when there is a shortage of Federal judges, criminal defendants and the public risk taking precedence due to speedy trial concerns and other concerns. The unattended consequence is that the American workers and their employers are left hanging in limbo when their cases are not being heard in the Federal courts.

Today, we have 99 judicial vacancies.

This is a far cry from the appropriately staffed judiciary of which Chief Justice Rehnquist spoke. When the Chief Justice delivered his report in 1997, there were 12 vacant judgeships. From the 1997 year-end report, there were 82 empty seats on the Federal bench, nearly 20 fewer than the present situation. Commenting on the 1997 statistic, the Washington Post, in January 1998, in the editorial, "The problem of judicial vacancies is getting out of hand. Nearly 10 percent of the 869 seats on the Federal bench are now empty."

One key Democratic Senator called these figures "pretty frightening," and said, "If this continues, it becomes a constitutional crisis."

There are now 99 vacancies, or 17 more than when the editorial and the
statements by the Democratic Senator were made. If 82 vacancies was a serious crisis in 1997, what do we have now with 99 vacancies?

We in the Senate have an opportunity to address this situation. We can make a difference in the administration of justice in this country simply by fulfilling our constitutional responsibilities of advise and consent. In fact, Chief Justice Rehnquist specifically urged the Senate “to act with reasonable promptness and to vote each nominee up or down.”

He continued:

The Senate is not, of course, obliged to confirm any particular nominee, but it ought to act on each nominee and to do so within a reasonable time.

I could not agree more with the Chief Justice. This is precisely what I tried to accomplish as Judiciary Committee chairman while abiding by our customs and rules of the Senate. But now some of President Clinton’s judicial nominees have been waiting more than 8 months for a hearing. All but a handful of them have had their blue slips returned. Their FBI background investigations are completed, and their ABA ratings are submitted.

At a time when our national security is at stake, we have a duty to follow the Chief Justice’s admonition and act promptly on these nominees. As we embark on the second session of this Congress, we in the Senate have the perfect opportunity to accomplish this. I sincerely hope we accomplish this goal. I will continue to cooperate with our Democratic chairman, and I hope the rhetoric on both sides of the aisle is cooled so we can confirm as many as possible of the highly qualified nominees pending before us.

A realistic yardstick of our success will be how President Bush’s second year in office will compare to President Clinton’s second year in office. In 1994, the second year of President Clinton’s first term, the Senate confirmed 100 judicial nominees. I was an integral part of that. I worked very hard to get them confirmed. I had to override people on my side of the aisle and convince some of them that the nominees should be confirmed. As a result of this work, there were only 63 vacancies in the Federal judiciary when the Senate adjourned on December 1, 1994.

I am confident the Republicans and Democrats together can achieve or even hopefully exceed the goal of confirming 100 judges in 2002, particularly the many circuit court nominees who are pending to fill emergency vacancies in the appellate courts around this country.

There are two district court nominees awaiting a vote by the Senate after today. Our first confirmation hearing was held yesterday. We have to keep up the pace of hearings and confirmation votes so we do not fall further behind in filling the vacancies that plague our Federal judiciary.

I look forward to working with our Democratic colleagues to accomplish this. Having said that, let me make this clear. We have had a total confirmed since the distinguished chairman took over in the middle of last year of 30 judges. That means 6 circuit court nominees and 24 U.S. district court nominees. I commend my colleague. I think it is certainly a decent start.

On the other hand, we have currently pending 23 circuit court nominations—23. Most of them have well qualified ratings by the ABA. I do not think anybody can make a case that they are not qualified to serve. Just to mention four: John Roberts was one of those nominees submitted by the first President Bush who was left hanging without Senate action back in 1992. Roberts is considered one of the top five appellate lawyers in the country. He is not an ideologue. He is probably more conservative than most of the Clinton nominees were, but the fact is he is a tremendously effective advocate and an excellent judge of the court. He should not be held up any longer. He went through that back in 1992. Why does he have to go through it again, especially for 8 months?

Miguel Estrada—I am pleased to hear the distinguished Senator from Vermont indicate that he will have a hearing. Miguel Estrada is one of the brightest people in law. He came from Honduras and attended Columbia University as an undergraduate. He graduated with honors and then went on to Harvard Law School and graduated with honors there. He is considered one of the brightest people in law today, and, of course, he is a very successful attorney. He is a Hispanic nominee that I think our colleagues should be pleased that the President has sent to the Senate.

Jeffrey Sutton is one of the best appellate lawyers in the country. He has argued a number of cases in the Supreme Court, including in the last few weeks. He is also a decent human being. He has very good ratings from the ABA. He is a person we ought to put on the Circuit Court of Appeals.

I am pleased the distinguished Senator from Vermont indicated one of my State’s nominees, Michael McConnell. Michael McConnell is considered one of the greatest constitutional experts in the country. I do not think you can categorize him in any particular political pigeonhole. This is a fair and circumspect man who is going to do a tremendous job on the bench.

I asked one of the leading deans of a law school in the country, a very liberal Democrat, what he thought of Michael McConnell. By the way, McConnell was tenured at the University of Chicago before moving to Utah to raise his family. He moved to the University of Utah where he has been a pillar of good teaching ever since. When I asked the liberal dean, “What do you think of Michael McConnell?” he said these words:

And he is. He is a great nominee. There are other excellent nominees I would like to mention, but I do not have enough time today.

We have 23 circuit court nominees pending. Many of them have been nominated to seats declared to be judicial emergencies by the Administrative Office of the Courts.

Again, there are 23 U.S. circuit court judges pending, and 36 U.S. district court judges, for a total of 60 who are awaiting action. I am gratified by my colleague from Vermont’s expression that he wants to move these nominees through the Senate process. It means a lot to me, and I compliment him for his cooperation today.

With regard to some of the statistics, we certainly disagree, and we can both make our cases with regard to that. I did want to make some of these points because, to me, it is very important that we make the right decisions today.

Mr. President, I am also pleased today we have confirmed two excellent judicial nominations. These two nominees are Marcia Krier and James Mahan. They were unanimously approved by the Senate Judiciary Committee.

I was gratified to see that done on December 13, and I expect the unanimous vote they received today tells everybody the Bush administration is doing a good job on these judgeship nominees.

Our vote today on these two nominees, along with the nominations hearing Chairman Leahy held yesterday, in my opinion, is a step in the right direction. It is a good beginning to this session.

I think it is important to start our work early because we have a lot of work to do. As I said before, there are presently 99 vacancies in the Federal judiciary, which represents a vacancy rate of almost 12 percent, one of the highest in history.


Mr. President, I ask unanimous consent that the full text of Judge Gonzalez’ article be printed in the Record at this point.

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

[From the Wall Street Journal, Jan. 25, 2002]

The Crisis in Our Courts

(By Alberto Gonzales)

Federal courts protect constitutional rights, resolve critical civil cases, and ensure that criminals are punished. But as Chief Justice William Rehnquist cautions, the ability of our courts to perform these functions in a timely manner depends on the “alarming number” of judicial vacancies, 101 of today.
President Bush has responded to the vacancy crisis by nominating a record number of federal judges: 90 since taking office, almost double the nominations that any of the past five presidents submitted in the first year. Despite his decisive action, the Senate has not done enough to meet its constitutional obligation, and it has voted on only six of the 29 nominees to the courts of appeals. And the Senate has failed even to vote on many nominees, who have languished before the Judiciary Committee for months.

For example, on May 9, 2001, the president announced 14 nominees. All were deemed "well qualified" or "qualified" by the American Bar Association, whose rating system is the Senate Judiciary Committee Chairman Patrick Leahy has called the "gold standard" for evaluating nominees. Yet his committee has held hearings for only three of the 11. Although the Senate did confirm 29 judges last year, its overall record was unsatisfactory, given the number of vacancies and pending nominees.

As the Congress returns to work, the administration respectfully calls on the Senate to make the vacancy crisis a priority and to ensure prompt and fair hearings for all nominees. The Senate should make this practice permanent, adhering to it well after President Bush leaves office, so as to ensure that every judge nominated by a president other party receives a prompt hearing and vote.

The federal courts desperately need reinforcements. There are 191 vacancies out of 853 circuit and district court judgeships. The 12 regional circuit courts of appeals have an extraordinarily long wait time out of judgeships (19%). The chief justice recently warned of the dangerous impact the vacancies have on the courts and the American people. The Judicial Conference classified 39 vacancies as "judicial emergencies." In 1998, when there were many fewer judicial vacancies, Senate Majority Leader Thomas Daschle, now Majority leader, and Mr. Leahy expressed their concern about the "vacancy crisis"—with the latter explaining that the Senate's failure to vote on nominees was "delaying or preventing the administration of justice.

Today's crisis is worse, and is acute in several places. The D.C. Circuit Court of Appeals, which deals with the Supreme Court, is often considered the most important federal court because of the constitutional cases that come before it, has four vacancies out of judgeships. The Sixth Circuit Court of Appeals has eight vacancies on a court of 16. In March 2000, when that court had only four vacancies, its chief judge stated that it was "hurting badly and will not be able to keep up with its workload." In the past, senators of both parties have accused each other of delaying votes in voting on nominees. The most mistreatment of nominees does not justify today's behavior. Finger-pointing does nothing to put judges on the bench or ease the court's burdens; it only distracts the Senate from its constitutional obligation to act on the president's judicial nominees.

President Bush in 1994 encouraged the Senate to act in a bipartisan fashion, both now and in the future. He put it best at the White House last May while announcing his first 11 nominees: "As the leaders of both parties rise above the bitterness of the past, to provide a fair hearing and a prompt vote to every nominee, it should be the case for no matter who lives in this house, and no matter who controls the Senate, I ask for the return of civility and dignity to the confirmation process.

It is time for the Senate to heed his call.

Mr. HATCH. This week, the White House submitted 24 new judicial nominees to the Senate. They are really doing a good job in this White House, and I know it has been difficult for them.

Since we already had 38 nominees still pending from last session, and we confirmed 2 today, I now have a total of 60 nominees awaiting action from the Judiciary Committee. Yesterday's hearing and today's votes make me optimistic we will vote on all of our nominees as expeditiously as possible this year, and I am counting on our chairmen to do that. It certainly is possible to confirm all 60 this year, in addition to the other nominations we will receive later. In 1994, the second year of President Clinton's term, as I mentioned earlier, the Senate confirmed 100 judicial nominees. I am confident Republicans and Democrats can work together to achieve or even hopefully exceed this number in 2002, particularly with regard to the many circuit court nominees pending to fill emergency vacancies in appellate courts around this country. To do this, we have to keep up the pace of hearings and confirmation votes so we do not fall further behind in filling the vacancies that plague our Federal judiciary.

As Chief Justice Rehnquist noted, and as I have stated, in his 2001 year-end report:

"To continue functioning effectively and efficiently . . . the courts must be appropriately staffed. This means that necessary judgeships must be created and judicial vacancies must be timely filled with well-qualified candidates."

So I sincerely hope we will accomplish this goal. I look forward to cooperating with my chairman, the distinguished Senator from Vermont, and all of our other Democratic colleagues, and I hope the rhetoric on both sides of the aisle is cooled so we can confirm as many as possible of the highly qualified nominees we have.

Today's nominees are good examples of the kind of highly qualified nominees President Bush has submitted to the Senate. Chief Bankruptcy Judge Marcia Krieger, who has been nominated to the District Court in the District of Columbia, attended Lewis & Clark College, from which she graduated after 3 years summa cum laude, and earned her law degree from the University of Colorado School of Law. She has experience as a lawyer and as a specialist in bankruptcy. She has served as a bankruptcy court judge since 1994. Judge James Mahan, who has been nominated to the District Court for the District of Nevada, achieved a great reputation as a lawyer in Las Vegas for 17 years, primarily focusing on business and commercial litigation. In the process, he earned an AV rating from the Martindale-Hubbell legal directory, high praise from his peers. I have held that hearing. The earliest day it could be given to me, and I understand what goes into getting an AV rating. It is very important because it is a secret ballot by your peers, some of whom may not like you but nevertheless acknowledge you are of the highest legal ability and legal ethics. And he has that rating.

In February 1999, he was named a judge on the Clark County District Court. Since taking the bench, Judge Mahan has heard civil and criminal matters and trials involving a 3,000 case docket.

Both Judge Krieger and Judge Mahan have already established themselves as capable jurists. After today, they will be able to share their expertise in the Federal system, and I am confident they will bring honor and dignity to the Federal judicial system.

I am very pleased our colleagues have unanimously confirmed both of them.

Again, I thank my good friend and distinguished chairman of the Judiciary Committee for the work he has done. Among others, I appreciate being able to work with him.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate the words of my friend from Utah. Obviously, we cannot determine the course the White House might take. They can make that decision on their own, and I expect will. We can only determine what the Senate does. As I said before, it is advise and consent, not advise and rubberstamp. I only urge the White House to seek, as Presidents have throughout my lifetime, advice from the home State Senator of both parties on court nominations. Senator HATCH and I can move far more quickly on judges when that kind of consensus has been reached, just as we have demonstrated by moving through numerous conservative Republican nominees but for whom there was consensus.

Frankly, it would be a much easier job if only the Senate from Utah and I had to make these decisions. Again, I have worked very closely with the White House, I am told to what the two of us have been saying. We have demonstrated we will work together. They also have to help. They have to help the consultation. They have to help in the consultation. They have to help in getting the information on to the FBI. And the ABA reports. They have to also make sure when they speak about these issues they speak accurately. I thank my good friend from Utah for his comments, I will continue to work with him.

I also see the distinguished assistant Republican leader. He and the assistant Democratic leader, Senator REID, have worked very closely together with each other to try to schedule votes on the nominees. It is working very well and with Senator HATCH. I think that is helpful. It reflects the way the Senate is supposed to work. Our distinguished leaders, Senator DASCHLE and Senator LOTT, have worked closely on this and I will continue to work with that.

I yield the floor.
Mr. NICKLES. Mr. President, I thank my friend and colleagues from Vermont and Utah for their comments.

On the issue of judges, I think the Senate, and particularly with the leadership of both Senator LEAHY and Senator HATCH, did well on the district court. We moved a total of 28 judges last year, and 2 now, so that is 30 judges we have confirmed this Congress, 6 of whom were circuit court judges and the rest were district court judges or support them.

The percentage of district court judges has been a good percentage for the number who were nominated through the summer. So that was good. On circuit court judges, the record is not quite so good. We have confirmed six. President Bush has nominated 29. I comment to the chairman of the committee and the ranking member of the committee, there are 23 circuit court judges, only 1 of whom has had a hearing. In the 22 who are pending, there are some outstanding nominees. For example, Miguel Estrada is a native Honduran who came to the United States. He graduated top of his class from Columbia and Harvard Law School. He has argued 16 cases before the Supreme Court. I hope we have a hearing for him. He was nominated in May, so I again ask the chairman of the committee, before he leaves—before he leaves, I want to again compliment him for the work he has done on district judges. I think we have made good progress, but on circuit court judges there are 23 who are pending. 1 of whom has had a hearing. Judge Pickering, but of the 22 who have not had a hearing, several are outstanding, many of whom were nominated in May. I believe eight were nominated in May. I urge my friends and colleagues to take a look at such outstanding individuals. I mentioned Miguel Estrada, John Roberts, Miguel Estrada, and there is a key indicator of her efficiency and effectiveness; she was also unanimously chosen by the federal judges to become chief bankruptcy judge in January 2000. Both should prove extremely helpful to the Federal court in Colorado, which hasn’t added a judge since 1984 despite increasingly complex and mushrooming caseloads.

We commend Republicans Allard and Campbell, as well as the White House, for pushing to fill these vacancies quickly. We also congratulate the senators for zeroing in on such highly qualified nominees.

Mr. ALLARD. Mr. President, it is both an honor and a privilege to stand before my colleagues today and thank them for accepting the nomination of The Honorable Marcia S. Krieger to the U.S. District Court for the District of Colorado. Marsha S. Krieger is a person of outstanding legal credentials, and has served the people of Colorado and the United States with great diligence and dedication for many years.

Judge Krieger has strong ties to Colorado, she is familiar with the issues faced by people in the State, an important aspect of any judge who will work with fellow citizens through a myriad of complex litigation matters. She graduated from the University of Colorado School of Law, and has since spent many years as a sole practitioner, teaching in a manner that provides hands-on learning, sharing her passion for the law. Ms. Krieger presides over the court with a stern hand and keen intellect—she has the ability to decisively pull the issues out of complex litigation with certainty and accuracy.

According to an article in the Denver Post, Judge Krieger is widely respected by other judges and by lawyers that have appeared before them. She has extensive experience, solid knowledge of the law, and a reputation for fairness. This vote is significant for many reasons—Colorado hasn’t added a judge since 1984. Making matters more serious, only 1 circuit court judge has been confirmed since 1984.

The legal community believes the Judge to be well qualified as well. The Honorable Lewis T. Babcock, Chief Judge of the United States District Court for the District of Colorado, in a letter to Senator LEAHY and Senator HATCH stated, “I know Judge Krieger, and believe her to be well qualified.”

I thank Senator HATCH and Senator LEAHY.

Mr. HATCH stated, “I ask unanimous consent to print in the RECORD the editorial from the Denver Post and the letter from the Honorable Lewis T. Babcock, Chief Judge of the U.S. District Court for the District of Colorado.

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

BUSH TAPS 2 JUDGES

Tuesday, September 11, 2001.—The White House nominated two distinguished Colorado judges yesterday, and both will receive the full support of U.S. Sens. Wayne Allard and Ben Nighthorse Campbell.

President Bush’s nominations, as predicted in these pages Aug. 12, recommend U.S. Chief Bankruptcy Judge Don Smith, and Judicial District Judge Robert Blackburn for the bench.

We are delighted by the White House decision. Both judges have extensive experience, solid knowledge of the law and a reputation for fairness. They are widely respected by other judges and by lawyers who have appeared before them.

Both should prove extremely helpful to the Federal court in Colorado, which hasn’t added a judge since 1984 despite increasingly complex and mushrooming caseloads.
Mr. NICKLES. I ask unanimous consent to set aside the pending amendment and send an amendment to the desk. I am offering the amendment from Senator BOND, Senator COLLINS, ENZI, ALLEN, and Senator NICKLES.

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

The clerk will report.

The assistant legislative clerk read the following:

The Senator from Oklahoma [Mr. NICKLES], for Mr. BOND, for himself, Ms. COLLINS, Mr. ENZI, Mr. ALLEN, and Mr. NICKLES, proposed an amendment to the language proposed to be stricken by amendment No. 2698.

Mr. NICKLES. Mr. President, I ask unanimous consent reading of the amendment be dispensed.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for a temporary increase in expensing under section 179 of such code.)

At the end, add the following:

SEC. 260. TEMPORARY INCREASE IN EXPENSING UNDER SECTION 179.

(a) In General. Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended to read as follows:

"If the taxable year begins in 2001 or thereafter -- $24,000.
2002 or 2003 .................. $40,000
2004 or thereafter $50,000."

(b) Temporary Increase in Amount of Property Treated Phased Out of Maximum Benefit. Paragraph (2) of section 179(b) of the Internal Revenue Code of 1986 is amended by inserting before the period "(325,000 in the case of taxable years beginning during 2002 or 2003)

(c) Effective Date. The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Mr. NICKLES. Is there an amendment pending by Senator Allen?

The PRESIDING OFFICER. There is no amendment at the desk; there is a submitted amendment from Senator ALLEN.

Mr. NICKLES. Parliamentary inquiry: What is the number of that amendment?

The PRESIDING OFFICER. It is 2702.

Mr. NICKLES. Mr. President, I ask unanimous consent to set aside the pending amendment and ask consent to call up amendment No. 2702 on behalf of Senator ALLEN.

The PRESIDING OFFICER. In my capacity as a Senator from Michigan, I object to that. I understand there is an objection.

Mr. NICKLES. I ask unanimous consent this be the next Republican amendment filed in the normal course of business.

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

Mr. NICKLES. I thank my friends and colleagues.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I rise to speak on the Bond-Collins amendment and give a little explanation of what has been submitted. I am sure most of the Members of this body will want to back an amendment that supports small business in the way that this particular amendment does. Senator BOND, of course, has worked extensively on it and is the ranking member on the Small Business Committee. Senator Collins has been closely involved with the small business most of her life. I appreciate all the thought and effort that went into this amendment. It will provide an immediate economic stimulus and will provide a stimulus for small businesses in this country. The details of this are very limited to small business. However, it is an area that will help out immediately a wide range of businesses, and I will explain how that will happen.

I appreciate this opportunity to talk about what our Nation and my State of Wyoming need in the way of an economic stimulus package. I will talk on a broader issue first and then get into the details of this particular amendment. While I have a degree in accounting, you don’t need to be an accountant to know that something needs to be done to kick-start our economy. We ended Congress last year with a well-crafted, economic stimulus package that had bipartisan support, which the House passed, and the President said he would sign. In short, it was a bill worked out over several months of tough negotiations involving the administration and congressional Democrats and Republicans. It included unemployment compensation and health insurance for unemployed workers. It included tax relief for hard-working individuals and families, and it included much-needed help for America’s small businesses.

I was disappointed about the majority leader’s refusal to schedule the bipartisan bill for a vote before the recess. Today, rather than having an opportunity to vote on that bill, we are suddenly faced with a vote on a totally new bill.

The bill we are currently debating did not go through the normal congressional process. Instead, it was filed by the [Senator] with little input from our Senate colleagues on either side of the aisle, and it was brought to the floor for purposes of a vote.
While we finally have an opportunity to vote on an economic stimulus bill, it is much like a patient needing emergency treatment. Our only choice is to patch it up. That is what we have been doing through an amendment process. When we work bills that do not come out of the committee in a timely fashion, it takes longer. The reason it takes longer is because there has to be more consideration of amendments here that would normally be considered in a much easier process in the committee.

Today, we are arduously going through that process. I rise in favor of the Bond-Collins amendment which increases section 179 small business expensing. I support that because it is one of the many bandages that is needed to patch up the current proposal. If we are going to stimulate our economy, and I think we all want to do that, one of the main ways to do it is to help small businesses who are suffering. If we can help them, we can create more jobs.

Small business has been one of the successes of this country over the last decade. We have had a great economy. Throughout that time, though, there have been a number of the megamergers. The megamergers are when a big company merges with another big company to become a huge company. We find with the megamergers that shortly after that is done, there has been a downsizing, often referred to as a “right sizing.” If you are an employee who is affected by that, it means you get laid off.

Fortunately, during this time of the megamergers, we have had small business. Notice the unemployment for almost a decade did not rise. It went down in spite of megamergers. What does that mean? It means small business was hiring up the people that were laid off from the megamergers. They picked up the slack in the economy. Through their innovation, drive, flexibility, their ability to react to the situations, they created the success we have had.

Now, they are the part of the economy that can jump-start the economy, and this amendment is designed to jump-start small business area. The Bond-Collins amendment contains a tax relief provision that is similar to the bipartisan House bill, which calls for an increase in Section 179 business expensing for small businesses. In short, it gives small businesses relief by increasing the amount of property a business can treat as an ordinary and necessary deductible business expense.

Right now a business can deduct, or write off, up to $24,000 of the cost of business equipment or assets as an expense of doing business. This type of expensing allows businesses to take an immediate deduction, rather than treating their purchases as a capital expenditure. Let’s see if I can put that a little bit more clearly. If you purchase something and it is in this capital expenditure category, that means that you are only able to count that as an expense in each of several years. You have to divide it over the period of years that the capital expenditure would be useful. If you buy a computer, and deduct as a capital expenditure, you must write it off over 7 years. Now, computers get outdated much quicker than that, so you might be able to make an argument that it ought to be written off in a shorter period of time. But under this provision you could write it off in the first year.

You do not have to do all the division and all the complicated calculations that our depreciation system leads to. I have to tell you, the toughest thing in calculating taxes is if you have to figure depreciation. I know there are a lot of individuals as well as companies out there who understand that. We have changed the depreciation schedule so many times, we have changed the methods for doing depreciation so many times. I think people have to calculate depreciation on each item they have in several different ways. It is a big part of the Tax Code itself. It is very confusing. Probably one of the reasons a lot of people have to hire accountants is that some people just to figure the depreciation section.

For a small business, what Section 179 allows them to do is to count their purchased business asset as a normal business expense rather than trying to figure out what they do and when they do it and when they do it and what part has been written off and what part has not been written off for a period of years. I think you are getting the idea of how complicated this depreciation thing is. I want to tell you when you actually get to calculate it, it is a lot more complicated than what I have been talking about here.

But if you can call it a business expense, then you can write it off in that initial year. You have the revenue that comes in and you get to subtract the expenses. That winds up with a net figure that you pay taxes on. So, if you get to write off more as an expense, rather than dragging it out over a period of years and trying to remember to calculate and recalculate all of this, then in this first year, you will have more revenue because you will have less taxes. That is why this becomes a very important jump-start to our economy.

Right now, if you have $24,000 worth of those purchases, you can write them off. But if you go over that, you have to keep track of it and do all the calculations. So this amendment, the Bond-Collins amendment, would give immediate relief and is preferable to treating such purchases as capital expenditures where the business purchases must be deducted over a long period of time to reflect an asset’s useful life. Even calculating useful life can be difficult. There are a whole set of principles set out in the Tax Code that help you to determine “useful life,” but the easy part is writing it off in the year you purchase it. Direct expensing allows small business to avoid the complexities of depreciation rules and the depreciation, so to speak, is immediate rather than over the life of the asset.

This amendment would increase the amount of small business expensing from $24,000 to $40,000 for 2 years. What does this mean? It means small business would have an additional $16,000 in business asset costs that they could write off beyond the $24,000 that they can currently deduct, and they can deduct that expense immediately. That doesn’t all become a tax break. The only part that becomes a tax break is the remainder, the revenue less this expense. The remainder will be smaller and the remainder gets taxed. So there still is a tax implication to the whole thing.

We are not talking about the $24,000 off the $40,000 increase as being a tax write-off. It is a tax deduction, so it is a reduction in revenue. It is a very difficult concept, but it will only reduce the $16,000 of additional expenditure; that would actually be a tax saving of what they are paying in taxes.

But it is an immediate encouragement for the companies to purchase things that they need, and they only get to write them off if they buy them. They don’t get to write them off if it is something they don’t need. I think you get the idea. They have to purchase it and buy the equipment now. It is not everything they buy because vehicles are excluded and computer software is excluded. Computers are allowed. I will go into some other examples of some things that could be written off.

I also want to point out, though, that when small businesses go out and make this expenditure, this is an expenditure that they pay the government. One of the things that the economic report shows is that an expenditure in the private sector revolves money purchases around about seven times. One business buys something; the business that sold it to them receives the money, the business that sold it to them turns it around and spends it at another company, who takes it and spends it at another company who spends it. I think you get the idea. The money revolves seven times. So get expenses. Too, by having the government just run out and buy things. But here is a very important point: Private sector expenditures revolve seven times; government expenditures, twice. So that increase of $16,000 is considerably more effective in the private sector than it is if we are spending it on government projects. Keep that in mind. That is what this particular bill does.

Farmers can deduct up to $40,000 of the cost of a much-needed piece of farm equipment, such as a hay baler. Ranchers have an additional tax deduction for the expense of their electric pump used to water their cattle. The local
auto repair shop can deduct the cost of a much-needed welding machine or painting equipment. The local florist or dry cleaner can buy the computerized cash register it needs. The local barber shop maybe can deduct the cost of a new chair. It is a stimulus to get them to consider an expansion they need now, to make their business operate and be more competitive now.

Some folks will try to argue that this applies to big corporations, and we are trying to make the rich even richer. Not one single amendment only applies to small business.

In the past, section 179 applies only to those small businesses with annual asset purchases up to $200,000. The Bond-Collins amendment will simply increase that amount for 2 years to asset purchases of $325,000. As a result, section 179 will still apply to small businesses, but will allow those small businesses to buy even more equipment up front and have the small business expertise of that equipment apply immediately.

If they buy more than $325,000 of equipment in a year, they do not qualify for this. If they buy $325,000, they are still limited to expensing only $40,000 of that amount. It is a small business proposition.

There are a lot of companies that are at the $24,000 mark that will jump to the $40,000 mark because of this incentive. That extra $16,000 for thousands of companies means that other small businesses will cause other businesses to have a good year. They also will be stimulated to buy some extra equipment; and, it grows and grows.

I support the Bond-Collins amendment because it gives small businesses more incentive to make investments in business assets or property immediately, causing an immediate, positive effect on our economy. With a business deduction of up to $40,000 and resulting increases in the purchase of business products from other businesses, many more businesses will have the money necessary to hire additional workers. In Wyoming, a $40,000 tax deduction can go a long way in providing wages for an additional or part-time worker.

I should know. I owned a shoe store in Gillette, WY. Simply put, the less money I had to pay in taxes, the more money I had to invest in inventory, to maintain my building, and more importantly, to be more competent to take care of the customers. With additional small business expenses of $40,000, I could have bought that extra cash register I needed and with the tax money I saved, I could have hired an extra sales clerk to run it.

I just spent a couple of weeks in Wyoming and walked down main street in places like Casper, Gillette, and Cheyenne, and smaller towns such as Sundance, Saratoga, and some that you have probably never heard of. Every business in Wyoming could use a “hand-up.” The Bond-Collins amendment does just that.

As a member of the Senate Small Business Committee and a small business owner for much of my life, I know we need the Bond-Collins amendment. Right now, the current economic stimulus we are discussing does not provide a small business expensing increase. Small businesses on Main Street America deserve more. Small businesses in this country have been the mainstay of our economy. In good times and bad times, they have continued to stimulate our Nation’s economy. We need to preserve this small business stimulus by providing this tax relief mechanism for small businesses.

I think it is something that is appreciated across the aisle and across this building. I know on the other end of the building they have already passed this kind of stimulus. A small, short amendment like this doesn’t appear to be much, but I think it will make a huge difference. Things start in small business and they grow. We don’t give them enough credit. But that is how it works.

For these reasons, I support the Bond-Collins amendment covering small business expensing. I hope we can come together and resolve to pass an amendment that helps America’s mainstay, the small businesses.

I think this amendment will make a huge difference. It will make it immediate. It will be ordered in size more than is anticipated by anything else in the stimulus package. I hope my colleagues will take a careful and close look at this amendment, see the value of it, and join me in supporting it.

Thank you, Mr. President. 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.

AMENDMENT NO. 271 TO AMENDMENT NO. 298
(Purpose: To amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator MAX BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. R EID], for Mr. BAUCUS, Mr. T ORRICELLI, and Mr. BAYH, proposes an amendment numbered 2718 to amendment No. 298.

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

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

The amendment is printed in today’s Record under “Amendments Submitted.”

Mr. REID, Mr. President, I ask unanimous consent that the amendment be set aside.

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

AMENDMENT NO. 2719 TO AMENDMENT NO. 298

Mr. REID, Mr. President, we have an agreement with the minority that we will alternate amendments. This would be the next Democratic amendment if the Republicans decide to offer an amendment.

I send an amendment to the desk on behalf of Senator TOM HARKIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Nevada [Mr. R EID], for Mr. HARKIN, proposes an amendment numbered 2719 to amendment No. 298.

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

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

The amendment is as follows:

(Purpose: To provide for a temporary increase in the Federal medical assistance percentage for the medicare program for fiscal year 2002)
and the District of Columbia for the period; divided by
(ii) the sum of the civilian labor force in each State and the District of Columbia for the period.
(d) 1-YEAR INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, with respect to fiscal year 2002, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 6 percentage points of such amounts.

(e) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—
(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4); and
(2) payments under titles IV and XXI of such Act (42 U.S.C. 601 et seq. and 1396aa et seq.).

(f) STATE ELIGIBILITY.—A State is eligible for an increase in its FMAP under subsection (b) or (c) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on October 21, 2001.

(g) DEFINITIONS.—In this section:
(1) FMAP.—The term “FMAP” means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396c).
(2) STATE.—The term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396a et seq.).

(h) IMPLEMENTATION FOR REMAINDER OF FISCAL YEAR 2002.—The Secretary of Health and Human Services shall increase payments to States under title XIX for the second, third, and fourth calendar quarters of fiscal year 2002 to take into account the increases in the FMAP provided for in this section for fiscal year 2002 (including the first quarter of such fiscal year).

JUDICIAL NOMINATIONS
Mr. DASCHLE. Mr. President, I wish to speak briefly on the progress we have made this week on a couple of matters. We will soon propound a list of nominations. There will be 43 nominations total. Two of those have already been considered; that is, the confirmation of two Federal judges. But there are 36 other nominations, including 10 Ambassadorial nominations which will be presented to the Senate in a short period of time.

I thank colleagues on my side of the aisle in particular for their cooperative effort.

A lot of these nominations have worked their way through the committees. Chairmen and members of the committees have cooperated with the administration. We are now in the position to move quite a large number of these executive nominations at the very beginning of this session of Congress. There is hope to move, including additional judges. But obviously we continue to hope the administration will work with us in making sure that those nominations have been properly vetted and that we have the confidence that all of the actions required prior to confirmation have been completed.

We will continue to work with them as we have done in the past. We have already reported and confirmed over 35 judges. I believe the number is now 38. We will have a lot more to confirm in the coming weeks and months.

I thank in that regard Senator LEAHY for his efforts and for his work. I know there was a colloquy and exchange in the Chamber over the course of the last hour with regard to judgeships and other issues. I thank him for his leadership and for the extraordinary effort he has been making.

As I said at the beginning of this session, and at the beginning of last session, it is my policy, and it is the policy of our caucus, that once these matters have been brought to the floor on the Executive Calendar, they will get a vote. It may not be a direct vote, but it will be a vote. And we will continue to work with our colleagues on both sides of the aisle to ensure that these votes are scheduled in a timely way.

We have begun to consider the economic stimulus bill. I wish we could have accomplished more in the short time that we had. We will be back on the bill on Tuesday. We will work all through the day on Tuesday.

There will be votes on Tuesday, beginning perhaps as early as Tuesday morning. We will also be in session on Monday, even though there will be no votes on Monday.

Because of the Republican retreat, there will be no votes on Wednesday, Thursday, and Friday of next week. The Democratic single, 1-day conference will take place on Wednesday.

We will come back the following Monday, and Senators should expect votes on Monday of the following week. It is my hope that we can complete our work on the economic stimulus bill early in that week, the week after next.

We have a lot of work to do. The economic stimulus package should be completed within the first couple of days, so we can move to the farm bill, election reform, and, of course, the energy bill.

So in a very short period of time there is a great deal of work to be done. If necessary, I intend to file closure on the economic stimulus bill in an effort to bring closure to our work on the bill. We have been debating it for weeks, one could say months in the last session of the Congress last year. There is no need to extend the debate in this case as well. We will have additional amendments. We will have additional votes. But at the end, we must conclude our work and move on one way or the other.

As I have said in this Chamber on many occasions, what I view this legislation to be is nothing more, really, than a ticket to conference so we can continue to work and find some resolution. It would be ideal, of course, if the House would just take it up and pass it. That would be my first choice. But at the very least, it is a ticket to conference. It would be a good thing if we got to conference and began working out our differences in a way that would allow us to complete our work on the economic stimulus bill and, I might add, provide the unemployment benefits for 13 more weeks for millions of workers who are looking to us for some sign that we are going to have the wherewithal to at least maintain their quality of life and their ability to buy groceries and pay their rent and pay their heating bills.

So while this has not been as productive a week as I had hoped, we have ended it in a way that I think gives us some reason for additional confidence next week as we take up the bill, and certainly confidence with regard to the Executive Calendar and the nominations that will be confirmed this afternoon.

Mr. President, I yield the floor and suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

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

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

HOPE FOR CHILDREN ACT—Continued

AMENDMENT NO. 2702
Mr. ALLEN. Mr. President, I call up amendment No. 2702. The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to call the roll. Mr. ALLEN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

Mr. ALLEN. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with. The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:
Purpose: To exclude from gross income certain terrorist attack zone compensation of civilian uniformed personnel.

At the appropriate place, insert the following:

TITLE _TERRORIST RESPONSE TAX EXEMPTION ACT

SECTION 1. SHORT TITLE.
This title may be cited as the “Terrorist Response Tax Exemption Act.”

SEC. 2. EXCLUSION OF CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.
(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after subpart A the following new section:

"SEC. 112A. CERTAIN TERRORIST ATTACK ZONE COMPENSATION OF CIVILIAN UNIFORMED PERSONNEL.
"(a) In General.—Gross income does not include compensation received by a civilian
uniformed employee for any month during any part of which such employee provides security, safety, fire management, or medical services during the initial response in a terrorist attack zone.

(b) Definitions.—For purposes of this section—

(1) CIVILIAN UNIFORMED EMPLOYEE.—The term ‘‘civilian uniformed employee’’ means any nonmilitary individual employed by a Federal, State, or local government (or any agency or instrumentality thereof) for the purpose of maintaining public order, establishing and maintaining public safety, or responding to medical emergencies.

(2) INITIAL RESPONSE.—The term ‘‘initial response’’ with respect to a terrorist attack zone, the period beginning with the receipt of the first call for services described in subsection (a) in such zone by an entity described in paragraph (1) and ending with the beginning of the recovery phase in such zone as determined by the appropriate official of the Federal Emergency Management Agency.

(2) TERRORIST ATTACK ZONE.—

(A) IN GENERAL.—The term ‘‘terrorist attack zone’’ means any geographic area designated by order of the President, pursuant to a request by the chief executive officer of the State in which such area is located to the appropriate official of the Federal Emergency Management Agency, to be an area in which—

(i) a violent act or acts occurred which—

(I) were dangerous to human life and a violation of the criminal laws of the United States or of any State, and

(II) would appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation, or affect the conduct of a government by assassination or kidnapping; and

(ii) as a direct result of such act or acts, loss of life, or a significant damage to property or cost of response occurred.

(B) SIGNIFICANT DAMAGE TO PROPERTY OR COST OF RESPONSE.—For purposes of subparagraph (A)(i), damage to property or cost of response with respect to any area is significant if such damages or cost exceeds or will exceed $500,000.

(C) LIMITATION ON DESIGNATION.—An area may not be designated as a terrorist attack zone under subparagraph (A) if a negative economic impact to such area was the sole result of the act or acts described in subparagraph (A)(i).

(3) COMPENSATION.—The term ‘‘compensation’’ does not include pensions and retirement pay.

(b) CONFORMING AMENDMENTS.—

(1) Section 3401(a)(1) of the Internal Revenue Code of 1986 is amended by inserting ‘‘or section 112A (relating to certain terrorist attack zone compensation of civilian uniformed personnel)’’ after ‘‘United States’’.

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 112 the following new item:

‘‘Sec. 112A. Certain terrorist attack zone compensation of civilian uniformed personnel.’’

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after September 11, 2001.

Mr. ALLEN. Mr. President, I rise to ask for my colleagues support of amendment No. 2782, my ‘‘Terrorist Zone Compensation Act.’’ I would like to share with the Presiding Officer, my colleagues, and the American people the purpose of this amendment.

As we well know, the tragic events of September 11 demonstrated the worst attack that we have seen in this country, maybe in our entire history. At the same time—while seeing some of the most vile activity that mankind has ever seen—we saw a demonstration of our country and people’s will. Unfortunately, our Nation has been forever changed since those attacks of September 11, 2001. However, we should remember that we have been changed in some good ways. We are now united and resolved—combat terrorism worldwide. This war on terrorism is unlike any other war we have ever fought. Indeed, the attack of September 11 has actually changed the definition of combatants, so that now not only are military personnel tasked to locate and eradicate potential terrorist threats, but also civilian police, fire and rescue personnel are charged with maintaining public safety after a terrorist attack. And they are all subject to attack and risk.

In recognition of this new reality, I have offered this amendment that will extend the current tax exemption for military service members serving in a combat zone—use that same logic, that same principle to provide those same tax exemption benefits to civilian uniformed employees who respond to terrorist attacks on our own soil.

Specifically, my amendment includes those brave police officers, firefighters, and EMTs who risk their lives to defend us and our property.

It defines a terrorist attack zone as an area where someone has attempted to intimidate or coerce the civilian population or influence the policy of a government by conducting criminal terrorist acts.

It also extends this exemption to those who are now an integral part of our growing homeland security network.

Congress has already recognized the extraordinary sacrifices that our members of the Armed Forces have performed in their service in combat zones. Let us take this opportunity to honor our law enforcement officers, firefighters, and rescue personnel who have also placed themselves in danger in service to their country, to their States, and to their communities in protecting our fellow citizens from the enemy and these terrorist attacks.

Let’s recognize that they were in the World Trade Center, at the Pentagon, or on airplanes that were commandeered, people were in dangerous situations, and many lost their lives. Others were running people in toxic air, where there were falling debris, where there was burning embers or plastics or fuel, and other dangerous situations.

Our enemies, in their attacks, make all Americans—not just our military. We are all as well the target of their attacks. They do so without regard for the thousands of lives that would be affected by these attacks.

So now the Federal Government must adapt the Tax Code to account for those who serve the public’s safety here at home as it does for those who serve our military objectives.

These wonderful men and women we have heard about, this out—many who lost their lives; but also those who survived—these men and women are patriots; they are heroes. All of those who responded to this vile act of war on the United States on September 11, 2001, carry forth a unity of purpose for compassion, for liberty, and for justice. We must honor their hard work and resolve, for their example truly exemplifies our diverse, strong, and respectful Nation.

And so I ask my colleagues to join me in supporting my amendment. It is an expression of gratitude to those who wear the badges, carry the medical bags, and answer the call to protect life and property in the wake of the dastardly, cowardly attacks of terrorists.

This measure has been supported by many organizations. It has the support of the 220,000 member Internal Order of Police; the International Association of Fire Chiefs; the New York City Detectives Endowment Association, representing 7,500 active New York Police Department detectives; the National Association of Police Officers, representing 220,000 law enforcement officers across our country. The Capital Police Labor Board strongly supports it as well.

I would like to read from some of the groups that have endorsed this legislation or this amendment. For example, the Detectives Endowment Association of the Police Department for the City of New York: As President of the New York City Detectives Endowment Association, representing 7,500 active detective members of the NYPD, and as President of the National Association of Police Organizations, representing 220,000 law enforcement officers from all across the United States, I wish to commend and support [this legislation.]

Mr. Tom Scotto, who is the President of both the Endowment Association and NAPO, goes on to write:
Having personally experienced the tragic events of the terrorist attacks on the World Trade Center on September 11, 2001, I believe that this legislation is justifiable and will go a long way towards comforting the family of these public servants who respond to such events.

From the Grand Lodge of the Fraternal Order of Police, their President, Steve Young, expresses the support of his organization for this amendment. He strongly support this Terrorist Response Tax Exemption Act or this amendment. They are in strong support.

September 11 was a day of terrible tragedy, but in the midst of flames and the rubble, we saw shining examples of heroism from our law enforcement officers and other rescue workers. Placing their own lives in jeopardy, these courageous men and women helped rescue thousands. They called their own nation to heroism in the face of the long and difficult struggle that looms in our future.

Your bill would exempt the income of uniformed rescue personnel in “terrorist attack zones” from income tax during the months in which they perform their duties in response to such attacks. Our nation is engaged in a conflict that will not be fought in the manner of previous wars.

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.

Mr. REID. Mr. President, I ask unanimous consent that the amendment be dispensed with. The amendment is as follows:

AMENDMENT NO. 2721 TO AMENDMENT NO. 2698.

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator Baucus which would be the next amendment in order.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for the Secretary of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1594A-51).

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

The PRESIDING OFFICER. The quorum call is rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk read as follows:

The Senate from Nevada [Mr. Reid], for the Secretary of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1594A-51).

Subtitle B—Administration

TITLE __ LIVESTOCK ASSISTANCE PROGRAM —

Subtitle A—Income Loss Assistance

SEC. 01. INCOME LOSS ASSISTANCE.

(a) IN GENERAL.—The Secretary shall make emergency financial assistance available to producers on a farm that have incurred qualifying income losses in calendar year 2001.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1594A-51).

(c) USE OF FUNDS FOR CASH PAYMENTS.—The Secretary shall make assistance available under this section to make, in a manner consistent with this section, cash payments not for crop disasters, but for income loss to carry out the purposes of this section.

SEC. 02. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use funds from the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2001 losses in a county that has received an emergency designation by the Secretary on or before January 1, 2001, of which $12,000,000 shall be made available for the American Indian livestock program section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1594A-51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 105-277; 114 Stat. 1594A-51).

Mr. REID. Mr. President, does the Senator from Virginia have any business before the Senate at this time?

Mr. ALLEN. I do not.
September 10, 2002. The Smith amendment would have provided 30-percent bonus depreciation for 3 years, causing a deepening of the projected Federal deficit and extending the incentive beyond the forecasted period of the current economic downturn. Moreover, the incentive for a company to act now to acquire and place into service assets that do not take years to produce would be reduced under a 3-year bonus depreciation proposal, as proposed by Senator SMITH. I would also note that my amendment did not affect the outcome of the vote. The Smith amendment was rejected in a 39–45 vote, and would have required 60 votes to prevail.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak therein for a period not to exceed 10 minutes each.

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

GOMA

Mr. FEINGOLD. Mr. President, I rise today to bring my colleagues’ attention to the desperate situation of the people of Goma in the Democratic Republic of the Congo. A natural disaster recently added to the man-made tragedies that have already had a profound effect on the population in and around Goma. Basic human decency demands that the United States and the international community take prompt action to provide relief to the Congolese people, and to help them in their efforts to rebuild their communities.

On January 17, Mount Nyiragongo, which is situated in the eastern part of the country near Lake Kivu, erupted and then moved directly through Goma, destroying homes, water systems, markets, homes, schools, hospitals, and roads as far as 5 kilometers from the lava path.

The disaster has had a direct impact on the Congolese people. They have lost their homes, their livelihoods, and their hope for a better future. The United States and the international community must take action now to provide relief to the Congolese people and to help them rebuild their communities.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation that 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 November 8, 1998, in Palm Springs, CA. A gay march in Palm Springs’ Gay Pride weekend was attacked by three men. The assailants against the humans that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

TRIBUTE TO SGT. JEANNETTE L. WINTERS

Mr. BAYH. Mr. President, I rise today to pay tribute to the seven members of the U.S. Marine Corps who died on January 9, 2002, when their KC-130 plane crashed in Pakistan. We are grateful for their service to the United States and are humbled by the ultimate sacrifice they made in defense of our country.

In Indiana, we grieve the untimely death of one of our own, Sgt. Jeannette Winters. Sergeant Winters grew up in Gary, IN and followed in the footsteps of her older brother, Matthew, when she joined the Marine Corps in 1997. Sergeant Winters was deployed for Operation Enduring Freedom in December and worked as a radio operator on the KC-130 plane.

Jeannette is remembered fondly by her friends and family as a caring person who had a positive outlook on life. She loved her country and was a proud marine who served honorably for more than 4 years. Her courage and her commitment to our country are a credit to her family and friends. Sergeant Winters and all of the brave men and women of our Armed Forces will remain in our thoughts and prayers.

When I reflect on the just cause in which we are engaged, on our commitment to routing out the scourge of terrorism across the world, I am reminded of the words of the prophet Isaiah who said, “He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.”

ADDITIONAL STATEMENTS

TRIBUTE TO DARRELL J. LOCKWOOD

Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Darrell Lockwood of Goffstown, NH,
CONGRESSIONAL RECORD — SENATE

S135

January 25, 2002

for being named by the New Hampshire School Administrators Association in coordination with the American Association of School Administrators as New Hampshire Superintendent of the Year for 2001–2002. Darrell has been a dedicated member of the educational community for many years. He was appointed superintendent in 1998 and formerly served as a teacher, principal and business administrator from 1976 through 1987.

An active community contributor, Darrell has been actively involved in many educational associations and organizations including: adjunct faculty member Rivier College and Plymouth State College, chairman of South Central School Administrators Association, representative Northeast Superintendents Leadership Council and member and past president of the Goffstown Rotary Club. Darrell received his Doctorate of Education in Curriculum, Instruction and Administration from Boston College in Chestnut Hill, MA, his Masters of Education in Curriculum, Instruction and Administration from Boston College, his Bachelor of Science in Education in Curriculum, Instruction and Administration from Antioch University in Keene, NH and a Bachelor of Science in Education from Westminster College in Chestnut Hill, MA. As a former school teacher, I applaud Darrell for his devoted service to the educational community in New Hampshire. Thanks to his leadership and guidance, many young people in the state have benefitted from his skills in teaching and administration. It is truly an honor and a privilege to represent him in the United States Senate.

- HONORING WALT DISNEY
  - Mrs. CARNANAH. Mr. President, we are all familiar with the quote “I only hope that we don’t lose sight of one thing—that it was all started by a mouse.” Immediately, my mind turns to Walt Disney and a smile comes across my face. His lifetime achievements are known by all and often told, but today I want to talk about the boy. Walt Disney grew up with roots deep in Missouri. A boy whose early childhood experiences and memories would be the foundation for the man who would take the dreams of America, and make them come true.

This year we mark the one hundredth anniversary of Walt’s birth, and all over America people are gathering to celebrate. In Marceline, MO, Walt’s hometown, the Centennial Celebration drew a reported 50,000 visitors anxious to participate. People came from all over the world to get a feel for what Walt experienced there, including a dedication to the kind of group effort that was a hallmark of American factorying around the turn of the century. The idealized Main Street in Disneyland, the country life depicted in “Old Yeller,” and even the fascination with animals that led to the True-Life Adventures, all have their origins on that farm in Marceline.

In Kansas City they also celebrate one of the most successfully creative men of the 20th century. At age 9, Walt and his family moved to Kansas City where his father bought a Kansas City Star newspaper route. Walt and his brother, Roy, had to wake at 3:00 a.m. every day to deliver newspapers, developing a work ethic in Walt that would later work out the stubborness of staff members. It was his father’s grittiness, determination and resilience balanced by his mother’s love of fun and a pleasure in people that added to his total wealth of experience from which he was able to draw a lifetime of creative adventures for the rest of his life. Legend has it that the idea for Mickey Mouse came to him from a memory of a friendly mouse that begged for food in his Kansas City art studio. We all owe him our gratitude. Try to imagine a world without Walt Disney—a world without his magic, whimsy, and optimism. Fortunately we don’t have to. Walt did more to touch the hearts, minds, and emotions of millions of Americans than any other man in the world. As a boy, he may have had to start it, but through his work he brought joy, happiness, and a universal means of communication to the people all over the world.

REPORT OF THE NATIONAL INTEREST RELATIVE TO JAPAN AND CHEMICAL WEAPONS—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 64

Under the authority of the order of the Senate of January 3, 2001, the Secretary of the Senate, on January 25, 2002, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying paper; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to the authority vested in me by section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) (the “Act”), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspensions under section 902 of the Act insofar as such suspensions pertain to the export of defense articles or defense services to the Government of Japan to destroy Japanese chemical weapons abandoned during World War II in the People’s Republic of China. License requirements remain in place for these exports and require review and approval on a case-by-case basis by the United States Government.

GEORGE W. BUSH


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-5189. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Board’s report under the Government in the Sunshine Act for calendar year 2001; to the Committee on Government Affairs.

EC-5190. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Alaska Subsistence Regulations for Public Lands in Alaska, Subpart C and D—2002-2003 Subsistence Taking of Fish and Shellfish Regulations,” (FRL7130–24) received on January 17, 2002, to the Committee on Energy and Natural Resources.

EC-5191. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the status of U.S. efforts regarding Iraq’s compliance with UN Security Council resolutions; to the Committee on Foreign Relations.

EC-5192. A communication from the President of the United States, transmitting, pursuant to law, a report entitled “Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program” (FRL7127–4) received on January 16, 2002; to the Committee on Environment and Public Works.

EC-5194. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled “Clean Water Act Section 401 Penalty Policy”; to the Committee on Environment and Public Works.

EC-5195. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Inspection and Maintenance Program” (FRL7127–4) received on January 16, 2002; to the Committee on Environment and Public Works.

EC-5196. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval for Proposals for an Improved Atmospheric Nitrogen Deposition Data Set for the Chesapeake Bay Program” (FRL7129–4) received on January 16, 2002; to the Committee on Environment and Public Works.

EC-5197. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, a report on environmental assessment, restoration, and cleanup activities for Fiscal Year 2000; to the Committee on Environment and Public Works.

EC-5198. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans; New York’s Reasonable Further Plans, Transportation Conformity Barbara Toomey, Assistant General Counsel, Measure Analysis and 1-Hour Ozone Attainment Demonstration State Implementation
INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MCCONNELL:

S. 1898. A bill to establish the Green River National Wildlife Refuge in the State of Kentucky; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 466

At the request of Mr. S. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 466, a bill to amend the Internal Revenue Code of 1986 to allow the use of completed contract method of accounting in the case of certain long-term naval vessel construction contracts.

S. 1209

At the request of Mr. BINGAMAN, the names of the Senator from Georgia (Mr. CLELAND), the Senator from New Jersey (Mr. CORZINE), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1209, a bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes.

S. 1290

At the request of Mr. BINGAMAN, the name of the Senator from Georgia (Mr. CLELAND), the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1290, a bill to authorize the Secretary of VA to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers.

S. 1708

At the request of Mr. CLELAND, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1708, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1603

At the request of Mr. CONRAD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1603, a bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for four hemodialysis treatments per week for certain patients, to provide for an increased update in the composite payment rate for dialysis treatments, and for other purposes.

S. 1707

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAIG) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1707, a bill to further the protection and recognition of veterans’ memorials, and for other purposes.

S. 2705

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 2705, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. RES. 182

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. RES. 182, a resolution expressing the sense of the Senate that the United States should allocate significantly more resources to combat global poverty.

AMENDMENT NO. 2705

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 2705, a concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 1898. A bill to establish the Green River National Wildlife Refuge in the State of Kentucky; was added to; the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, I rise today to introduce the Green River National Wildlife Refuge Act of 2002. Seven years ago Kentucky was the only State in the Nation not to have its own national wildlife refuge. I was proud to remedy this problem by helping enact legislation to establish the Clark’s River National Wildlife Refuge in Marshall County, KY. Nearly half of the targeted 18,000 acres have been acquired from willing sellers. And this spring, the refuge headquarters building will be completed.
Given the success and progress of the Clarks River refuge, I am proud to partner with the efforts of the United States Fish and Wildlife Service to establish Kentucky’s second national wildlife refuge on approximately 23,000 acres of land. County and the confluence of the Green River and the Ohio River. This targeted refuge area will provide a diverse array of conservation, recreation, and environmental education opportunities for everyone to wildlife enthusiasts to local school groups.

The proposed refuge site in the Green River bottoms area was once part of a large bottomland hardwood forest. Although this wetland area has largely been replaced by agriculture, it serves as a popular spot for a variety of waterfowl and migratory birds, especially when desirable water levels occur. In fact, on February 1, 1999, more than 10,000 ducks and 8,000 geese were recorded as visitors to the Green River area. The site is also home to several endangered or threatened species, such as the fanshell, Indiana bat maternity colonies, the copperbelly snake, and a number of different mussels. Establishing a refuge in this area offers a valuable opportunity to restore hardwood forest to the Green River bottoms area, which will, in turn, help provide a safe and fruitful habitat for migratory birds and wildlife and help stop the erosion that threatens to change the course of the Ohio River.

Outdoor recreationalists, including hunters, fishermen, birdwatchers, nature photographers, will enjoy many benefits of the refuge protection and restoration of a diverse and thriving wildlife habitat. Indeed, the proposed refuge area already hosts a large population of white-tailed deer, gray squirrel, catfish, and carp, which will provide excellent hunting and fishing opportunities.

The U.S. Fish and Wildlife Service already has taken significant steps to make the Green River National Wildlife Refuge a reality. I think it is important that we now move to ensure that the land acquired for this refuge is obtained only from willing sellers, just as is the case with Clarks River National Wildlife Refuge. Although I understand that the U.S. Fish and Wildlife Service has no plans to condemn private property for the refuge, I believe that the landowners in Henderson County deserve a legislative guarantee to assure that the Refuge will not infringe upon their rights as private property owners. My legislation would provide that guarantee.

I look forward to partnering with the U.S. Fish and Wildlife Service to bring this project to fruition, and I ask unanimous consent that a copy of this bill, be printed in the RECORD.

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

S. 1996

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 “Green River National Wildlife Refuge Act of 2002.”

SEC. 2. FINDINGS.

Congress finds that—

(1) the Green River bottoms area, Kentucky, was once part of a large bottomland hardwood forest;

(2) most of the bottoms area has been converted to agricultural use through—

(A) draining of wetland;

(B) altering of interior drainage systems; and

(C) clearing of bottomland hardwood forest;

(3) as of the date of enactment of this Act, the bottoms area is predominantly ridge and swale farmland, with river-scar oxbows, several sloughs, wet depression areas, and a small quantity of bottomland hardwood forest;

(4) approximately 1,200 acres of bottomland hardwood forest remain, consisting mostly of cypress, willow, hackberry, silver maple, ash, and buttonbush;

(5) many of the interior drainage systems on the land offer excellent opportunities to restore; and

(6) the proposed refuge site in the Green River bottoms area, which will, in turn, help provide a safe and fruitful habitat for migratory birds and wildlife and help stop the erosion that threatens to change the course of the Ohio River.

Outdoor recreationalists, including hunters, fishermen, birdwatchers, nature photographers, will enjoy many benefits of the refuge protection and restoration of a diverse and thriving wildlife habitat. Indeed, the proposed refuge area already hosts a large population of white-tailed deer, gray squirrel, catfish, and carp, which will provide excellent hunting and fishing opportunities.

The U.S. Fish and Wildlife Service already has taken significant steps to make the Green River National Wildlife Refuge a reality. I think it is important that we now move to ensure that the land acquired for this refuge is obtained only from willing sellers, just as is the case with Clarks River National Wildlife Refuge. Although I understand that the U.S. Fish and Wildlife Service has no plans to condemn private property for the refuge, I believe that the landowners in Henderson County deserve a legislative guarantee to assure that the Refuge will not infringe upon their rights as private property owners. My legislation would provide that guarantee.

I look forward to partnering with the U.S. Fish and Wildlife Service to bring this project to fruition, and I ask unanimous consent that a copy of this bill, be printed in the RECORD.

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

S. 1996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
ensure that hunting, fishing, wildlife observation and photography, and environmental education and interpretation are the priority general public uses of the Refuge, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)); and

(4) encourage the use of volunteers and facilitate partnerships among the United States Fish and Wildlife Service, local communities, conservation organizations, and other entities to promote—

(A) public awareness of the resources of the Refuge and the National Wildlife Refuge System; and

(B) public participation in the conservation of those resources.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for—

(1) the acquisition of land and water within the boundaries of the Refuge; and

(2) the development, operation, and maintenance of the Refuge.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2709. Mrs. Lincoln submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. Daschle and intended to be proposed to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2710. Mrs. Lincoln submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2711. Mr. Lott (for Mr. Inhofe) submitted an amendment intended to be proposed by Mr. Lott to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2712. Mr. Kennedy submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2713. Mr. Daschle (for Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2714. Mr. Smith (of Oregon) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2715. Mr. Lott (for Mr. Inhofe) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2716. Mr. Smith (of Oregon) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2717. Mr. Nickles (for Mr. Bond (for himself, Ms. Collins, Mr. Enzi, Mr. Allen, and Mr. Nickles)) proposed an amendment to amendment SA 2698 submitted by Mr. Daschle and intended to be proposed to the bill H.R. 622, supra.

SA 2718. Mr. Reid (for Mr. Baucus (for himself, Mr. Torricelli, and Mr. Bayh)) proposed an amendment to amendment SA 2698 submitted by Mr. Daschle and intended to be proposed to the bill H.R. 622, supra.

SA 2719. Mr. Reid (for Mr. Harkin) proposed an amendment to amendment SA 2698 submitted by Mr. Daschle and intended to be proposed to the bill H.R. 622, supra.

SA 2720. Mrs. Lincoln submitted an amendment intended to be proposed by her to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2721. Mr. Reid (for Mr. Baucus) proposed an amendment to amendment SA 2698 submitted by Mr. Daschle and intended to be proposed to the bill H.R. 622, supra.

SA 2722. Mr. Allard (for himself, Mr. Hatch, and Mr. Allen) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2709. Mrs. Lincoln submitted an amendment intended to be proposed to amendment SA 2698 submitted by Mr. Daschle and intended to be proposed to the bill H.R. 622, supra.

SA 2710. Mrs. Allard (for himself, Mr. Hatch, and Mr. Allen) submitted an amendment intended to be proposed by him to the bill H.R. 622, supra; which was ordered to lie on the table.

SA 2711. Mrs. Lincoln submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 23, strike the comma and insert ‘‘, or’’.

On page 9, between lines 22 and 23, insert: ‘‘(V) which is qualified retail improvement property.’’

On page 15, line 7, strike the end quotation marks and the second period.

On page 15, after line 7, insert: ‘‘(4) QUALIFIED IMPROVEMENT PROPERTY.—For purposes of this subsection—’’.

(A) IN GENERAL.—The term ‘‘qualified real improvement property’’ means any improvement to an interior portion of a building which is primarily used or held for use in a qualified retail business at the location of such improvement, but only if such improvement is placed in service more than 3 years after the date the building was first placed in service.

(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—The term ‘‘qualified real improvement property’’ does not include any improvement of a type described in clauses (1) through (iv) of subsection (k)(3)(B).

(C) QUALIFIED RETAIL BUSINESS.—For purposes of this paragraph—

(1) IN GENERAL.—The term ‘‘qualified retail business’’ means a trade or business selling tangible personal property to the general public.

(II) TREATMENT OF CERTAIN SALES OF INTANGIBLE PROPERTY OR SERVICES.—Any sale of intangible property or services shall be considered a sale of tangible property if such sale is incidental to the sale of tangible property. A trade or business shall not fail to be treated as a qualified retail business by reason of sales of intangible property or services if such sales (other than sales that are incidental to the sale of tangible personal property) represent less than 10 percent of the total sales of the trade or business at the location.’’.

SA 2710. Mrs. Lincoln submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 9. RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.

(1) (a) 5-YEAR RECOVERY PERIOD FOR CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT.—

(i) IN GENERAL.—Subparagraph (A) of section 168(k)(2) (defining qualified technological equipment) is amended by striking ‘‘and’’ at the end of clause (ii), by striking the period at the end of clause (ii) and inserting ‘‘, and’’ and by adding at the end the following:—

(iv) any wireless telecommunication equipment.’’.

(b) DEFINITION OF WIRELESS TELECOMMUNICATIONS EQUIPMENT.—Paragraph (2) of section 168(k) is amended by adding at the end the following:

‘‘(D) WIRELESS TELECOMMUNICATION EQUIPMENT.—

(i) IN GENERAL.—For purposes of this paragraph—

(1) IN GENERAL.—The term ‘‘wireless telecommunication equipment’’ means equipment which is used in the transmission, reception, coordination, or switching of wireless telecommunications service.

(2) EXCLUSION.—The term ‘‘wireless telecommunication equipment’’ shall not include towers, buildings, ‘‘T-1’’ lines, or other cabling
which connects cell sites to mobile switching centers.

“(ii) WIRELESS TELECOMMUNICATIONS SERVICES.—For purposes of clause (i), the term ‘wireless telecommunications service’ includes any commercial mobile radio service as defined in title 47 of the Code of Federal Regulations.”

(b) Effective Date.—The amendments made by this section shall apply to property placed in service after September 10, 2001.

SA 2712. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 6. DELAY IN MEDICAID UPL CHANGES FOR NON-STATE GOVERNMENT-OWNED OR OPERATED HOSPITALS.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) The Secretary of Health and Human Services, in regulations promulgated on January 12, 2001, provided for an exception to the upper limits on payment under State medical plans for payment to city and county public hospitals at a rate up to 150 percent of the Medicare payment rate.

(2) The Secretary justified this exception because:

(A) provide access to a wide range of needed care not often otherwise available in underserved areas;

(B) deliver a significant proportion of uncompensated care; and

(C) are critically dependent on public financing sources, such as the Medicaid program.

(3) There has been no evidence presented to Congress that has changed this justification for such exception.

(b) MORATORIUM ON UPL CHANGES.—Any change in the upper limits on payment under title XIX of the Social Security Act for services of non-State government-owned or operated hospitals, whether based on the final rule published on January 18, 2002, or otherwise, may not be effective before the later of January 1, 2003, or 3 months after the submission to Congress of the plan described in subsection (c).

(c) MITIGATION PLAN.—The Secretary of Health and Human Services shall submit to Congress a report that contains a plan for mitigating the loss of funding to non-State government-owned or operated hospitals as a result of any change in the upper limits on payment referred to in subsection (b). Such report shall also include such recommendations for legislative action as the Secretary deems appropriate.

SA 2713. Mr. DASCHLE (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. DASCHLE to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV.—TEMPORARY ENHANCED UNEMPLOYMENT BENEFITS

SEC. 401. SHORT TITLE.

This title may be cited as the “Temporary Unemployment Compensation Act of 2002”.

SEC. 402. FEDERAL-STATE AGREEMENTS.

(a) Time Limit.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days’ written notice to the Secretary, terminate such agreement or amend the provisions of such agreement.

(b) PROVISIONS OF AGREEMENT.—

(I) IN GENERAL.—Any agreement under subsection (a) shall provide that the State agency of the State will make—

(1) payments of temporary enhanced unemployment compensation to individuals; and

(2) payments of temporary supplemental unemployment compensation to individuals who—

(I) have—

(A) exhausted all rights to regular compensation under the State law; or, as the case may be, all rights to temporary enhanced unemployment compensation; or

(B) received 26 weeks of regular compensation under the State law; or, as the case may be, 26 weeks of temporary enhanced unemployment compensation; or

(II) do not have any rights to regular compensation under the State law of any other State (or to temporary enhanced unemployment compensation under any Federal law); and

(iii) are not receiving compensation under the unemployment compensation law of any other country.

(2) SPECIAL RULES REGARDING TEMPORARY ENHANCED UNEMPLOYMENT COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the amount of temporary enhanced unemployment compensation shall be determined in a manner as eligibility for, and the amount of, regular compensation is determined under the State law.

(B) ELIGIBILITY FOR TEUC.—In the case of an individual who is not eligible for regular compensation, temporary enhanced unemployment compensation under subparagraph (A) shall be determined by applying a base period ending at the close of the calendar quarter most recently completed before the date of the individual’s eligibility for benefits, except that this clause shall not apply unless the quarter on which the application has been reported to the State or supplied to the State agency on behalf of the individual, or, in the case of an individual who does not meet requirements relating to work, active search for work, or refusal to accept work, because such individual is seeking, or is available for, only part-time (and not full-time) work, the individual would be eligible for temporary enhanced unemployment compensation under subparagraph (A) to be determined without regard to the fact that such individual is seeking, or is available for, only part-time (and not full-time) work, except that this clause shall not apply unless—

(I) the individual’s employment on which eligibility for temporary enhanced unemployment compensation is based was part-time employment; or

(II) the individual can show good cause for seeking, or being available for, only part-time (and not full-time) work.

(C) INCREASED BENEFITS.—

(I) INDIVIDUALS ELIGIBLE FOR REGULAR COMPENSATION.—In the case of an individual who is eligible for regular compensation (including dependents’ allowances) under the State law without regard to this paragraph, the amount of temporary enhanced unemployment compensation payable to such individual for any week shall be an amount equal to the greater of—

(1) $15 per week; and

(2) 15 percent of the amount of such regular compensation payable to such individual for the week; or

(II) $25.

(II) INDIVIDUALS NOT ELIGIBLE FOR REGULAR COMPENSATION BUT ELIGIBLE FOR TRUC BY REASON OF SUBPARAGRAPH (B).—In the case of an individual who is eligible for temporary enhanced unemployment compensation under this paragraph by reason of either clause (I) or (ii) of subparagraph (B), the amount of temporary enhanced unemployment compensation payable to such individual for any week shall be equal to the amount of compensation payable to such individual (as determined under this title) for the week, plus an amount equal to the greater of—

(I) 15 percent of the amount so determined; or

(II) $25.

(III) ROUNDING.—For purposes of determining the amount under clause (I) or (II), any decimal fraction of the dollar amount specified under the State law.

(c) NONREDUCTION RULE.—Under an agreement entered into under this title, subsection (b)(2)(C) shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the agreement governing the provisions of regular unemployment compensation under the State law of that State has been modified in a way such that the average weekly amount of regular compensation payable under such modified law during the period of the agreement (determined disregarding any temporary enhanced unemployment compensation) will be less than the average weekly amount of regular compensation which would otherwise have been payable during such period under the State law as established in accordance with the provisions of the State law referred to in subsection (b)(2)(C).

(d) COORDINATION RULES.—

(1) REGULAR COMPENSATION PAYABLE UNDER A FEDERAL LAW.—Rules similar to the rules governing the coordination of Federal temporary supplemental unemployment compensation under section 1503(b)(2)(A)(i) of the Social Security Act (42 U.S.C. 1105(b)(2)(A)) shall apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(2) TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION TO SERVE AS SECOND-LEVEL BENEFIT.—Notwithstanding any other provision of law, neither regular compensation, temporary enhanced unemployment compensation, extended compensation, nor additional compensation (as defined for purposes of the State law) shall be payable to an individual for any week for which temporary supplemental unemployment compensation is payable to such individual.

(3) TREATMENT OF OTHER UNEMPLOYMENT COMPENSATION.—After the date on which a State enters into an agreement under this title, any regular compensation (or, as the case may be, temporary enhanced unemployment compensation) which would otherwise have been payable during such period under the State law as established in accordance with the provisions of the State law referred to in subsection (b)(2)(C) shall apply in determining the amount of benefits payable under any Federal law to the extent that those benefits are determined by reference to regular compensation payable under the State law of the State involved.

(e) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1)(B)(i)(I), an individual shall be considered to have exhausted such individual’s rights to regular compensation (or, as the case may be, rights to temporary enhanced unemployment compensation) under a State law (or agreement under this title) when—

(1) no payments of regular compensation (as the case may be, rights to temporary enhanced unemployment compensation) can be made under such law (or such agreement) because the individual has received all such compensation, or

(2) payments of compensation available to the individual based on employment or wages during the individual’s base period; or
lished in such account for such individual.

porary supplemental unemployment compensable to any individual for whom a tem-

unemployment compensation and the pay-

apply to claims for temporary supplemental

law which apply to claims for regular com-

such individual for a week for total unem-

(1) the amount of regular compensation payable to the individual

(1) IN GENERAL.—Any agreement under this title shall provide that the State will estab-

secures to such individual.

SEC. 403. TEMPORARY SUPPLEMENTAL UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will es-

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the greater of—

(2) the terms and conditions of the State law which apply to claims for regular com-

and to the payment thereof shall apply to claims for temporary supplemental unemploy-

ment during such individual’s benefit year;

(3) the maximum amount of temporary supplemental unemployment compensation payable to such individual for a week for total unemploy-

ment during such individual’s benefit year;

SEC. 404. PAYMENT OF AVOIDING AGREEMENTS UNDER THIS TITLE.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agree-

ment under this title an amount equal to—

(1) 100 percent of any temporary enhanced unemployment compensation payable to indi-

ividuals by the State pursuant to such agreement.

(b) DETERMINATION OF AMOUNT.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in accordance with section 404(b)(2)(B); and

and (ii) the amount of any temporary enhanced unemployment compensation payable to such individual for a week for total unemploy-

ment during such individual’s benefit year;

(3) 100 percent of the temporary supplemental unemployment compensation paid to individuals by the State pursuant to such agreement.

SEC. 405. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as estab-

lished by section 905(a) of the Social Security Act (42 U.S.C. 1105(a))), and the Fed-

eral unemployment account (as established by section 903(a) of the Social Security Act (42 U.S.C. 1103(a))), of the Unemployment Trust Fund (as established by section 901(a)(4) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agree-

ments under this title (including any improve-

ments in technology in connection therewith) and to provide reemployment services to unemployment compensation claimants in States having agreements under this title (including any share of the amount appropriated by the preceding sentence shall be determined by the Secretary according to the factors described in section 902(a) of the Social Security Act (42 U.S.C. 1102(a)) and certified by the Secretary of the Treasury.

SEC. 406. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by an-

other, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation of such nondisclosure, such individual received temporary enhanced unemployment compensation or temporary supplemental unemployment compensation under this title to which such individuals was not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it de-

termine that—

(1) the payment of such benefits was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(b) SPECIFIC RULES.

(1) IN GENERAL.—The agency may rec-

cover the amount of any temporary enhanced unemploy-

ment compensation payable to any part thereof, by deductions from any regular com-

pensation, temporary enhanced unemploy-

ment compensation, or temporary supple-

mental unemployment compensation pay-

able to such individual under this title or from any unemployment compensation pay-

able to such individual under any Federal unemployment compensation law admin-

istered by the State agency or under any other Federal law administered by the State agen-

cy which provides for the payment of any as-

sistance or allowance with respect to any week of unemployment, during the 3-year pe-

riod after the date such individuals received the payment of the temporary enhanced un-

employment compensation or the temporary supplemental unemployment compensation to which such individuals were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repay-

ment shall be required, until a determination has been made, notice thereof and an oppor-

tunity for a fair hearing has been given to the individual, and the determination has be-

come final.

(d) REVIEW.—Any determination by a State agen-

cy under this section shall be subject to review in the same manner and to the same extent as determinations under the State un-

employment compensation law, and only in 

that manner and to that extent.

SEC. 407. DEFINITIONS.

In this title, the terms “compensation”, “extended compensation”, “additional compensa-

tion”, “benefit period”, “benefit year”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304(b)).

SEC. 408. APPLICABILITY.

(a) IN GENERAL.—An agreement entered under this title shall apply to weeks of unemploy-

ment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 6, 2003.

(b) SEC. 400 RULES.

(1) IN GENERAL.—Under such an agreement, the following rules shall apply:

(A) ALTERNATIVE BASE PERIODS.—The pay-

ment of any temporary enhanced unemployment compensation by reason of section 402(b)(2)(B)(i) (relating to alternative base
§ 2714. Mr. DURBIN (for himself, Mr. WELLSTONE, Mr. DAYTON, Ms. LANDRIEU, and Mrs. LINCOLN) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credits, and for other purposes; as follows:

Strike title IV and insert the following:

TITLE IV—TEMPORARY ENHANCED UNEMPLOYMENT BENEFITS

SEC. 401. SHORT TITLE.

This title may be cited as the “Temporary Unemployment Compensation Act of 2002”.

SEC. 402. FEDERAL-STATE AGREEMENTS.

(a) In General.—Any State which desires to do so may participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) Provisions of Agreement.—

(1) GENERAL.—Any agreement under subsection (a) shall provide that the State agency for

(A) payments of temporary enhanced unemployment compensation to individuals; and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have—

(1) exhausted all rights to regular compensation under the State law; or

(2) are not eligible for regular compensation because they do not have the following:

(I) eligibility; or

(II) $25.

(ii) if eligibility, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which such individual files such claim.

(B) Part-Time Employment.—In the case of an individual who is not eligible for regular compensation because they do not have the following:

(A) payments of temporary enhanced unemployment compensation to individuals; and

(B) payments of temporary supplemental unemployment compensation to individuals who—

(i) have—

(1) exhausted all rights to regular compensation under the State law; or

(2) are not eligible for regular compensation because they do not have the following:

(I) eligibility; or

(II) $25.

(ii) if eligibility, shall be entitled to such compensation only for weeks of unemployment described in subsection (a) beginning on or after the date on which such individual files such claim.

(2) Special Rules Regarding Temporary Enhanced Unemployment Compensation.—

(A) In General.—Subject to subparagraphs (B) and (C), eligibility for, and the amount of, temporary enhanced unemployment compensation shall be determined in the same manner as eligibility for, and the amount of, regular compensation is determined under the State law.

(B) Eligibility for TEUC.—In the case of an individual who is not eligible for regular compensation under the State law because—

(1) the use of a definition of base period that does not count wages earned in the most recently completed calendar quarter, then eligibility for temporary enhanced unemployment compensation under subparagraph (A) shall be determined by applying a base period equal to 26 weeks of unemployment compensation under subsection (b)(2) of the most recently completed calendar quarter most recently completed before the date of the individual’s application for benefits, except that this clause shall not apply if the individual has been reported to the State or supplied to the State agency on behalf of the individual; or

(ii) such individual does not meet requirements relating to availability for work, active search for work, or refusal to accept work, because such individual is seeking, or has been reported to the State, or supplied to the State, or has refused to accept employment; or

(C) Increased Benefits.—Notwithstanding any other provision of law, neither regular compensation, temporary enhanced unemployment compensation, nor temporary supplemental unemployment compensation described in section 134(d)(4) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(d)(4)) is required to remain in full force for any week for which the individual is seeking, or is available for, only part-time work (and not full-time work) work, and for other purposes; as follows:

SEC. 409. RULE OF CONSTRUCTION REGARDING CLAIRvoyant STATE.

Nothing in this title shall be construed as requiring a State to modify the laws of such State in order to enter into an agreement under this title in order to participate with the provisions of the agreement described in section 402(b).
for any week for which temporary supplemental unemployment compensation is payable to such individual.

(3) Treatment of other unemployment compensation. If the payment of such temporary supplemental unemployment compensation under this title, any regular compensation (or, as the case may be, temporary enhanced unemployment compensation) payable to such individual is made in accordance with any other law administering any extended compensation, and any additional compensation under any Federal or State law shall be payable to an individual in accordance with the State law after such individual has exhausted any rights to temporary supplemental unemployment compensation available to such individual.

(e) Exhaustion of benefits.—For purposes of subsection (b)(4), an individual shall be considered to have exhausted such individual's rights to temporary supplemental unemployment compensation (or, as the case may be, rights to temporary enhanced unemployment compensation) under a State law (or agreement under this title) when:

(1) no payments of regular compensation (or, as the case may be, rights to temporary enhanced unemployment compensation) can be made under such law (or such agreement) because the individual has received all such compensation available to the individual based on employment or wages during the individual's base period; or

(2) the individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(f) Weekly benefit amount, terms and conditions. Except relating to temporary supplemental unemployment compensation.—For purposes of any agreement under this title:

(1) the amount of temporary supplemental unemployment compensation which shall be payable to an individual for any week of total unemployment shall be equal to:

(A) regular compensation (including dependents' allowances) payable to such individual under the State law for a week for total unemployment during such individual's benefit year plus

(B) the amount of any temporary enhanced unemployment compensation payable to such individual for a week for total unemployment during such individual's benefit year;

(2) the terms and conditions of the State law with respect to claims for regular unemployment compensation and the payment thereon, except such provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary supplemental unemployment compensation payable to any individual for a week for temporary supplemental unemployment compensation account (including dependents' allowances) payable to the individual during the individual's benefit year under such law; plus

(i) the amount of any temporary enhanced unemployment compensation payable to the individual under the individual's benefit year under the agreement; or

(ii) 13 times the individual's weekly benefit amount.

(2) Weekly benefit amount.—For purposes of paragraph (1)(B), an individual's weekly benefit amount for any week is an amount equal to:

(A) the amount of regular compensation (including dependents' allowances) under the State law payable to the individual for such week for total unemployment; and

(B) the amount of any temporary enhanced unemployment compensation payable to the individual for such week for total unemployment.

SEC. 404. PAYMENTS TO STATES HAVING AGREEMENTS UNDER THIS TITLE.

(a) General rule.—There shall be paid to each State which has entered into an agreement under this title an amount equal to:

(1) 100 percent of any temporary enhanced unemployment compensation made payable to individuals by such State;

(2) 100 percent of any regular compensation which would have been temporary enhanced unemployment compensation under this title but for the fact that such State contained provisions comparable to the provisions in clauses (i) and (ii) of section 402(b)(2)(B); and

(3) 100 percent of the temporary supplemental unemployment compensation payable to individuals by the State under such agreement.

(b) Determination of amount.—Sums under subsection (a) payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State involved.

(c) Administrative expenses, etc.—There is hereby appropriated, without fiscal year limitation, out of the employment security account the sum of $25,000,000 to the temporary unemployment compensation Trust Fund (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a))) $500,000,000 to reimburse States for the costs of the administration of agreements under this title (including any improvements in technology in connection therewith) and to provide reemployment services, training, and job reassignment services to claimants in States having agreements under this title. Each State's share of the amount appropriated by this preceding sentence shall be determined by the Secretary according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 401(a)) and certified by the Secretary to the Secretary of the Treasury.

SEC. 405. FINANCING PROVISIONS.

(a) In general.—For purposes of any agreement under this title or for any unemployment compensation account (including dependents' allowances) payable to such individual (in accordance with any other law administering any extended compensation, any additional compensation under any Federal or State law and any agreement payable to the individual for such week for total unemployment or temporary supplemental unemployment compensation account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund established by section 902(b)(2)(B) of such Act.

(b) Federal funding.—For purposes of any agreement under this title or for any unemployment compensation account (including dependents' allowances) payable to such individual (in accordance with any other law administering any extended compensation, any additional compensation under any Federal or State law and any agreement payable to the individual for such week for total unemployment or temporary supplemental unemployment compensation account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund established by section 902(b)(2)(B) of such Act.

(c) Federal funding.—For purposes of any agreement under this title or for any unemployment compensation account (including dependents' allowances) payable to such individual (in accordance with any other law administering any extended compensation, any additional compensation under any Federal or State law and any agreement payable to the individual for such week for total unemployment or temporary supplemental unemployment compensation account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund established by section 902(b)(2)(B) of such Act.

(d) Federal funding.—For purposes of any agreement under this title or for any unemployment compensation account (including dependents' allowances) payable to such individual (in accordance with any other law administering any extended compensation, any additional compensation under any Federal or State law and any agreement payable to the individual for such week for total unemployment or temporary supplemental unemployment compensation account, from the Federal unemployment account, as so established) to the account of such State in the Unemployment Trust Fund established by section 902(b)(2)(B) of such Act.

SEC. 406. FRAUD AND OVERPAYMENTS.

(a) In general.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or failure to disclose such individual has received any temporary enhanced unemployment compensation or temporary supplemental unemployment compensation under this title to which such individual was not entitled, such individual shall be ineligible for any further benefits under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(b) Shall be subject to prosecution under section 1001 of title 18, United States Code.

(c) Payment.—In the case of individuals who have received any temporary enhanced unemployment compensation or temporary supplemental unemployment compensation under this title to which such individuals were not entitled, the State shall require such individuals to repay those benefits to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such benefits was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(d) In general.—The Secretary may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation, temporary enhanced unemployment compensation, or temporary supplemental unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 5-year period after the date such individuals received the payment of the temporary enhanced unemployment compensation or the temporary supplemental unemployment compensation to which such individual is entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(e) In general.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any regular compensation, temporary enhanced unemployment compensation, or temporary supplemental unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 5-year period after the date such individuals received the payment of the temporary enhanced unemployment compensation or the temporary supplemental unemployment compensation to which such individual is entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.
(d) Review.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 407. DEFINITIONS.

In this title the terms "compensation", "regular compensation", "unemployment compensation", "additional compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 408. APPLICABILITY.

(a) In General.—An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 6, 2003.

(b) Specific Rules.—

(1) In General.—Under such an agreement, the following rules shall apply:

(A) Alternative Base Periods.—The payment of temporary enhanced unemployment compensation under section 402(b)(2)(B) (relating to alternative base periods) shall not apply except in the case of initial claims filed on or after the first day of the weeks beginning on or after September 11, 2001.

(B) Part-Time Employment and Increased Benefits.—The payment of temporary enhanced unemployment compensation by reason of subparagraph (B) of section 402(b)(2) (relating to part-time employment and increased benefits, respectively) shall apply only to the extent of the adjusted basis of the qualified property, and any subsequent taxable year.

(C) Exception.—(i) Any determination by a State entered into under this title shall apply to weeks of unemployment—

(ii) if eligible, shall be entitled to such compensation described in subsection (a) beginning on or after the date on which the individual files such claim.

(iii) (B) The adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction for such taxable year and any subsequent taxable year.

(iv) Qualified Property.—For purposes of this subsection—

(A) In General.—The term ‘qualified property’ means property—

(B) which is placed in service in or before December 31, 2001;

(C) which is qualified leasehold improvement property, or

(D) which is eligible for depreciation under section 167(g).

(E) Certain Property Having Longer Production Periods Treated as Qualified Property.—

(i) In General.—The term ‘certain property having longer production periods’ includes property—

(ii) (A) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A), and

(iii) (B) which is placed in service in or before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

(ii) Transportation property.—For purposes of this subchapter, the term ‘transportation property’ means tangible personal property used in the trade or business of transporting persons or property.

(C) Exception.—(iii) The term ‘transportation property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

(iv) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

(v) SEC. 409. RULES OF CONSTRUCTION REGARDING CHANGES TO STATE LAW.

Nothing in this title shall be construed as requiring a State to modify the laws of such State to conform to this Act.

SA 2715. Mr. LOTT (for Mr. INHOFE).—Mr. LOTT (for Mr. INHOFE) submitted an amendment intended to be proposed by Mr. LOTT to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which is qualified leasehold improvement property, or

SEC. 410. PROVISION OF HEAVY VEHICLE USE TAX TO PURCHASERS OF SAME VEHICLE.

(a) In General.—Section 481(c) of the Internal Revenue Code of 1986 (relating to pro¬

(b) Conforming Amendments.

(i) Amendments made by this section shall apply to sales occurring after the date of the enactment of this Act.

SEC. 2716. Mr. SMITH of Oregon (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 622, to amend the Inte¬

(a) In General.—Section 168 of the Intern¬

Providing cost recovery system is amended by adding at the end the following new subsection:

SEC. 411. ADDITIONAL ALLOWANCE.—In the case of any temporary unemployment compensation based on section 402(b)(2)(B) (relating to part-time employment) on or after the date on which the agreement entered into under subsection (a)(1) and before the date on which such agreement terminates; and

(b) In the case of any alternative qualified property acquired after December 31, 2001, and before January 1, 2004—

(1) The term ‘qualified property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

(A) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

(B) which is placed in service in or before December 31, 2001;

(C) which is qualified leasehold improvement property, or

(D) which is eligible for depreciation under section 167(g).

(E) Certain Property Having Longer Production Periods Treated as Qualified Property.—

(i) In General.—The term ‘certain property having longer production periods’ includes property—

(ii) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A), and

(iii) which is placed in service in or before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

SEC. 409. RULES OF CONSTRUCTION REGARDING CHANGES TO STATE LAW.

Nothing in this title shall be construed as requiring a State to modify the laws of such State to conform to this Act.

SA 2715. Mr. LOTT (for Mr. INHOFE) submitted an amendment intended to be proposed by Mr. LOTT to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which is qualified leasehold improvement property, or

SEC. 410. PROVISION OF HEAVY VEHICLE USE TAX TO PURCHASERS OF SAME VEHICLE.

(a) In General.—Section 481(c) of the Internal Revenue Code of 1986 (relating to pro¬

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SEC. 411. ADDITIONAL ALLOWANCE.—In the case of any temporary unemployment compensation based on section 402(b)(2)(B) (relating to part-time employment) on or after the date on which the agreement entered into under subsection (a)(1) and before the date on which such agreement terminates; and

(b) In the case of any alternative qualified property acquired after December 31, 2001, and before January 1, 2004—

(1) The term ‘qualified property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

(A) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

(B) which is placed in service in or before December 31, 2001;
“(1)(ii) ELECTRONIC COMMUNICATIONS.-In the case of an improvement placed in service after December 31, 2001, and before January 1, 2004, the amount payable for any taxable year shall be equal to the amount in subsection (g) (for himself, Mr. TORRICELLI, and Mr. BAYI)) proposed an amendment to section 263A(b)(3)(C) of the Code by adding at the end the following new clause (iii) after clause (ii) thereof:

(iii) the depreciation deduction provided for qualified leasehold improvements placed in service after December 31, 2001, and before January 1, 2004, shall be treated as originally placed in service, for purposes of section 179(b).
“(1) Self-constructed property.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (ii) of this paragraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

“(ii) Allowance against alternative minimum tax.—(1) In general.—Section 56(a)(1)(A) relating to depreciation adjustment for alternative minimum tax purposes shall be applied by substituting for the phrase ‘2002 property’ the phrase ‘56(a)(1)(A) property’.

“(2) Exception.—For purposes of subparagraph (A)(ii), if property is originally placed in service after December 31, 2001, by a person, and such property is used under the lease-back referred to in clause (II), such improvement shall be qualified leasehold improvement property placed in service after December 31, 2001, in taxable years ending after such date.

“SA 2719. Mr. REID (for Mr. HARKIN) proposed an amendment to amendment SA 2698 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; as follows:

“SEC. 301. TEMPORARY INCREASES OF MEDICAID BASE FOR FISCAL YEAR 2002.

“(a) Permitting maintenance of fiscal year 2001 FMAP.—Notwithstanding any other provision of law, subject to subsections (b) and (c) of this section, if any State for the taxable year 2001—

“(A) meets the requirements for eligible States under section 1901(b)(1) of the Social Security Act (42 U.S.C. 1396r(b)(1)) and

“(B) is not eligible under section 1901(b)(2) of such Act because the requirements of paragraph (2) of such section are not met for a calendar quarter if, for any 3 consecutive calendar quarters, the average weighted unemployment rate for such quarter in such fiscal year is less than the average weighted unemployment rate for such quarter in fiscal year 2000 or

“(C) is not eligible under section 1901(b)(2) of such Act because the average weighted unemployment rate for such quarter in any 3 consecutive calendar quarters of fiscal year 2002 is not more than 6.5 percent, then the FMAP for such State for the fiscal year 2002 shall be determined by—

“(i) reducing the FMAP for fiscal year 2001 that is otherwise determined for such State for such year by 3 percentage points.

“(b) Other provision of law.—If any State for a calendar quarter in fiscal year 2002 is determined, in accordance with section 1901(b)(2) of the Social Security Act (42 U.S.C. 1396r(b)(2)), to be a high unemployment State for such quarter, the FMAP for such State for such fiscal year shall be increased by 3 percentage points.

“(c) Effective date.—The amendments made by this section shall apply to the FMAP for fiscal year 2002.

“SA 2729. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes; which was ordered to lie on the table.

“SEC. 45G. UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION WAGE CREDIT.

“(A) In general.—For purposes of this section, a taxpayer shall be treated as engaged in film and television production for a taxable year if the taxpayer pays wages to employees in the United States for services performed during such taxable year in connection with the production of any film or television program which qualifies as an American film or television program for purposes of title XIX of the Social Security Act (42 U.S.C. 1396m–1).

“(B) Average weighted unemployment rate defined.—For purposes of subparagraph (A), ‘average weighted unemployment rate’ means the average of the quarterly average weighted unemployment rates for such calendar year.

“(C) Amount of credit.—(1) In general.—For purposes of section 45G, the credit allowed under this section with respect to wages paid or incurred, or both, under any American film or television program in an area eligible for designation as a low-income community under section 45D or eligible for designation by the Delta Regional Authority as a disaster area under section 108 of the Social Security Act (42 U.S.C. 1390) shall each be increased by an amount equal to 6 percentage points of such amounts.

“(D) Coordination with section 280F.—For purposes of this section, the term ‘taxpayer’ has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396m–1).

“(E) Coordination with section 280F.—For purposes of this section, the term ‘taxpayer’ has the meaning given such term for purposes of section 280F (42 U.S.C. 1396m–6) and section 280F (42 U.S.C. 1396m–7).

“(F) Implementing the requirements of section 45G.—The Secretary of the Treasury, with the concurrence of the Secretary of Health and Human Services, shall by regulation prescribe such regulations as may be necessary to carry out this section.

“(G) Regulations.—The Secretary of the Treasury, with the concurrence of the Secretary of Health and Human Services, shall by regulation prescribe such regulations as may be necessary to carry out this section.

“SEC. 45D. UNITED STATES INDEPENDENT FILM AND TELEVISION PRODUCTION WAGE CREDIT.

“(A) In general.—For purposes of section 45D, the credit allowed under any American film or television program in an area eligible for designation as a disaster area under section 108 of the Social Security Act (42 U.S.C. 1390) shall each be increased by an amount equal to 6 percentage points of such amounts.

“(B) Average weighted unemployment rate defined.—For purposes of subparagraph (A), ‘average weighted unemployment rate’ means the average of the quarterly average weighted unemployment rates for such calendar year.

“(C) Amount of credit.—(1) In general.—For purposes of section 45D, the credit allowed under any American film or television program in an area eligible for designation as a low-income community under section 45D or eligible for designation by the Delta Regional Authority as a disaster area under section 108 of the Social Security Act (42 U.S.C. 1390) shall each be increased by an amount equal to 6 percentage points of such amounts.

“(D) Coordination with section 280F.—For purposes of this section, the term ‘taxpayer’ has the meaning given such term for purposes of section 280F (42 U.S.C. 1396m–6) and section 280F (42 U.S.C. 1396m–7).

“(E) Coordination with section 280F.—For purposes of this section, the term ‘taxpayer’ has the meaning given such term for purposes of section 280F (42 U.S.C. 1396m–6) and section 280F (42 U.S.C. 1396m–7).

“(F) Implementing the requirements of section 45D.—The Secretary of the Treasury, with the concurrence of the Secretary of Health and Human Services, shall by regulation prescribe such regulations as may be necessary to carry out this section.

“(G) Regulations.—The Secretary of the Treasury, with the concurrence of the Secretary of Health and Human Services, shall by regulation prescribe such regulations as may be necessary to carry out this section.

“(H) Regulations.—The Secretary of the Treasury, with the concurrence of the Secretary of Health and Human Services, shall by regulation prescribe such regulations as may be necessary to carry out this section.
entertainment', a motion picture film, video tape, or television program intended for initial broadcast via the public broadcast system, delivered via cable distribution, or productions that are submitted to a national organization in existence on July 27, 2001, that rates films for violent content, which do not include any film or tape for which is primarily topical, is otherwise essentially transitory in nature, or is produced for private noncommercial use.

(3) Inflation Adjustment.—

(A) in general.—In the case of any taxable year beginning in a calendar year after 2002, the $10,000,000 amount contained in paragraph (1)(C) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by subtracting calendar year 2001 for 'calendar year 1992' from 'calendar year 1992' in subsection (b)(3)(B).

(B) Rounding.—If any increase determined under subparagraph (A) is not a multiple of $500,000, such amount shall be rounded to the nearest multiple of $500,000.

(4) Qualified Wages.—For purposes of this section—

(1) an employer treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this part, and

(2) the amount determined under this section with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

(f) Application of Certain Other Rules.—For purposes of this section, rules similar to the rules of section 51(k) and subsections (c) and (d) of section 52 shall apply.

(b) Credit Treated as Business Credit.—

Section 38(b) of the Internal Revenue Code of 1986 is amended by—

(1) striking the period at the end of paragraph (14), by inserting 'plus', and by adding at the end the following new paragraph:

'(16) the United States independent film and television production wage credit determined under section 45G(a).'

(c) Controlled Groups.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

'(11) no carryback of section 45G credit before effective date.—No portion of the unused business credit attributable for any taxable year which is attributable to the United States independent film and television production wage credit determined under section 45G may be carried back to any taxable year ending before the date of the enactment of section 45G.

(d) Denial of Double Benefit.—Subsection (a) of section 280C of the Internal Revenue Code of 1986 is amended by inserting '45G(a)', after '45A(a)',

(e) Coordination.—The table of sections for part D of title 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

'Sec. 45G. United States independent film and television production wage credit.'
Mr. LUGAR. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for more than 10 minutes.

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

Mr. LUGAR. I thank the Chair.

NATO’S ROLE IN THE WAR ON TERRORISM

Mr. LUGAR. Mr. President, I enjoyed the opportunity last week in Brussels, Belgium, to address the permanent representatives to the North Atlantic Treaty Organization, NATO, on the subject of the Alliance’s forthcoming summit in Prague next November, as well as the likely agenda that will include the issues of NATO enlargement and Russia-NATO cooperation.

Perhaps most importantly, I was asked to consider and discuss with the Ambassadors of NATO the Alliance’s future 3, 5, and 10 years out and to assess the impact of the events of September 11 and the consequent war on terrorism with the future role of NATO. These are the comments I made on that occasion.

There are moments in history when world events suddenly allow us to see the challenges facing our societies with a degree of clarity previously unimaginable. The events of September 11 have created one of those rare moments. We can see clearly the challenges we face and now confront and what needs to be done.

September 11 forced Americans to recognize that the United States is exposed to an existential threat from terrorism and the possible use of weapons of mass destruction by terrorists. Meeting that threat is the premier security challenge of our time. There is a great and pressing fear that terrorists will gain the capability to carry out catastrophic attacks on Europe and the United States using nuclear, biological, or chemical weapons.

In 1996, I made the Chair will recall, an unsuccessful bid for the Presidency of the United States. Three of my campaign television ads on that occasion, widely criticized for being farfetched and grossly alarming, depicted a mushroom cloud and warned of the existence of a clear and present danger that terrorists would in fact use NBC—nuclear, biological, and chemical weapons. Al-Qaida-like terrorists will use NBC weapons if they can obtain them.

Recently, those ads have been replayed on national television and are reviewed from a different perspective. The images of those planes crashing into the World Trade Center on September 11 will remain with us all for some time to come. We might not have been able to prevent the attacks of September 11, but we can draw the right lessons from those events now, and one of those lessons is just how vulnerable our societies are to such attacks.

September 11 has destroyed many myths. One of those was the belief that the West was no longer threatened after the collapse of communism and our victory in the cold war, and perhaps nowhere was that myth stronger than in the United States where many Americans believed that America’s strength made us invulnerable. We know now we are all vulnerable—Americans and Europeans.

The terrorists have demonstrated the massive impact through indiscriminate killing of people and destruction of institutions, historical symbols, and the basic fabric of our societies. The next attack, however, could just as easily be in London, Paris, or Berlin as in Washington, and it could, or is even likely to, involve weapons or materials of mass destruction.

The sober reality is that the danger of Americans and Europeans being killed today at work or at home is perhaps greater than at any time in recent history. Indeed, the threat we face today may be just as existential as the one we faced during the cold war because it is increasingly likely to involve the use of weapons of mass destruction against our societies.

We are again at one of those moments when we must look in the mirror and ask ourselves whether we as leaders are prepared to draw the right conclusions and do what we can now to reduce that threat or whether it will take another, even deadlier, attack to force us into action.

I have spent a lot of time thinking about; namely, the urgent need to extend the war on terrorism to nuclear, biological, and chemical weapons. Al-Qaida-like terrorists will use NBC weapons if they can obtain them.

Our task can be stated: Together we must keep the world’s most dangerous technologies out of the hands of the world’s most dangerous people. The events of September 11 and the subsequent public discovery of al-Qaeda’s capabilities and intentions have finally brought the vulnerability of our countries to the forefront.

The terrorists have demonstrated suicidal tendencies and are beyond deterrence. We must anticipate they will use weapons of mass destruction in NATO countries if allowed that opportunity.

Without oversimplifying the motivations of terrorists in the past, it appears that most acts of terror attempted to bring about change in a regime or change in governance or status in a community or state.

Usually, the terrorists made demands that could be negotiated or accommodated. The targets were chosen to create and increase pressure for change.

In contrast, the al-Qaida terrorist attacks on the United States were planned to kill thousands of people indiscriminately. There were no demands for change or redress. Bin Laden was filmed conversing about results of the attack which exceeded his earlier predictions of destruction. Massive destruction of institutions, wealth, national morale, and innocent people was clearly his objective. Over 3,000 people from a host of countries perished. Recent economic estimates indicate $60 billion of loss to the
United States economy from all facets of the September 11 attacks and the potential loss of over 1.6 million jobs. Horrific as these results have been, military experts have written about the exponential expansion of those losses had the al-Qaeda terrorists used weapons of mass destruction.

The minimum standard for victory in this kind of war is the prevention of any of the individual terrorists or terrorist cells from obtaining weapons or materials of mass destruction.

The current war effort in Afghanistan is destroying the Afghan-based al-Qaeda network and the Taliban regime. The campaign is also designed to demonstrate that governments that are hostile to terrorists face retribution. But as individual NATO countries prosecute this war, NATO must pay much more attention to the other side of the equation—that is, making certain that all weapons and materials of mass destruction are identified, continuously guarded, and scientifically destroyed.

Unfortunately, beyond Russia and other states of the former Soviet Union, Nunn-Lugar-style cooperative threat reduction programs aimed at non-proliferation do not exist. They must now be made a global undertaking with counter-terrorism joining counter-proliferation as our primary objectives.

Today we lack even minimal international confidence about many weapons programs, including nuclear weapons or materials of mass destruction, the storage procedures employed, and production or destruction programs. NATO allies must join with the United States to change this situation. We need to join together to restate the terms of minimal victory in the war against terrorism as we are currently fighting—to wit, that every nation that has weapons and materials of mass destruction must account for what it has, spend its own money or obtain international technical and financial resources to safely secure what it has, and pledge that no other nation, cell or cause will be allowed access to or use of these weapons or materials.

Some nations, after witnessing the bombing of Afghanistan and the destruction of the Taliban government, may decide to proceed along a cooperative path of accountability regarding their weapons and materials of mass destruction. But other states number in their reluctance to test the U.S. will and staying power. Such testing will be less likely if the NATO allies stand shoulder to shoulder with the U.S. in pursuing such a counter-terrorism policy.

The precise replication of the Nunn-Lugar program will not be possible everywhere, but a satisfactory level of accountability, transparency and safety can and must be established in every nation with a weapons of mass destruction program. When such nations resist signing on, or their governments make their territory available to terrorists who are seeking weapons of mass destruction, then NATO nations should be prepared to join with the U.S. to use force as well as all diplomatic and economic tools at their collective disposal.

I do not mention the use of military force lightly or as a passing comment. The use of military force means the war against a nation state remote from Europe or North America. This awesome contingency requires the utmost in clarity now. Without being redundant, let me describe the basic elements of such a strategy even more explicitly.

NATO should list all nation states which now house terrorist cells, voluntarily or involuntarily. The list should be supplemented with a map which illustrates to all of our citizens the loca-

After the September 11 attacks and the policy of trying to build a cooperative path of accountability, NATO and a broader coalition of nations will seek to root out each cell in a comprehensive manner for years to come and keep a public record of success that the world can observe and measure. If we are diligent and determined, we will end most terrorism states.

Perhaps most importantly, we will draw up a second list that will contain all of the states that have materials, programs, and/or weapons of mass destruction. We will demand that each of these nation states account for all of the materials, programs, and weapons in a manner which is internationally verifiable. We will demand that all such weapons and materials be made secure from theft or threat of proliferation using the funds of that nation state and supplemented by international funds if required. We will work with each nation state to formulate programs of continuing accountability and destruction which may be of mutual benefit. The United States will work with each nation state to formu-

The proper replication of the Nunn-Lugar program has demonstrated that extraordinary international relationships are possible to improve controls over weapons of mass destruction. Programs similar to the Nunn-Lugar, as well as others, are being established in many of the countries in the coalition against terrorism that wishes to work with the United States and hopefully its NATO allies on safe storage, accountability and planned destruction.

If these remarks had been delivered before September 11, I would now offer some eloquent thoughts about the importance of continuing NATO enlargement and of trying to build a cooperative NATO-Russian relationship. In a speech last summer preceding the remarkable call by President Bush in Warsaw for a NATO which stretched from the Baltic states to the Black Sea, I listed Slovenia, Slovakia, Estonia, Latvia, Lithuania, Romania, and Bulgaria as strong candidates for membership consideration. I visited five of these countries last summer to encourage continuing progress in meeting the criteria for joining the Alliance. After ten years of hard work and work with Russian political, military, and scientific leaders to carefully secure and to destroy materials and weapons of mass destruction in cooperative threat reduction programs, I anticipate that a new Russian relationship could be of enormous benefit in meeting the dangerous challenges which we must now confront together. In many ways, September 11 has strengthened my conviction that both of these efforts are critical.

But they can no longer be our only major priorities. As important as they are, neither NATO enlargement nor NATO-Russia cooperation is the most critical issue facing our nations today. That issue is the war on terrorism. NATO has to decide whether it wants to participate in this war. It has to decide whether it wants to be relevant in addressing the major security challenge of our day. Those of us who have been the most stalwart proponents of enlargement in the past have an obligation to point out that, as important as NATO enlargement remains, the major security challenge we face today is the intersection of terrorism with weapons of mass destruction.

If we fail to defend our societies from a major terrorist attack involving weapons of mass destruction, we and the Alliance will have failed in the most fundamental sense of defending our societies and our way of life—and ultimately no one will care what NATO did or did not accomplish on enlargement at the Prague summit in November this year. That’s why the Alliance must fundamentally rethink its role in the world in the wake of September 11, and the Alliance heads of state and supplemented by inte-

The Alliance invoked Article 5 for the first time in its history in response to September 11. But, NATO itself has only played a limited, largely political role in the war against terrorism. To some degree, Washington’s reluctance to turn to NATO was tied to the fact that the U.S. had to scramble to put together a military response involving logistics, basing and special forces quickly—and it was easier to do that ourselves. Since it was the U.S. itself that was attacked, we were highly motivated to assume the lion’s share of burden of the military role of the war on terrorism and we had the capability to do so.

But U.S. reluctance to turn to NATO was also tied to other facts. Some Americans have lost confidence in the Alliance. Years of cuts in defense
spending and failure to meet pledge after pledge to improve European military capabilities has left some Americans with doubts as to what our allies could realistically contribute. Rightly or wrongly, the legacy of Kosovo has reinforced the concern that NATO is not up to the job of fighting a modern war. The U.S. did have confidence in a select group of individual allies. But it did not have confidence in the institution that is NATO. The fact that some military leaders of NATO’s lead power didn’t want to use the Alliance it has led for half a century is a worrying sign.

Some in Washington did suggest to the Administration that it could and should be more creative in involving NATO. Senator Joseph Biden and I, for example, wrote an “op-ed” suggesting a number of tasks the Alliance could assume in the war on terrorism. But I am not here to second-guess the President and his national security team on these issues. Whether we should have had confidence in the Administration that it could and should be more creative in involving the Alliance that it could and should be more creative in involving NATO is to take the simple premise that terrorism is a part of the trans-Atlantic community and the institution we should turn to for help in meeting new challenges such as terrorism and weapons of mass destruction. With Europe increasingly secure, the Alliance needs to be “retooled” so that it can handle the most critical threats to our security. If that means it has to go beyond Europe in the future, so be it.

This last way of thinking about NATO’s future is closest to my own for several reasons. First, I have always had a problem with the “division of labor” argument that assumes the U.S. will handle the big wars outside of Europe and lets Europeans take care of the small wars within Europe. It presumes a profound lack of interest in Europe and that Europeans have less interests in the rest of the world. Both are wrong. We have interests in Europe and Europeans have interests in the rest of the world—and we should be trying to work with them to achieve them.

Second, the U.S. needs a military alliance with Europe to confront effectively problems such as terrorism and weapons of mass destruction. We cannot do it on an ad hoc basis. We were unable to fight alone in Afghanistan. But we might not be so inclined next time, depending on the circumstances. What if the next attack is on Europe—or on America and Europe simultaneously? The model used in Afghanistan would not work in those scenarios. Americans expect our closest allies to fight with us in this war on terrorism—and they expect our leaders to come up with a structure that allows us to do so promptly and successfully.

Third, the problem we faced in Kosovo, and the problems we are encountering with respect to developing adequate military capabilities to meet the new threats, do not lead me to conclude that the answer is to reduce NATO to a purely political role. Rather, they are arguments to expand our efforts to fix capability problems so that NATO can operate more effectively in the future. Americans do not want to shoulder the entire military burden of the war on terrorism by themselves. Nor should we. We want allies to share the burden. The last attack may have been unique in that regard. We were shocked by attacks on our homeland. The U.S. was prepared to respond immediately and to do most of the work itself. But what if the next attack is on Brussels, or on France and the U.S. at the same time?

Finally, some of my critics have said: Senator, that is a great idea but it simply is not “doable.” And it would be a mistake even to try because you might fail and that would embarrass President Bush and hurt the Alliance. I find it hard to believe that the U.S. and Europe—some of the richest and most advanced countries in the world—are incapable of organizing themselves to come up with an effective military alliance to fight this new threat.

If NATO was there were those who said it would be impossible to have a common strategy toward the Soviet Union. And in early 1993 when I delivered my first speech calling for NATO not only to enlarge but to prepare for substantial “area” activities, many people told me that what I was proposing ran the risk of destroying the Alliance. Those of us who believed in NATO enlargement stuck to our guns. We now have three new Permanent Representatives at NATO Headquarters, and a much more vital NATO as a result.

My view can be easily summarized. America is at war and feels more vulnerable than at any time since the end of the cold war and perhaps since World War II. We face the threat of war and terrorism simultaneously. We need allies and alliances to confront it effectively. Those alliances can no longer be circumscribed by artificial geographic boundaries. All of America’s alliances are going to be re-examined in light of this new challenge, including NATO. If NATO is not up to the challenge of becoming effective in the new war against terrorism, then our political leaders may be inclined to search for something else that will answer this need.

I believe that September 11 opened an enormous opportunity to revitalize the Trans-Atlantic relationship. It would be a mistake to let this opportunity slip through our fingers. Neither side of the Atlantic has thus far grasped that opportunity fully. It is a time to think big, not small. It is a time when our proposals should not be measured by what we think is “doable” but rather by what needs to be done to meet the new existential threat we face.

In the early 1990s we needed to make the leap from NATO protecting Western Europe to the Alliance assuming responsibility for the continent as a whole. Today we must make a further leap and recognize that, in a world in which terrorist threats can be planned in Germany, financed in Asia, and carried out in the United States, old distinctions between “in” and “out of area” have become utterly meaningless. Indeed, given the global nature of terrorism, boundaries and other geographical distinctions are without relevance.

At NATO’s founding on April 4, 1949, President Harry S. Truman described the creation of the Alliance as a neighborly act taken by countries conscious of a shared heritage and common values, as democracies determined to defend themselves against the threat that faced them. Those same values that Truman talked about defending in 1949 are under attack today, but this time from a very different source.
In 1949, President Truman went on to say that the Washington Treaty was a very simple document, but one that might have prevented two world wars had it been in existence in 1914 or 1939. Protecting Western Europe, he opined, was an important step toward creating peace. And he predicted that the positive impact of NATO would be felt beyond its borders and throughout the World.

Those words strike me as prescient today, Truman was right. NATO prevented war in Europe for 50 years. It is now in the process of making all of Europe safe and secure and of building a new relationship with Russia. That, in itself, is a remarkable accomplishment. But if NATO does not help tackle the most pressing security threat to our countries today—a threat I believe is existential because it involves the threat of weapons of mass destruction—it will cease to be the premier alliance it has been and will become increasingly irrelevant.

That is why NATO’s agenda for Prague has to be both broadened—and integrated. While NATO enlargement and deepened NATO-Russia cooperation will be central to the summit’s agenda, it also must be complemented by a plan to translate the fighting of terrorism into one of NATO’s central military missions. NATO enlargement and NATO-Russia cooperation should be pursued in a way that strengthens, not weakens, that agenda. That is, the new members must be willing and able to sign up to new NATO requirements in this area, and that the new NATO-Russia Council must be structured in a way that strongly supports the Alliance in undertaking such new military tasks.

To leave NATO focused solely on defending the peace in Europe from the old threats would be to reduce it to sort of a housekeeping role in an increasingly secure continent. To do so at a time when we face a new existential threat posed by terrorism and weapons of mass destruction will condemn it to a marginal role in meeting the major challenge of our time.

That is why this issue has to be front and center on NATO’s agenda before, during, and after Prague. The reality is that we can launch the next round of NATO enlargement as well as a new NATO-Russia relationship at Prague, and the Alliance can still be seen as falling—that’s right, falling—unless it starts to transform itself into an important new force in the war on terrorism.

I plan to work with the Bush administration in the months and years ahead in an effort to promote such a transformation of the Alliance and hope that Allied governments as well as Members of Congress and the members of the legislatures we represent will strongly, enthusiastically join me in that effort.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following nominations: 470, 567, 569, 618, 619, 620, 622, 623, 625 through 633, 635, 636, 638, 639, 640, 641, 642, 648, 649, 652 through 657, 659, 660, 661, and the nominations placed on the Secretary’s desk, that the Senate confirm the motion to reconsider be laid on the table, the President be immediately notified of the Senate’s action, and any statements be printed in the RECORD.

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

The nominations considered and confirmed en bloc are as follows:

SMALL BUSINESS ADMINISTRATION

Thomas M. Sullivan, of Massachusetts, to be Chief Counsel for Advocacy, Small Business Administration.

DEPARTMENT OF STATE

Christopher Bancroft Burnham, of Connecticut, to be Chief Financial Officer, Department of State.

DEPARTMENT OF SMALL BUSINESS ADMINISTRATION

Harold Craig Manson, of California, to be Assistant Secretary, Small Business Administration.

DEPARTMENT OF ENERGY

Michael Smith, of Oklahoma, to be an Assistant Secretary of Energy (Fossil Energy).

DEPARTMENT OF THE INTERIOR

Rebecca W. Watson, of Montana, to be an Assistant Secretary of State (Resource Management). (New Position)

DEPARTMENT OF THE INTERIOR

Jeffrey D. Jarrett, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

DEPARTMENT OF STATE

William R. Brownfield, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

DEPARTMENT OF THE INTERIOR

Kenneth P. Moorefield, Jr., of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

DEPARTMENT OF DEFENSE

James David McGee, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Janet Hale, of Virginia, to be an Assistant Secretary of Health and Human Services.

Kenneth P. Moorefield, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic.

Jeanne J. Kirkley, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Jane E. Hart, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Luxembourg.

John D. Ong, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Charles S. Shapiro, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Bolivarian Republic of Venezuela.

Arthur E. Dewey, of Maryland, to be an Assistant Secretary of State (Population, Refugees, and Migration).

DEPARTMENT OF JUSTICE

David Preston York, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

Michael A. Battle, of New York, to be United States Attorney for the Western District of New York for a term of four years.

David MacKay, of Montana, to be United States Marshal for the District of Montana for the term of four years.

DEPARTMENT OF STATE

Earl Norfleet Phillips, Jr., of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

DEPARTMENT OF THE INTERIOR

Josephine K. Olsen, of Maryland, to be Deputy Director of the Peace Corps.

DEPARTMENT OFcommerce

Robert M. Gates, of Virginia, to be Director of the Peace Corps.

DEPARTMENT OF STATE

Kenneth P. Moorefield, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Frank H. Clay, of Michigan, to be Chief of Mission at the Embassy of the United States of America in the Republic of Swaziland.

Michael A. Battle, of New York, to be United States Attorney for the Western District of New York for a term of four years.

DEPARTMENT OF STATE

Earl Norfleet Phillips, Jr., of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

DEPARTMENT OF THE INTERIOR

Michael Smith, of Oklahoma, to be an Assistant Secretary of Energy (Fossil Energy).

DEPARTMENT OF THE INTERIOR

B. John Williams, Jr., of Virginia, to be Chief Counsel for Advocacy, Small Business Administration.

DEPARTMENT OF STATE

Maureen D. Sheehy, of Pennsylvania, to be Assistant Secretary for Economic and Business Affairs.

DEPARTMENT OF THE INTERIOR

Josephine K. Olsen, of Maryland, to be Deputy Director of the Peace Corps.

DEPARTMENT OF STATE

Kenneth P. Moorefield, of Florida, a Career Member of the Senior Foreign Service, Class of Career Minister, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.
Mike served under the sky blue and buckskin tail flag of Oklahoma when Gov. Frank Keating appointed him to be Oklahoma’s Secretary of Energy. In that capacity Mike served my State as its official representative to the Interstate Oil and Gas Compact Commission, the Interstate Mining Compact Commission, the Southern States Energy Board, and the Governors’ Ethanol Coalition.

President Bush has assembled a banner group to assist him in running the Department of Energy, beginning with my friend and former colleague, Secretary Spence Abraham. Mike Smith is of the highest caliber and another true-blue selection by President Bush.

I am proud of my fellow Oklahoman. I am excited to work closely with him to develop our national energy policy, particularly to ensure adequate supplies of affordable and clean energy.

America’s energy strengths derive from the rich natural bounty of our coal, our natural gas, and our oil, as well as from our blessed human ingenuity fostered by America’s free market.

I am proud to testify to my fellow Americans that America’s energy strengths will be handled with flying colors by the ingenuity of Oklahoman Mike Smith.

Mr. REID. Mr. President, as the majority leader indicated earlier today, we have confirmed, I believe, 43 nominations including action on today’s 2 judges. That is really a good piece of work for the week.

NOMINATIONS DISCHARGED

NOMINATION OF EDWARD KINGMAN, OF MARYLAND, TO BE ASSISTANT SECRETARY OF TREASURY AND CHIEF FINANCIAL OFFICER AT THE DEPARTMENT OF TREASURY

Mr. REID. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of the nomination of Edward Kingman to be Assistant Secretary of Treasury and Chief Financial Officer at the Department of Treasury; that the nomination be agreed to, the motion to reconsider be laid on the table; that any statements thereon be printed in the RECORD, and the President be immediately notified of the Senate’s action.

Without objection, it is so ordered.

The nominations were considered and confirmed.

NOMINATIONS OF SAMUEL T. MOK, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER FOR THE DEPARTMENT OF LABOR; JACK MARTIN, OF MICHIGAN, TO BE CHIEF FINANCIAL OFFICER FOR THE DEPARTMENT OF EDUCATION; ANDREW G. BARTHWELL, OF ILLINOIS, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION AT THE OFFICE OF NATIONAL DRUG CONTROL POLICY; AND EVE SLATER, OF NEW JERSEY, TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Health Committee be discharged from further consideration of the following nominations: Samuel T. Mok to be Chief Financial Officer for the Department of Labor; Jack Martin to be Chief Financial Officer for the Department of Education; Andrea G. Barthwell to be Deputy Director for Demand Reduction at the Office of National Drug Control Policy; and Eve Slater to be Assistant Secretary of Health and Human Services; that the nominations be confirmed, the motions to reconsider be laid on the table, any statements thereon 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 were considered and confirmed.

LEGISLATIVE SESSION

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

ORDERS FOR MONDAY, JANUARY 28, 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, January 28; that following the prayer and pledge the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 622.

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

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes on Monday. Any rollcall votes will occur on Tuesday. That time will be established on Monday.

ADJOURNMENT UNTIL MONDAY, JANUARY 28, 2002, AT 3 P.M.

Mr. REID. Mr. President, 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 2:49 p.m., adjourned until Monday, January 28, 2002, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 25, 2002:

SMALL BUSINESS ADMINISTRATION

THOMAS M. SULLIVAN, OF MASSACHUSETTS, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION.

DEPARTMENT OF STATE

CHRISTOPHER BANCROFT BURNHAM, OF CONNECTICUT, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE.

CHRISTOPHER BANCROFT BURNHAM, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF STATE (RESOURCE MANAGEMENT).

DEPARTMENT OF THE INTERIOR

HAROLD CRAB MANSON, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY FOR FISH AND WILDLIFE.

DEPARTMENT OF ENERGY

MICHAEL SMITH, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF ENERGY (FOSSIL ENERGY).

BEVERLY COOK, OF IDAHO, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH).

DEPARTMENT OF THE INTERIOR

REBECCA W. WATSON, OF MONTANA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

JEFFREY D. JABRETT, OF PENNSYLVANIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.

DEPARTMENT OF STATE

WILLIAM B. FRIEDENFELD, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNCILOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES TO THE REPUBLIC OF CHILE.

JOHN V. HANFORD III, OF VIRGINIA, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

DONNA K. HINZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES TO THE FEDERATIVE REPUBLIC OF BRAZIL.

JOHN R. HANFORD III, OF VIRGINIA, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

DEPARTMENT OF THE INTERIOR

JANET HALE, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR HEALTH AND HUMAN SERVICES.

MARTIN W. FUNK, OF MONTANA, TO BE GOVERNMENT ACQUISITIONS REFORM COUNCILOR, DEPARTMENT OF THE INTERIOR.

DEPARTMENT OF THE TREASURY

H. JOHN WILLIAMS, JR., OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF THE TREASURY.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JANET HALE, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR HEALTH AND HUMAN SERVICES.

JOAN K. OGDEN, OF WASHINGTON, DISTRICT OF COLUMBIA, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

RICHARD C. CLARIDA, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

SOCIAL SECURITY ADMINISTRATION

JAMES S. LOCKHART, III, OF CONNECTICUT, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR A TERM OF SIX YEARS.
Awardees are: Chamber of Commerce Citizen and Business them our gratitude for their hard work and our of Gilroy, California. We wish to express to Awards. The six individuals and businesses Chamber of Commerce Citizen and Business contributions on behalf of our community and tended New Jersey City University.

Michael Bonfante, the 2001 Woman of the Year. Ms. Jacobsen has been active in Gilroy for over 25 years and on so many levels it is difficult to list them all. She was the 2000–2001 Gilroy EDC President and served as the Secretary-Treasury for three years. As the 1999–2000 Gilroy Chamber of Commerce President, she was serving her second term as Board Member of the Chamber. In a professional capacity, she is a Past President of the South County Board of Realtors and the Past State Director for the California Association of Realtors. Industry professionals who have seen her at the Gilroy Garlic Festival, helping out in one way or another, and Gilroy schools and organizations know they can always count on her to volunteer her time for a fundraiser or event.

Aitken Associates, the 2001 Small Business of the Year. Aitken Associates is a local landscape design firm that has created beautiful and award-winning designs throughout Gilroy and other communities. Karen Aitken, the President, has been in private practice as a landscape architect for over 18 years. Among Aitken Associates’ endeavors are: the public grounds at Goldsmith Seeds, Del Rey Park, and the Gilroy City Hall. One of Ms. Aitken’s most notable projects is the Bonfante Gardens theme park, whose founder Michael Bonfante praises Ms. Aitken’s devotion and creativity. Civic activity is one of Aitken Associates’ founding principles; as such, the firm has donated its services to the Gilroy High School landscape improvement plan, the Willeys House and the student gardens at the Morgan Hill Country School. Karen Aitken is active in the Rotary Club of Gilroy and the Beautification in Gilroy Committee.

McDonald’s of Gilroy, the 2001 Large Business of the Year. McDonald’s of Gilroy, purchased by Steve and Jan Peat just over five and a half years ago, has become an integral part of the Gilroy community and an example of civic excellence. The Peats are the recipients of the 1999–2000 McDonald’s “Partners in Paradise” award for increased sales and the 1998 McDonald’s Corporation “Best of the West” award for excellence at the Outlet location. The Peat’s son, Steve, is one of only four people who teach McDonald’s management classes in Spanish for the entire Northern California Region—a program he helped initiate. Among countless other activities, the Peats’ assistance was vital in securing a $5,000 grant from the Ronald McDonald Children’s House Charities Foundation for Jordan School’s ‘Music Alive’ program, and a $25,000 grant for the recreation center at Rebeckah Children’s Services.

Frankie Munoz, the 2001 Firman B. Voorhies Volunteer of the Year. Because of her dedication to and support of the Gilroy Chamber of Commerce, Frankie Munoz was named the 2001 Volunteer of the Year. For many years, Ms. Munoz has served as a Chamber Ambassador, chairing the South Valley Business Showcase and Mixer, and co-chairing the Business After Hours with the Rotary Club of Gilroy. Frankie Munoz is the incoming president of Leadership Gilroy, and is also active in the Rotacare Administrative Council, the Gilroy Senior Center, the Morgan Hill Mushroom Mardi Gras, and various other charitable organizations. Ms. Munoz is a tireless volunteer for her children's school sports and 4–H clubs.

Betsy Henry, the 2001 Gilroy Educator of the Year. Betsy Henry is a first grade teacher at El Roble School in Gilroy. Along with first grade, Ms. Henry has taught Special Education classes, third grade, and second/third combination classes. She has organized several programs within her classroom, including the Star of the Week program, the 100% Spelling Club, Just Read, and Peacebuilders of the Month. Her use of cooperative learning activities and Peacebuilder social norms within her classroom creates an atmosphere that promotes each individual child’s belief in themselves. Additionally, Ms. Henry is the on-site trainer for “Success For All” reading program at El Roble School. She has served on Key Planners, as the PTA teacher representative, and School Site Council.

Again, we wish to extend our gratitude to these individuals and organizations for their tireless enthusiasm and dedication. Congratulations to them on this prestigious award.

IN HONOR OF AGNES M. GILLESPIE

HON. ROBERT MENENDEZ
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Friday, January 25, 2002

Ms. LOFGREN, Mr. Speaker, today we rise to recognize the recipients of the 2001 Gilroy Chamber of Commerce Citizen and Business Awards. The six individuals and businesses being honored on February 8 have contributed their time and talent to the city and the people of Gilroy, California. We wish to express to them our gratitude for their hard work and our congratulations for this honor. The 2001 Gilroy Chamber of Commerce Citizen and Business Awardees are:

Michael Bonfante, the 2001 Man of the Year. As owner of Nob Hill Stores, Mr. Bonfante was extremely supportive of Gilroy schools, clubs, sports groups and community organizations. It was said that he could never say “no” to any group asking for help. Students working in his stores knew that their managers would be sensitive to the pressures of school and activities: a corporate retreat on Heckler Pass made game fields, picnic areas, and a gym available to all employees. After the sale of the Fantasy Island, Mr. Bonfante invested $79 million into his dream of creating a family park designed around trees, which ultimately became the basis for a non-profit organization benefiting the Gilroy community.

Susan Starritt Jacobsen, the 2001 Woman of the Year. Ms. Jacobsen has been active in Gilroy for over 25 years and on so many levels it is difficult to list them all. She was the 2000–2001 Gilroy EDC President and served as the Secretary-Treasury for three years. As the 1999–2000 Gilroy Chamber of Commerce President, she was serving her second term as Board Member of the Chamber. In a professional capacity, she is a Past President of the South County Board of Realtors and the Past State Director for the California Association of Realtors. Industry professionals who have seen her at the Gilroy Garlic Festival, helping out in one way or another, and Gilroy schools and organizations know they can always count on her to volunteer her time for a fundraiser or event.

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Again, we wish to extend our gratitude to these individuals and organizations for their tireless enthusiasm and dedication. Congratulations to them on this prestigious award.

IN HONOR OF AGNES M. GILLESPIE

HON. ROBERT MENENDEZ
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and acknowledge the many accomplishments of Agnes M. Gillespie, who was recognized by the Richard A. Rutkowski Association on Saturday, January 19, 2002. The gala event took place at Hi-Hat Caterers in Bayonne, New Jersey.

In 1973, Agnes M. Gillespie began her career as an elementary school teacher in the Horace Mann and Walter F. Robinson Schools. In September 1987, she assumed the position of grant writer for the Bayonne Public School System. As a grant writer, she secured awards for Safe Haven, Project Fare, Project Rite, and Project Self-Sufficient. Not only did she write and promote the applications for grant programs, but Gillespie also served as the director and coordinator in the administration and implementation of many of these programs. Currently, Gillespie is the Director of Safe Haven, the New Jersey school-
based Youth Services Program, and the Teen Center.

Gillespie has actively participated in various community service-related activities; including: President of the Bayonne Child Abuse COUNCIL; member of the Bayonne Mayor’s Council on Drug and Alcohol; Bayonne Planning Board; Bayonne Municipal Alliance; Bayonne Hospital Foundation-Management Services Organization; Parish Council; City of Bayonne WTC Memorial Committee; Ireland’s 32 Board of Trustees; Bayonne Municipal Election Candidate in 1994; and Chairperson-Holy Family Academy Panel in 1992.

She attended Caldwell College, Kean College, New Jersey City University, and Harvard Graduate School of Education.

Today, I ask my colleagues to join me in honoring Agnes M. Gillespie for 30 years of dedicated service on behalf of children and young adults in Bayonne, NJ.

ESTABLISHING FIXED INTEREST RATES FOR STUDENT AND PARENT BORROWERS

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 24, 2002

MRS. MINK of Hawaii. Mr. Speaker, I rise today in support of S. 1762, which will provide students with low interest rates on Federal student loans, while preserving the health of the student loan industry by ensuring the current and future participation of lenders in this market. By helping lenders stay in the student loan markets, we are making sure that qualified students will have access to higher education, regardless of their financial background.

S. 1762 represents a compromise between those representing students, and those representing the lending industry. This compromise essentially fixes a problem that would have arisen in 2003 in the student loan interest rate formula that according to the lending community, would have dried up resources for students needing funds for college by potentially reducing returns for loans below the cost of issuing such loans. S. 1762 preserves the current interest rate formula that determines how much lenders receive from the Federal government, while locking in very low interest rates for students, and will eliminate confusion among borrowers of student loans regarding shifting interest rate formulas. With the changes in S. 1762, students benefit by getting guaranteed low interest rates, and by having the availability of funds for loans, and the stability of the student loan industry, ensured.

For low-income students especially, student loan rates represent a lifeline to a college degree that is often beyond the reach of a family’s resources, grants and scholarships. Student loans help bridge a gap for low-income students and provides them the same opportunities to earn a living commensurate with their abilities.

Mr. Speaker, S. 1762 is a good bill and is crucial for ensuring the availability of funds for qualified students to go to college. As we know, more and more students are going to college each year, and are doing so with the help of student loans. And higher education is a smart investment, especially for low-income students, with earnings from a bachelor’s degree far exceeding earnings from only a high school degree. S. 1762 will mean that more students, especially more low-income students, can go on to college and will be more able to participate in the 21st century economy, and I strongly support it.

IN HONOR OF BISHOP DONALD HILLIARD, JR.

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and acknowledge the many accomplishments of Bishop Donald Hilliard, Jr., Senior Pastor of the Historic Second Baptist Church in Perth Amboy, New Jersey. He will be honored for his 25 years in the ministry on Friday, January 25, 2002, at the Hyatt Hotel in New Brunswick, New Jersey.

Under his innovative leadership, Second Baptist Church’s congregation blossomed from 125 to over 4,500 members. This fast-growing ministry has expanded to three locations of worship: the Cathedral, Second Baptist Church, Perth Amboy, New Jersey; the Cathedral Assembly by the Shore in Asbury Park, New Jersey; and the Cathedral in the Fields in Plainfield, New Jersey. Over fifty churches are currently ministering to the unique needs of these communities, as well as to the congregants who travel from New Jersey, Pennsylvania, and New York to attend services.

Dr. Hilliard is the founder and CEO of the Cathedral Community Development Corporation (CDDC). This organization services the needs of the community through the City Child Development Center and The Timothy House, a resource for men recovering from situations of homelessness and/or addiction. The Corporation functions out of the Cathedral Community Cornerstone Complex, which, through its new Kaleidoscope Economic Empowerment and Human Development Complex, offers economic empowerment opportunities, a rehabilitation room to serve prostitutes and HIV positive individuals, and will house an outreach center for the homeless.

Bishop Hilliard holds a Bachelor of Arts degree from Eastern College, St. Davids, Pennsylvania, a Master of Divinity degree from Princeton Theological Seminary, and a Doctorate of Ministry degree from the United Theological Seminary, Dayton, Ohio, as a Dr. Samuel D. Proctor Fellow.

Dr. Hilliard is married to Minister Phyllis Thompson Hilliard, and is the proud father of three daughters, Leah Joy Alease, Charisma Joy Denise and Destiny Joy Thema.

Today, I ask my colleagues to join me in honoring Bishop Donald Hilliard, Jr., on his 25th anniversary in the ministry and for his many contributions on behalf of the residents of New Jersey.

A GREAT TIME TO BE AN AMERICAN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, January 25, 2002

Mrs. MORELIA. Mr. Speaker, in the wake of the horrific terrorist attacks of September 11, 2001, our Nation has joined together, united in our solemn resolve to defend freedom and liberty. As we continue to move forward following that tragic morning, I would like to insert in the RECORD a recent column from The Wilmington News-Journal by Beth Peck. I believe her inspiring words are appropriate and important during these times.

(From the Wilmington News-Journal, Jan. 5, 2002)

AFTER DARK YEAR, WE SEE AMERICA IN NEW LIGHT

(By Beth Peck)

For all of my 35 years, I have waited for this moment. This is a time when Americans are united in a reverence and appreciation of the society we created and the liberty we enjoy.

What American can look at Afghanistan, where it is repressive, state-sponsored version of Islam, and not rejoice at our First Amendment privilege to practice any (or no) religion we choose without molestation or interference? What American can look at Iraq, with its heavily censored, state-controlled media, and not give thanks for our freedom of speech?

We don’t have to look too far back to realize that it wasn’t always this way. During travels in Canada this summer, I was struck by the number of flags I saw flying on homes, and I realized how lucky we are. Back in the United States just days before Sept. 11, I spontaneously burst into “America the Beautiful” while standing on a trail overlooking Yellowstone Lake. The sunset gave the mountains ringing the lake an extraordinary amethyst hue, and I could not resist singing, “O beautiful, for spacious skies, for amber waves of grain, for purple mountain majesties, above the fruited plain!”

Others on the trail simply stared at me. Not any more.

Today Americans don’t take for granted the privileges they share. The terrorists who...
rained fire on Manhattan and the Pentagon reminded us that Americans have a duty to defend that freedom which puts our country in a class by itself. This is a lesson I learned long ago as the daughter of an Army captain, who served during the Vietnam war, and as a grand-daughter of another captain who served during World War II.

Growing up in a suburb of Washington, D.C., I had ample opportunity to marvel at the workings of our government. I gazed upon the Declaration of Independence and the Constitution on display at the National Archives. I witnessed debates in the Senate chamber and oral arguments at the Supreme Court. My direct observations showed me how well our democracy functions.

Having seen firsthand what life is like elsewhere, I have been convinced for years that despite its faults America is the greatest country in the world. Episodes such as being shaken down by police in Eastern Europe soon after the fall of the Iron Curtain made me realize how exceptional it is to have law enforcement that is largely corruption-free.

Being ignored or elbowed aside in Asian countries because I am a woman made me appreciate how much America values all its citizens, select, few from a vast anointed demographic group. Seeing the nervous reaction of a guide when I asked him a question about his government’s repressive policies made me wonder how precious our political freedom is.

Life in America is not perfect. But for the bulk of Americans, it is better here than it would be anywhere else.

And now I know I am not alone in my pride for my country. Patriotism is in fashion. “United we stand” is the slogan of the moment. There is a renewed understanding that freedom doesn’t come for free; it must be zealously guarded from those who would try to take it away. For people like me who truly love America, this is our moment in the sun.

It’s ironic: A decision designed to terrorize Americans by demolishing our national symbols, because enemies think we’re weak and soft, has instead reawakened our slumbering belief in this country’s goodness. Whatever our differences were before Sept. 11, President Bush and American citizens have closed ranks to defend ourselves against an insidious danger that exploits freedom in order to destroy it.

So go, sir, or perhaps, because of the events of Sept. 11, this is a great time to be an American. Why? Because now everybody else realizes how great it is to be an American.

IN HONOR OF DEPUTY CHIEF OF POLICE PATRICK M. MINUTILLO

HON. ROBERT MENENDEZ
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Deputy Chief of Police Patrick M. Minutillo on his retirement from the Harrison Police Department after 29 years of service and protection of the public. He will be recognized Friday, January 25, at a celebration at Ravello’s Restaurant in East Hanover, New Jersey.

After serving four year with the United States Navy, Deputy Chief Patrick Minutillo began his law enforcement career. He climbed quickly through the ranks become Deputy Chief of the Harrison Police Department in 1997.

Currently, Deputy Chief Minutillo volunteers as an instructor in the West Point Command and Leadership Program, and serves as an Adjunct Professor at the Public Administration Institute of Fairleigh Dickinson University. An Administrative Hearing Officer, he also serves on both county and municipal levels in the State of New Jersey.

Deputy Chief Minutillo is active in numerous organizations, including the International Association of Chiefs’ of Police; the Deputy Chiefs’ of Police Association of New Jersey, where he serves as President in 2000 and 2001; the FBI Law Enforcement Executive Development Association; the Italian American Police Society of New Jersey, where he serves as Executive Secretary; the International Police Association, where he holds the position of Vice-President; the American Society of Industrial Security, where he serves on the Law Enforcement Awards Committees; and the Harrison Police Association, Local 22.

Deputy Chief Minutillo holds a certificate in Public Management, Bachelor’s Degree in Criminal Justice, and a Masters Degree in Administrative Science. He is a graduate of numerous executive level law enforcement programs, including the West Point Command and Leadership Program and the F.B.I. Law Enforcement Executive Development Seminar. In addition to his studies, he has completed over 2000 hours of advanced management and operational training.

Today, I ask my colleagues to join me in honoring Deputy Chief of Police Patrick M. Minutillo for 29 years of outstanding and dedicated service to the citizens of Harrison, New Jersey.

TRIBUTE TO JOSEPH “AJ” MINTON

HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Friday, January 25, 2002

Ms. LOFGREN. Mr. Speaker, today we rise to congratulate Milpitas Police Department Officer Joseph “AJ” Minton, the winner of the 2002 Gene Schwab Memorial Award. The Gene Schwab Memorial Award recognizes those city of Milpitas employees who put “Service Above Self.”

Joseph “AJ” Minton was born in Anchorage, Alaska, and moved to California in 1983 to attend college, first at Monterey peninsula College and then San Jose State, where he obtained a Bachelor of Science degree in Criminal Justice. Mr. Minton began his career as a police volunteer Fire Explorer for the City of Marina, becoming a Reserve Police Officer and a volunteer Fire Fighter for that city in 1984. Upon moving to San Jose, he began working with the Milpitas Police Department as an intern and was hired full-time by the Department upon his graduation. He became a Police officer in 1989.

AJ Minton has spent most of his career in Patrol, but has served the Milpitas Police Department in numerous other ways. As Crime Analyst, Mr. Minton provided valuable statistical data to the community and to those looking to purchase a home and raise their families in Milpitas. He has also served as a Reserve Field Training Officer, a driver instructor, and as the agency representative for the county Report Writing Committee. Currently, he is a member of the Milpitas community Oriented Policing Task Force.

Throughout Mr. Minton’s career, he has taken an interest in computer and information technology. In 1994, he assisted in implementing the department’s mobile computer system. Since 1999, he has been on a project team that works closely with the Information Services Department; additionally, he assisted with the development of the Computer Aided Dispatch, the Records Management System, and Mobile Computers.

Joseph “AJ” Minton is also an avid ice hockey player and is a member of the Blue Devil Ice hockey team, whose enthusiastic members range in age from four to eight. We wish to thank AJ Minton for his dedication to both the Milpitas Police Department and to the community; he truly embodies the spirit of “Service Above Self.” We congratulate him on this honor and are grateful for his service.

IN HONOR OF BAYONNE FIRE DIRECTOR PATRICK BOYLE

HON. ROBERT MENENDEZ
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Bayonne Fire Director Patrick Boyle, who will be recognized by the Police & Fire Club at the 2002 annual dinner dance held on Friday, January 25th, at the Hi-Hat Club in Bayonne, NJ.

Fire Director Patrick Boyle served our country for six years as a United States Navy nuclear reactor operator on the USS Nathaniel Greene, a nuclear ballistic submarine. In 1978, Mr. Boyle was appointed to the Bayonne Fire Department. He was promoted to Lieutenant in 1989, Captain in 1996, and Battalion Chief in 1999. Mayor Joseph V. Doria, Jr., appointed him Fire Director in 1998, and Emergency Management Coordinator in 1999. Mr. Boyle has served as President of the Firemen’s Mutual Benevolent Association (FMBA) Local 211, as well as Vice-President of FMBA Local 11. He is an Adjunct Professor in Business Law and Fire Science at New Jersey City University.

Mr. Boyle is a former Little League coach and manager; served two terms as President of the Bayonne Youth Ice Hockey Association; served as President of the Bayonne Yachting 32 Club; served as a member of the Bayonne St. Patrick’s Day parade committee; and is a member of Ireland’s 32.

Fire Director Patrick Boyle, a native of Bayonne, graduated from New Jersey City University and Seton Hall Law School.

Mr. Boyle is happily married to the former Marie Mazzucco and is a proud father of two sons, Sean, a firefighter with the Bayonne Fire Department, and Ryan, a college student.

Today, I ask my colleagues to join me in honoring Mr. Patrick Boyle for over 20 years of dedicated service on behalf of the residents of Bayonne, NJ.
IN HONOR OF FRANCISCO AND HORTENSIA CANONICO

HON. ROBERT MENENDEZ
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Francisco and Hortensia Canonicco, who were honored by the North Hudson Board of Realtors Friday, January 18th, for their exceptional contributions to New Jersey’s real estate industry.

Mr. Canonicco entered the real estate industry in 1967, and became a licensed real estate broker in 1972. That same year, he opened his own business, Canonico Real Estate, on 1010 Summit Avenue in Union City, New Jersey.

As an innovative real estate broker, he became the President of the Hudson County Multiple Listing Service in 1979. He was President of the Hudson County Board of Realtors in 1984, when he was recognized as Realtor of the Year. In 1984, Mr. Canonico also served on the Committee to Make America Better, and was recognized again as Realtor of the Year in 1996.

In 1977, Mrs. Canonico became the first Latina licensed real estate broker in Hudson County. She was recognized in the Million Dollars Sales Club from 1996 through 2000.

Both Francisco and Hortensia Canonicco have been avid fund-raisers for the American Cancer Society and Lung Association.

Mr. Speaker, I ask my colleagues to join me in congratulating husband and wife, Francisco and Hortensia Canonico, for their exceptional contributions to New Jersey’s real estate brokers and innovative entrepreneurs.

ON FEDERALIZING SECURITY AT NUCLEAR POWER PLANTS

HON. WILLIAM D. DELAHUNT
OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 25, 2002

Mr. DELAHUNT. Mr. Speaker, I rise to inform my colleagues that I have requested that the Commission is called to order, as provided to plants.

Perhaps that reluctance derives from a substantive disagreement about the need even to review a federal approach. In written remarks to a Senate colleague, the NRC Chairman stated last month that "there have been no failures in nuclear security of the kind that would warrant the creation of a new federal security force" and warned that, by federalizing security, the government would incur an exorbitant cost "all to address a non-existent problem".

I seek neither to raise undue alarm nor to condemn the current security protocol. However, in a series of meetings since September 11, the vulnerability of commercial nuclear reactors has become increasingly evident. Even before then, the potential hazards associated with nuclear power have long required special vigilance; and the terrorist attack obviously elevates the gravity and urgency of security concerns. All of us who represent areas with commercial nuclear facilities share an urgent concern for safeguarding residents who live in close proximity to the 103 facilities across the country.

Most Americans understand that we can’t completely insulate the nation—and every person and property in it—from attack by suicidal terrorists. Nearly everyone appreciates the complexities and expense involved, and grasps the need to balance security precautions with civil liberties and economic impact. But the fact remains that there is no more fundamental responsibility of government than homeland defense, and that addressing vulnerabilities—including those associated with nuclear plants—are essential.

The Nuclear Regulatory Commission (NRC) has acknowledged that the nation’s commercial reactors were not designed to withstand the type of attack carried out against the World Trade Towers. In light of this new potential threat and in the context of analogous legislation relating to airport safeguards, it seems to me self-evident that we explore the prospect of a federal security force charged with protecting nuclear plants.

Within hours of the September attacks, security at nuclear plants went on high alert. In my own congressional district, the Pilgrim facility took significant new precautions against potential threats to perimeter security from both the ground and the water. Although the immediate response was sound, I remain concerned about long-term protection of the plant. The NRC is presumably consulting with the new office of Homeland Security and various other federal agencies on coordinated efforts to buttress nuclear security; however, its approach seems focused on existing protocols rather than new methods. Even as legislation to federalize airport screening regimes was signed into law, however, the equivalent discussion of a federal nuclear plant security force has received only scant attention.

Historically, it appears the NRC has not moved aggressively to explore the potential authority for federalization under existing statute, much less for administrative or legislative initiatives to create a federal presence. Correspondence with my office over the last four months suggests the NRC is not inclined to examine section 102 of the Atomic Energy Act, which could offer relevant authority. The agency rationale is that "the Commission is confident that substantial protection is being provided to plants."

The consequences of getting this wrong are unthinkable. It seems to me that an independent examination of a number of technical and financial issues by the GAO would be invaluable. Accordingly, today I urge the Comptroller General to ask the GAO to:

1. Review current federal guidelines and protocols for safeguarding nuclear plants from the air (including through the use of no-fly zones); through perimeter ground security measures; and through coastal security measures;

2. Examine the jurisdictional issues and administrative obstacles to transferring responsibility for security from plant owners to the federal government; and

3. Analyze the cost of federalizing security— including initial training, upkeep, and long-term protection.

I have no presuppositions about the outcome of such a study. In fact, I very much hope that any such study would reach the same conclusions that I have reached. But the point of such a study is to help inform. However, I remain deeply concerned about the consequences of failing to explore these issues on an expedited basis.

IN HONOR OF JOANNE CARINE

HON. ROBERT MENENDEZ
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor the many accomplishments of Joanne Carine, who will be recognized Friday, January 25, at Ireland’s 32d annual dinner dance to be held at the Hi-Hat Club in Bayonne, NJ.

A Bayonne native, Joanne Carine has been employed with the Board of Education since 1978, and is currently a secretary for the Superintendent of Schools. She serves on the Executive Board of the St. Dominic Academy Mother’s Club; the Holy Family Academy Mother’s Club; and is a Trustee and Secretary for the Simpson Barber Foundation for the Autistic, an organization that educates about autism and provides social and educational opportunities for children with autism. In addition, she is a trustee of the Bayonne Environmental Commission.

Mrs. Carine was a member of the 1998 Bayonne Municipal Inaugural Committee; a member of the Bayonne Youth Soccer Association, Travel Parent’s Board; and a Corresponding Secretary for the Friends of Nicholas Capodieco Association, serving as Chairperson for the organization’s 2000 annual brunch. In 1977, Joanne was selected the first recipient of the Miss Bayonne Columbus Award.

Mrs. Joanne Carine is married to Frank Carine, Jr., and has two daughters, Jenna and Jerilyn.

Today, I ask my colleagues to join me in honoring Mrs. Joanne Carine for her positive influence and hard work on behalf of New Jersey’s education system.

REAFFIRMING THE SPECIAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE REPUBLIC OF THE PHILIPPINES

SPEECH OF

HON. PATSY T. MINK
OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 18, 2001

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong support of H. Con. Res. 273, reaffirming the special relationship between the U.S. and the Republic of the Philippines.

The Philippine government has committed government troops and vast resources to fighting down and arresting terrorist organizations, most notably the Abu Sayaff, the separatist group that is linked to the al Qaeda network and Osama bin Laden. Abu Sayaff...
has repeatedly kidnapped foreigners for ransom, including numerous Americans, one of whom, Guillermo Sobero, was murdered. Americans Martin and Gracia Burnham remain captives of this terrorist group that continues to terrify many islands in the southern area of the archipelago.

Although an extension of the U.S.-Philippines Mutual Defense Agreement was rejected by the Philippine Senate in 1991, prompting the U.S. to withdraw our troops from the country, the Philippines and the U.S. forged a new agreement in 1999 to revive the agreement. This new agreement allows U.S. military personnel to enter the Philippines for joint training and other cooperative activities. Moreover, the agreement re-institutes U.S. military aid programs to the Philippines.

The agreement is proving very beneficial in the U.S. struggle against terrorism. The Philippine government has made all of its military bases available to the U.S. for transporting, refueling, and re-supplying troops headed toward Afghanistan. The U.S. has also made good on our commitment to eradicate terrorism by providing the Philippines with military advisors and other military assistance to defeat terrorist in the Philippines.

The U.S. and the Philippines have a strong and special relationship. This relationship encompasses military and economic assistance. It includes an intimate diplomatic relationship dating back over 100 years.

Filipinos were a free people until the Spanish claimed the island nation in 1521. Despite numerous uprisings and resistance movements, the Spanish maintained its control over the Philippines until 1898.

In 1898 the American Navy defeated the Spanish fleet in Manila Bay and subsequently began its occupation of the Philippines. Emilio Aguinaldo, who had led a resistance movement against the Spanish, battled the U.S. when it became clear that America had no interest in granting independence to the island nation. After a two-year struggle, the U.S. captured Emilio Aguinaldo. He agreed to swear allegiance to the U.S. and without its leader, the rest of the insurrection to gain independence quickly came to an end in 1902.

At the end of the Philippine-American War, the U.S. declared its goal to develop a free and democratic government. The U.S. began by creating a public education system and a fair legal system. In 1907 the Philippines established its first bicameral semi-autonomous legislature, structured like the American federal government.

From 1907 to 1946, a Resident Commissioner represented the Philippines in the U.S. Congress. They had no vote and were not allowed to serve on standing committees but were able to participate in debate on the House floor. The Philippines became fully independent in 1946, at which time the office of the Resident Commissioner was abolished.

The 1935 Tydings-McDuffie Act outlined the terms for establishing a fully independent nation. Filipinos began the ten-year transition period to independence by framing a constitution modeled after the American Constitution.

The breakout of World War II and the subsequent Japanese occupation of the Philippines temporarily suspended Filipino dreams for independence.

During World War II, the U.S. treated Filipinos as “noncitizen nationals.” It gave them some right to self-governance, but the U.S. federal government reserved the final say over the Philippine government’s decisions.

Nearly 200,000 Filipinos responded to President Roosevelt’s call to arms. From 1941 to 1945, Filipino soldiers fought alongside American soldiers. They responded without hesitation to defend their homeland because they were a part of the United States. They defended Bataan and Corregidor, which helped ensure that General MacArthur could escape to Australia. Thousands of Filipino prisoners of war endured the infamous Bataan Death March, and many died.

After the fall of Bataan and Corregidor, Filipinos formed guerrilla groups. These guerrilla forces distracted attention away from U.S. troops in the Pacific region who worked to rebuild and respond to attacks against American possessions in the Pacific. Filipino veterans fought bravely in every major battle and lost their lives defending our values of justice and freedom.

After the war, the U.S. Congress enacted the Armed Forces Voluntary Recruitment Act of 1946 to establish the “New Philippine Scouts.” From 1945 through 1946 the New Philippine Scouts helped defend the Philippines as the nation worked to rebuild itself. Based on promises from the U.S. government, New Philippine Scouts, Commonwealth army veterans, and veterans in recognized guerrilla forces expected to receive their full military benefits.

In October of 1945, General Omar Bradley, then Administrator of the Veterans Administration, reaffirmed that they were to be treated like any other American veteran and would receive full benefits, but in 1946 Congress broke our promise to Filipino veterans and revoked their benefits by enacting Public Law 70–301. The Recission Act declared that military service rendered by 200,000 Filipinos under Roosevelt’s Military Order and the guerrilla forces was not official military service. The act specifically excluded Filipinos from receiving full veterans’ benefits unless they had service or combat related injuries.

The U.S. government enacted the Second Supplement to the Surplus Appropriation Rescission Act in 1946. It repeated the provisions that eliminated Filipino veterans’ benefits under the Recission Act, and it placed similar benefit restrictions on New Philippine Scouts.

The U.S. government has restored partial benefits for some Filipino veterans living in America, but New Philippine Scouts and most veterans living in the Philippines still do not have the full benefits that were promised to them.

Following the Second World War, America provided assistance as the Philippines struggled to create a democratic nation. As promised, the Philippines became an independent nation on July 4, 1946.

In 1986 the people of the Philippines led a peaceful uprising that ousted Ferdinand E. Marcos and installed Corazon Aquino as president. Throughout the late 1980’s President Corazon Aquino re-established fundamental values found in America, including civil liberties, freedom of speech, freedom of assembly, and a free press.

Today, over 100,000 Filipinos reside in the U.S. Many of these individuals can trace their ancestry back to the over 100,000 Filipinos who migrated to Hawaii between 1910 and 1941 to serve as laborers on sugar plantations. Even though many of them returned to the Philippines, thousands stayed in Hawaii to become one of the state’s major ethnic groups.

Filipinos are the third largest racial group in Hawaii. There are currently 275,730 people who listed full or partial Filipino ancestry in the 2000 Census. Among them, Governor Benigno Cabayan, Santerio Corazon Aquino, Benjamin Cayetano and State Supreme Court Justices Mario Ramil and Simeon Acoba. The following members of the state legislature are Filipino: Senator Robert Bunda, Senator Donna Mercado Kim, Senator Lorraine Inouye, Representatives Felipe Albuay, Representative Benjamin Cabreros, Representative Willie Espero, Representative Nestor Garcia, Representative Michael Magaaray, and Representative David Pendleton.

2001 marks the 50th anniversary of the United States-Philippines Mutual Defense Treaty. During this anniversary we must celebrate the deep relationship that ties our nations together. I urge all Members to support H. Con. Res. 273 to acknowledge the Philippines as an important partner in our defense of freedom in the Pacific region.

IN HONOR OF BRIAN C. DOHERTY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and acknowledge the many accomplishments of my good friend, Brian C. Doherty, whose life was commemorated and celebrated on Thursday, January 24, at the Boys and Girls Club of Hudson County’s annual dinner at the Liberty House Restaurant in Jersey City, New Jersey. It was fitting and appropriate that the Boys and Girls Club of Hudson County, which, under the leadership of Mr. Doherty, many of the participants of these programs went on to play professional basketball.

A veteran of the National Guard, he was Executive Secretary to Mayor Paul T. Jordan of Jersey City from 1975 until 1977. In 1995, he became partner of the law firm of Schumann, Hanlon, Doherty, McCrosin, and Paulino.

Mr. Doherty, an active member of the American Bar Association and the Association of Trial Lawyers of America, graduated from the New School for Social Research in Manhattan, New York, and earned his law degree from Seton Hall University Law School in 1977.

Mr. Doherty was a dedicated husband to Rosemary T. McFadden and cherished son of Brian C. Doherty for his generosity, kind spirit, and work on behalf of the community. I am very proud to have called Brian my
IN HONOR OF HONORABLE DENNIS P. COLLINS

HON. ROBERT MENENDEZ
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Friday, January 25, 2002

Mr. MENENDEZ. Mr. Speaker, I rise today to honor and acknowledge the many accomplishments of Dennis P. Collins, who will be recognized Friday, January 25th, at Ireland’s 32nd annual dinner dance to be held at the Hi-Hat Club in Bayonne, New Jersey.

Before becoming an elected official, Mr. Collins served in the United States Army; worked for the Tidewater Oil Company; the Edward F. Clarke Real Estate and Insurance Agency; and the Bayonne Water-Sewer Utility. He is a former Assistant Secretary Director of the New Jersey Real Estate Commission.

In 1962, Mr. Collins was elected to his first of three terms on the Municipal Council, two of which he served as Council President. He succeeded the late Mayor Francis G. Fitzpatrick in 1974 and served four terms as Mayor. He is the first individual to serve seven four-year consecutive terms in elective office and four consecutive four-year terms as Mayor in the history of Bayonne’s municipal government.

Former Mayor Collins served as an aide to former Governor Tom Kean, United States Representative Dominic Daniels, Frank Guarini, and also served on my staff as a friend and trusted advisor. Since 1988, he served as an aide to Mayor Joseph V. Doria Jr. He has remained a part of Bayonne’s public life for more than forty years.

Dennis Collins and the former Mary Bray celebrated their 55th wedding anniversary on October 19, 2001; they have three lovely children as well as three wonderful grandchildren.

Today, I ask my colleagues to join me in honoring Dennis P. Collins for his friendship, dedication, and enormous contributions on behalf of the residents of New Jersey.
Chamber Action

Routine Proceedings, pages S111–S152

Measures Introduced: One bill was introduced, as follows: S. 1898. Page S136

Adoption Tax Credit: Senate continued consideration of H.R. 622, to amend the Internal Revenue Code of 1986 to expand the adoption credit, taking action on the following amendments proposed thereto:

Pending:
Daschle/Baucus Amendment No. 2698, in the nature of a substitute. Pages S111–15, S117, S128–34

Durbin Amendment No. 2714 (to Amendment No. 2698), to provide enhanced unemployment compensation benefits. Page S117

Nickles (for Bond) Amendment No. 2717, to amend the Internal Revenue Code of 1986 to provide for a temporary increase in expressing under section 179 of such code. Pages S128–30

Reid (for Baucus/Torricelli/Bayh) Amendment No. 2718 (to Amendment No. 2698), to amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004. Page S130

Reid (for Harkin) Amendment No. 2719 (to Amendment No. 2698), to provide for a temporary increase in the Federal medical assistance percentage for the Medicaid program for fiscal year 2002. Pages S130–31

Allen Amendment No. 2702 (to the language proposed to be stricken by Amendment No. 2698), to exclude from gross income certain terrorist attack zone compensation of civilian uniformed personnel. Pages S131–33

Reid (for Baucus) Amendment No. 2721 (to Amendment No. 2698), to provide emergency agriculture assistance. Pages S133–34

During consideration of this measure, Senate also took the following action:

By 39 yeas to 45 nays (Vote No. 3), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate rejected the motion to waive the Congressional Budget Act of 1974 with respect to consideration of Smith (OR) Amendment No. 2705 (to the language proposed to be stricken), to amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after September 10, 2001, and before September 11, 2004. Subsequently, a point of order that the amendment was in violation of section 311(a)(2)(b) of the Congressional Budget Act of 1974 was sustained, and the amendment thus fell. Pages S111–15

A unanimous-consent agreement was reached providing for further consideration of the bill at 3 p.m., on Monday, January 28, 2002. Page S151

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, the report of the national interest of the United States relative to the efforts by the Government of Japan to destroy Japanese chemical weapons abandoned during World War II in the People's Republic of China; to the Committee on Foreign Relations. (PM–64) Page S135

Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 83 yeas (Vote No. 4), Marcia S. Krieger, of Colorado, to be United States District Judge for the District of Colorado. Pages S115–16, S152

By unanimous vote of 81 yeas (Vote No. 5), James C. Mahan, of Nevada, to be United States District Judge for the District of Nevada. Pages S115–17, S152

Harold Craig Manson, of California, to be Assistant Secretary for Fish and Wildlife.

Jeffrey D. Jarrett, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

B. John Williams, Jr., of Virginia, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

Janet Hale, of Virginia, to be an Assistant Secretary of Health and Human Services.
Joan E. Ohl, of West Virginia, to be Commissioner on Children, Youth, and Families, Department of Health and Human Services.


James B. Lockhart III, of Connecticut, to be Deputy Commissioner of Social Security for a term of six years.

John Price, of Utah, to be Ambassador to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador to the Federal and Islamic Republic of The Comoros and Ambassador to the Republic of Seychelles.

William R. Brownfield, of Texas, to be Ambassador to the Republic of Chile.

Thomas M. Sullivan, of Massachusetts, to be Chief Counsel for Advocacy, Small Business Administration.

Everet Beckner, of New Mexico, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

Harold Daub, of Nebraska, to be a Member of the Social Security Advisory Board for the remainder of the term expiring September 30, 2006.

Michael Smith, of Oklahoma, to be an Assistant Secretary of Energy (Fossil Energy).

Gaddi H. Vasquez, of California, to be Director of the Peace Corps.

Charles S. Shapiro, of Georgia, to be Ambassador to the Bolivarian Republic of Venezuela.

Christopher Bancroft Burnham, of Connecticut, to be Chief Financial Officer, Department of State.

James David McGee, of Florida, to be Ambassador to the Kingdom of Swaziland.

Samuel T. Mok, of Maryland, to be Chief Financial Officer, Department of Labor. (Prior to this action, Committee on Health, Education, Labor, and Pensions was discharged from further consideration.)

Earl Norfleet Phillips, Jr., of North Carolina, to be Ambassador to Barbados, and to serve concurrently and without additional compensation as Ambassador to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

Christopher Bancroft Burnham, of Connecticut, to be an Assistant Secretary of State (Resource Management). (New Position)

Richard Clarida, of Connecticut, to be an Assistant Secretary of the Treasury.

Kenneth P. Moorefield, of Florida, to be Ambassador to the Gabonese Republic.

David Preston York, of Alabama, to be United States Attorney for the Southern District of Alabama for the term of four years.

John D. Ong, of Ohio, to be Ambassador to Norway.

Josephine K. Olsen, of Maryland, to be Deputy Director of the Peace Corps.

Jack Martin, of Michigan, to be Chief Financial Officer, Department of Education. (Prior to this action, Committee on Health, Education, Labor, and Pensions was discharged from further consideration.)

Rebecca W. Watson, of Montana, to be an Assistant Secretary of the Interior.

John V. Hanford III, of Virginia, to be Ambassador at Large for International Religious Freedom.

Adolfo A. Franco, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

Beverly Cook, of Idaho, to be an Assistant Secretary of Energy (Environment, Safety and Health).

Arthur E. Dewey, of Maryland, to be an Assistant Secretary of State (Population, Refugees, and Migration).

Michael A. Battle, of New York, to be United States Attorney for the Western District of New York for a term of four years.

Donna Jean Hrinak, of Virginia, to be Ambassador to the Federative Republic of Brazil.

Roger P. Winter, of Maryland, to be an Assistant Administrator of the United States Agency for International Development.

Frederick W. Schieck, of Virginia, to be Deputy Administrator of the United States Agency for International Development.

Kenneth P. Moorefield, of Florida, to serve concurrently and without additional compensation as Ambassador to the Democratic Republic of Sao Tome and Principe.

Dwight MacKay, of Montana, to be United States Marshal for the District of Montana for the term of four years.

Andrea G. Barthwell, of Illinois, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy. (Prior to this action, Committee on Health, Education, Labor, and Pensions was discharged from further consideration.)

Eve Slater, of New Jersey, to be an Assistant Secretary of Health and Human Services. (Prior to this action, Committee on Health, Education, Labor, and Pensions was discharged from further consideration.)

Edward Kingman, Jr., to be Chief Financial Officer, Department of the Treasury. (Prior to this action, Committee on Finance was discharged from further consideration.)

Edward Kingman, Jr., to be Assistant Secretary of the Treasury, Department of the Treasury. (Prior to this action, Committee on Finance was discharged from further consideration.)

A routine list in the Foreign Service.
Executive Communications: Pages S135–36
Additional Cosponsors: Page S136
Amendments Submitted: Pages S138–47
Record Votes: Three record votes were taken today. (Total—5) Pages S115, S116, S117
Adjournment: Senate met at 10 a.m., and adjourned at 2:49 p.m., until 3 p.m., on Monday, January 28, 2002. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S151.)

Committee Meetings
No committee meetings were held.

House of Representatives

Chamber Action
Measures Introduced: 4 public bills, H.R. 3635–3638, were introduced. Page H82
Reports Filed: No reports were filed today.
Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Culberson to act as Speaker pro tempore for today. Page H81
Quorum Calls—Votes: No quorum calls or recorded votes developed during the proceedings of the House today.
Adjournment: The House met at 10 a.m. and adjourned at 10:03 a.m.

Committee Meetings
No Committee meetings were held.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. D13)

CONGRESSIONAL PROGRAM AHEAD
Week of January 28 through February 2, 2002

Senate Chamber
On Monday, Senate will resume consideration of H.R. 622, Adoption Tax Credits.
On Tuesday, Senate will continue consideration of H.R. 622, Adoption Tax Credits. Also, at 8:40 p.m., Senate will proceed to the House of Representatives to receive the President’s State of the Union Address.
During the balance of the week, Senate is not expected to be in session.

House Chamber
Monday, the House is not in session;
Tuesday, the House will meet at 12:30 p.m. for morning hour and 2:00 p.m. for consideration of suspensions. Any electronic votes will be taken at 5:00 p.m.
Joint session of Congress to receive President George W. Bush’s State of the Union Address at 9:00 p.m.
Wednesday and the Balance of the Week, no legislative business.

House Committees
No Committee meetings are scheduled.
Next Meeting of the Senate
3 p.m., Monday, January 28

Senate Chamber
Program for Monday: Senate will resume consideration of H.R. 622, Adoption Tax Credit Act.

Next Meeting of the House of Representatives
12:30 p.m., Tuesday, January 29

House Chamber
Program for Tuesday: Joint session of Congress to Receive the President’s State of the Union Address and Consideration of Suspensions.

Extensions of Remarks, as inserted in this issue

HOUSE
Delahunt, William D., Mass., E32
Honda, Michael M., Calif., E29, E31
Lofgren, Zoe, Calif., E29, E31
Menendez, Robert, N.J., E29, E30, E31, E32, E32, E34
Mink, Patsy T., Hawaii, E30, E32
Morella, Constance A., Md., E30

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