Day of September must keep in mind that the decisions we make today will shape the world that Alison, Parker, and their peers will inherit tomorrow. As elected leaders, we must teach them the values of our great democracy.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3682. An act to amend title 18, United States Code, to prohibit taking minors across State lines to avoid law requiring the involvement of parents in abortion decisions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on Appropriations, without amendment:

S. 2440. An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–300).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1380. A bill to amend the Elementary and Secondary Education Act of 1965 regarding charter schools (Rept. No. 105–301).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1016. A bill to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, and for other purposes (Rept. No. 105–302).

S. 1408. A bill to establish the Lower East Side Tenement National Historic Site, and for other purposes (Rept. No. 105–303).

S. 1990. A bill to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas (Rept. No. 105–304).

S. 2039. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail (Rept. No. 105–305).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2109. A bill to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes (Rept. No. 105–306).

S. 2232. A bill to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes (Rept. No. 105–307).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 2276. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail (Rept. No. 105–308).

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 2228. A bill to amend the Federal Advisory Committee Act (5 U.S.C. App.) to modify termination and reauthorization requirements for advisory committees, and for other purposes (Rept. No. 105–309).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with amendments:

S. 2317. A bill to improve the National Wildlife Refuge System, and for other purposes (Rept. No. 105–310).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1333. A bill to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges (Rept. No. 105–311).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 1665. A bill to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes (Rept. No. 105–312).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2129. A bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park (Rept. No. 105–313).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SPECTER:

S. 2440. An original bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

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

S. 2441. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2442. A bill to repeal the limitation on the use of foreign tax credits under the alternative minimum tax; to the Committee on Finance.

By Mr. DASCHLE (for Ms. MOSELEY-BRAUN):

S. 2443. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the public safety and community policing program and to encourage the use of school resource officers under that program; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 2444. A bill to redesignate the Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, as the ''Augustus F. Hawkins Post Office Building''; to the Committee on Environment and Public Works.

By Mr. THOMPSON (for himself, Mr. NICKLES, Mr. CRAIG, Mr. THURMOND, Mr. HUTCHINSON, Mr. COVERDELL, and Mr. KEMPTHORNE):

S. 2445. A bill to provide that the formulation and implementation of policies by Federal departments and agencies shall follow the principles of federalism, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COVERDELL:

S. 2446. A bill to stop illegal drugs from entering the United States, to provide additional resources to combat illegal drugs, and to establish disincentives for teenagers to use illegal drugs; to the Committee on the Judiciary.

By Mr. LUGAR:

S. 2447. A bill to require the Secretary of Agriculture, in consultation with the heads of other agencies, to conduct a feasibility and cost-benefit study of options for the design, development, implementation, and operation of a national database to track participation in Federal means-tested public assistance programs; to the Committee on Governmental Affairs.

By Mr. KERRY (for himself, Mr. WELLSTONE, Mr. HARKIN, and Ms. LANDRIEU):

S. 2448. A bill to amend title V of the Small Business Investment Act of 1958, relating to public policy goals and real estate appraisals, to amend section 7(a) of the Small Business Act, relating to interest rates and real estate appraisals, and to amend section 7(m) of the Small Business Act with respect to the loan loss reserve requirements for intermediaries, and for other purposes; to the Committee on Small Business.

By Mr. CLELAND:

S. 2449. A bill to amend the Controlled Substance Act relating to the forfeiture of currency in connection with illegal drug offenses, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DOMENICI:

S. Res. 272. A resolution recognizing the distinguished service of Angela Raish; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2441. A bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes; to the Committee on the Judiciary.

THE CENTRAL AMERICAN AND CARIBBEAN REFUGEE ADJUSTMENT ACT OF 1998

● Mr. DURBIN. Mr. President, today I introduce the Central American and Caribbean Refugee Adjustment Act of 1998. This legislation will provide deserved and needed relief to thousands of immigrants from Central America and the Caribbean who came to the United States fleeing political persecution.

In the 1980's, thousands of Salvadorans and Guatemalans fled civil wars in their countries and sought asylum in the United States. The vast majority had been persecuted or feared persecution in their home countries. The people of Honduras had a similar experience. While civil war was not formally waged within Honduras, the geography of the region made it impossible for Honduras to be unaffected by the violence and turmoil that surrounded it. The country of Haiti has also experienced extreme upheaval. Haitians for many years were forced to seek the protection of the United States because of oppression, human rights abuses and civil unrest.

Salvadorans, Guatemalans, Haitians and Hondurans have now established

roots in the United States. Some have married here and many have children that were born in the United States. Yet many still live in fear. They cannot easily leave the United States and return to the great uncertainty in their countries of origin. If they are forced to return, they will face enormous hardship. Their former homes are either occupied by strangers or not there at all. The people they once knew are gone and so are the jobs they need to support their families. They also cannot become permanent residents of the United States, which severely limits their opportunities for work and education. This situation is unacceptable and requires a more permanent solution.

Before outlining how this bill will provide a permanent solution, it is important to review the evolution of deportation remedies. Prior to the passage of the Illegal Immigration Reform and Responsibility Act in 1996, aliens in the United States could apply for suspension of deportation and adjustment of status in order to obtain lawful permanent residence. Suspension of deportation was used to ameliorate the harsh consequences of deportation for aliens who had been present in the United States for long periods of time.

In September of 1996, Congress passed the Illegal Immigration Reform and Responsibility Act. This law retroactively made thousands of immigrants ineligible for suspension of deportation and left them with no alternate remedy. The 1996 Act eliminated suspension of deportation and established a new form of relief entitled cancellation of removal that required an applicant to accrue ten years of continuous residence as of the date of the initial notice charging the applicant with being removable.

In 1997, this Congress recognized that these new provisions could result in grave injustices to certain groups of people. So in November of 1997, the Nicaraguan and Central American Relief Act (NACARA) granted relief to certain citizens of former Soviet block countries and several Central American countries. This select group of immigrants were allowed to apply for permanent residence under the old, pre-IIRRA standards.

Such an alteration of IIRRA made sense. After all, the U.S. had allowed Central Americans to reside and work here for over a decade, during which time many of them established families, careers and community ties. The complex history of civil wars and political persecution in parts of Central America left thousands of people in limbo without a place to call home. Many victims of severe persecution came to the United States with very strong asylum cases, but unfortunately these individuals have waited so long for a hearing they will have difficulty proving their cases because they involve incidents which occurred as early as 1980. In addition, many victims of persecution never filed for asylum out of fear of denial, and consequently these people now face claims weakened by years of delay.

Mr. President, the bill I introduce today is a necessary and fair expansion of NACARA. It provides a permanent solution for thousands of people who desperately need one. Specifically, the bill amends the Nicaraguan Adjustment and Central American Relief Act and provides nationals of El Salvador, Guatemala, Honduras and Haiti an opportunity to apply for adjustment of status under the same standards as Nicaraguans and Cubans. While the restoration of democracy in Central America and the Caribbean has been encouraging, the situation remains delicate. Providing immigrants from these politically volatile areas an opportunity to apply for permanent resident status in the United States instead of deporting them to politically and economically fragile countries will provide more stability in the long run. Such an approach is the best solution not only for the United States but also for new and fragile democracies in Central America and the Caribbean. Immigrants have greatly contributed to the United States, both economically and culturally and the people of Central America and the Caribbean are no exception. If we continue to deny them a chance to live in the United States by deporting them, we not only hurt them, we hurt us too.

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

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

S. 2441

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 ''Central American and Caribbean Refugee Adjustment Act of 1998''.

SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS FROM CENTRAL AMERICA, CUBA, AND THE CARIBBEAN.

Section 202 of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note) is amended—

(1) in the section heading, by striking ''NICARAGUANS AND CUBANS.'' and inserting ''NATIONALS FROM CENTRAL AMERICA, CUBA, AND THE CARIBBEAN.'';

(2) in subsection (b)(1), by striking ''Nicaragua or Cuba'' and inserting ''Nicaragua, Cuba, El Salvador, Guatemala, Honduras, or Haiti''; and

(3) in subsection (d)(1)(A), by striking ''Nicaragua or Cuba;'' and inserting ''Nicaragua, Cuba, El Salvador, Guatemala, Honduras, or Haiti;''.

SEC. 3. CONFORMING AMENDMENTS TO TRANSITION RULES.

(a) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION.—Section 309(c)(5)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note), as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act, is amended by striking subclauses (I) through (V) and inserting the following:

''(I) is an alien who entered the United States on or before December 31, 1990, who filed an application for asylum on or before December 31, 1991, and who, at the time of filing such application, was a national of the Soviet Union, Russia, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Rumania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia;

''(II) is the spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act) of an individual, at the time a decision is rendered to suspend the deportation, or cancel the removal, of such individual, if the individual has been determined to be described in subclause (I); or

''(III) is the unmarried son or daughter of an alien parent, at the time a decision is rendered to suspend the deportation, or cancel the removal, of such alien parent, if—

''(aa) the alien parent has been determined to be described in this subclause (I); and

''(bb) in the case of a son or daughter who is 21 years of age or older at the time such decision is rendered, the son or daughter entered the United States on or before October 1, 1990.''.

(b) TEMPORARY REDUCTION IN DIVERSITY VISAS.—Section 203(d) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1151 note) is amended by striking ''subclauses (I), (II), (III), and (IV)'' and inserting ''subclauses (II) and (III)''.●

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. KOHL, Mr. ABRAHAM, Mr. SESSIONS and Mr. COVERDELL):

S. 2242. A bill to amend the Controlled Substances Import and Export Act to place limitations on controlled substances brought into the United States from Canada and Mexico; to the Committee on the Judiciary.

REPEAL OF LIMITATION ON FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX

● Mr. D'AMATO. Mr. President, today I introduce a bill with my friend and colleague, Senator MOYNIHAN, that would eliminate a fundamental unfairness in the application of the U.S. tax law to taxpayers that have income from foreign sources.

A U.S. citizen or domestic corporation that earns income from sources outside the United States generally is subject to tax by a foreign government on that income. The taxpayer also is subject to U.S. tax on that same income, even though it is earned outside the United States. Thus, the same income is subject to tax both in the country in which it is earned and in the United States.

However, the United States allows taxpayers to treat the foreign taxes paid on their foreign-source income as an offset against the U.S. tax with respect to that same income. This offset is accomplished through the foreign tax credit. In other words, the foreign tax paid on foreign-source income is treated as a credit against the U.S. tax that otherwise would be payable on that same income. Although the details of the foreign tax credit rules are extraordinarily complex (as are the international provisions of the International Revenue Code generally), the basic principle is simple: to provide relief from double taxation.

When it comes to the alternative minimum tax (AMT), this basic principle of providing relief from double taxation falls by the wayside. The AMT was enacted to ensure that individuals and businesses that qualify for various ''preferences'' in the tax rules nevertheless are subject to a minimum level of taxation. However, the foreign tax credit provisions of the AMT operate to ensure double taxation. Under these AMT rules, the allowable foreign tax credit is limited to 90 percent of the taxpayer's alternative minimum tax liability. Because of this limitation, income that is subject to foreign tax is subject also to the U.S. AMT. The result is double (and even triple) taxation of income that is used to support U.S. jobs, R&D and other activities.

Mr. President, there is no rational basis for denying relief from double taxation to that class of taxpayers that are subject to the AMT. Accordingly, the bill Senator MOYNIHAN and I are introducing today will eliminate the 90 percent limitation on foreign tax credits for AMT purposes. By repealing this limitation, relief from double taxation will be provided to taxpayers that are subject to the AMT in the same manner as it is provided to those taxpayers that are subject to the regular tax.

I would hope that our colleagues on both sides of the aisle will join in cosponsoring this necessary legislation.

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

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

S. 2242

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

SECTION 1. REPEAL OF LIMITATION ON FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 59(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax foreign tax credit) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—Section 53(d)(1)(B)(i)(II) of such Code is amended by striking ''and if section 59(a)(2) did not apply''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.●

By Ms. MOSELEY-BRAUN:

S. 2443. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the public safety and community policy program and to encourage the use of school resource officers under that program; to the Committee on the Judiciary.

SAFE COMMUNITIES AND SCHOOLS ACT OF 1998

● Ms. MOSELEY-BRAUN. Mr. President, today I am pleased to introduce the Safe Communities and Schools Act of 1998. This legislation, I believe, will help American communities continue to prevail in their fight against crime, and will arm local law enforcement agencies and schools with the tools they need to fight the recent outbreak of school-yard violence.

The Community Oriented Policing Program, or the COPS program as it is commonly called, has played a vital role in reducing our nation's crime rate. Since the inception of the program in 1994, the Department of Justice has authorized an additional 76,000 police officers to walk the beat. These additional police officers have been instrumental in helping reduce crime and making people feel safe in their communities.

It is not coincidental that, in my own home state of Illinois, where the COPS program has put an additional 4,113 police officers on the street, we have experienced a substantial drop in crime in recent years. For example, in 1996—the last year for which statistics are available—crime in Illinois was down 11 percent.

I strongly believe that the key to the COPS program's success lies in the community policing strategy that is its guiding philosophy. As the daughter and sister of law enforcement officers and a former federal prosecutor, I can attest to the fact that community policing works. Putting beat cops back into communities allows them to have more contact with the people they protect and gives them an opportunity to prevent crimes before they happen.

But despite the gains that have been made with the advent of the COPS program, the recent spate of violence in our nation's schools is evidence that our crime-prevention efforts are far from complete. Although we are seeing record reductions in youth-on-youth crime, the horrifyingly violent nature of the crimes now being committed by juveniles demands government action.

For this reason, my legislation would use COPS program grants to establish partnerships between local law enforcement agencies and local school systems. Under my legislation, career law enforcement officers, trained in community-oriented police activities, would be deployed to work in collaboration with schools and community-based organizations to, among other things: Combat crime and disorder problems, as well as gang and drug activities occurring in or around elementary and secondary schools; Educate likely school-age victims about crime prevention and safety; and Assist schools in developing policies to reduce crime.

Under my legislation, no new funding beyond that which has already been allocated to the COPS program would be required to finance these school-police partnerships.

By the year 2000, the COPS program will have served to fulfill President Clinton's pledge to put 100,000 new police officers on the street. Currently, the program is only funded through that year, but I believe that it has clearly been successful enough to justify at least a two-year extension. Accordingly, in addition to facilitating new school-police partnership grants, my legislation would authorize that extension and provide the necessary funding to allow local police departments across America to put an additional 25,000 officers on the street.

Providing funds to communities to combat school violence will give local school systems and law enforcement agencies the opportunity to develop new and innovative approaches to reducing youth crime. It is time to stop wringing our hands over the scourge of youth violence and begin to take action. The American people are demanding leadership on this issue and the time has come for those of us who serve in Washington to provide it.

If we are truly serious about preparing the next generation of Americans for the challenges they will face in the 21st century's global economy, we must take action—right now—to guarantee that they are educated in a safe environment. That is why I have fought for a partnership between the federal government and state and local school systems to address the disgrace of our nation's crumbling schools, and that is why I am introducing the COPS legislation I have just outlined. We owe the next generation of Americans at least as much as our generation was given—and the fact is that we were given schools that were physically safe and violence-free.

The success of the COPS program to date demonstrates the wisdom of using it as the vehicle for promoting school safety and for expanding it to put an additional 25,000 officers on community policing beats. The data is in and the results are clear: Community policing works. That is why I am confident that safer schools and safer communities will be the result if the COPS legislation I am proposing today is passed by Congress and signed into law. I urge my colleagues to join me in sponsoring.

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

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

S. 2443

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 ''Safe Communities and Schools Act of 1998''.

SEC. 2. PUBLIC SAFETY AND COMMUNITY POLICING.

(a) SCHOOL RESOURCE OFFICERS.—Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended—

(1) in section 1701(d)—

(A) by redesignating paragraphs (8) through (10) as (9) through (11), respectively; and

(B) by inserting after paragraph (7) the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems by using school resource officers who operate in and around elementary and secondary schools to combat school-related crime and disorder problems, gangs, and drug activities;''; and

(2) in section 1709—

(A) by inserting ''(1)'' before '' 'career'';

(B) by inserting ''(2)'' before '' 'citizens' police'';

(C) by inserting ''(3)'' before '' 'Indian''; and

(D) by adding at the end the following:

''(4) 'school resource officer' means a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations—

''(A) to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school;

''(B) to develop or expand crime prevention efforts for students;

''(C) to educate likely school-age victims in crime prevention and safety;

''(D) to develop or expand community justice initiatives for students;

''(E) to train students in conflict resolution, restorative justice, and crime awareness;

''(F) to assist in the identification of physical changes in the environment that may reduce crime in or around the school; and

''(G) to assist in developing school policy that addresses crime, and to recommend procedural changes.''.

(b) REAUTHORIZATION.—Section 1001(a)(11)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)(A)) is amended—

(1) in clause (v), by striking ''and'' at the end;

(2) in clause (vi), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(vii) $1,240,000,000 for fiscal year 2001; and

''(viii) $1,240,000,000 for fiscal year 2002.''.●

By Mr. THOMPSON (for himself, Mr. NICKLES, Mr. CRAIG, Mr. THURMOND and Mr. HUTCHINSON):

S. 2445. A bill to provide that the formulation and implementation of policies by Federal departments and agencies shall follow the principles of federalism, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL ENFORCEMENT ACT OF 1998

● Mr. THOMPSON. Mr. President, today I rise to introduce the Federalism Enforcement Act, a bill to promote the principles of federalism and to restore the proper respect for State and local governments and the communities they serve. I am pleased that Senators NICKLES, CRAIG, THURMOND, and HUTCHINSON have joined me as cosponsors of this legislation.

Federalism is the cornerstone of our Democracy. It is the principle that the Federal Government has limited powers and that government closest to the people—States and localities—play a critical role in our governmental system. Our Founding Fathers had grave concerns about the tendency of a central government to aggrandize itself and thus encroach on State sovereignty, and ultimately, individual liberty. Federalism is our chief bulwark against Federal encroachment and individual liberty. Our Founders also knew that keeping decision making powers closer to home led to more accountable and effective government. Their federalist vision is clearly reflected in the 10th amendment, which states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The legislation I am introducing today requires agencies to respect this vision of federalism when formulating policies and implementing the laws passed by Congress. It will preserve the division of responsibilities between the States and the Federal Government envisioned by the Framers of the Constitution and established in Executive order by President Ronald Reagan.

The Reagan order on federalism had it right. It directed Federal departments and agencies to refrain from imposing one-size-fits-all regulation on the States. It held that the laws passed by Congress were not presumed to preempt State law unless done so explicitly. It required agencies to assess the impact of agency action on federalism. But the people running the executive branch today, from the top on down, do not seem to feel the Reagan order applies to them. They made this abundantly clear when they tried to revoke it with Clinton Executive Order 13083.

In May, President Clinton quietly signed Executive Order 13083, which by its terms claims to promote federalism. Ironically, this order that is supposed to promote better communication between Federal and local government was issued in secret—without even talking to State and local officials at all. Worse still, the order would seriously undermine federalism and effectively turn the 10th amendment on its head. The Reagan Executive Order 12612 promoted the 10th amendment and set a clear presumption against Federal meddling in local affairs. The new Clinton order would create, but not be limited to, nine new policy justifications for Federal meddling. The list is so ambiguous that it would give Federal bureaucrats free rein to trample on local matters. The new Clinton order also would revoke President Clinton's own 1993 Executive Order 12875 that directed Federal agencies not to impose unfunded mandates on the States.

Understandably, State and local officials were deeply offended by the Clinton order and the White House snub in drafting it. On July 17, the major groups representing State and local officials sent a remarkable letter to the President, urging him to withdraw the order and to restore the Reagan federalism order and the 1993 unfunded mandates order. On July 22, several of my colleagues and I supported State and local officials by sponsoring a resolution calling on President Clinton to repeal his new order. That resolution passed the Senate unanimously. The House also has voiced opposition to the Clinton order. Congressman MCINTOSH held a hearing, and joined with six of his colleagues to introduce a bill nullifying Executive Order 13083.

The White House had a chance to extinguish the firestorm of protest from Governors, State legislators, mayors, county executives, and other local officials around the country by permanently revoking Executive Order 13083. Instead, the White House chose to preserve some wiggle room by ''suspending'' the order on August 5, leading some to ask if that action is permanent or just an effort to delay the order until the opposition dies down. If the President can admit that he made a mistake in signing his federalism order, he should permanently revoke it, plain and simple.

Unfortunately, the White House has yet to correct its insult to State and local officials and the communities they serve. Instead of revoking the Clinton order, the administration is preparing for belated consultations with State and local government representatives. This effort at damage control does not hide the fact that the Clinton order is an open invitation for Federal interference in local affairs, and in the administration's eyes, it is still on the table.

In light of this threat to the tenth amendment principle of a limited Federal Government, Congress must stand ready to act. The Federalism Enforcement Act is necessary to ensure that the current administration exercises some restraint when regulating in areas that affect our States and communities, and respects the principles of State sovereignty and limited Federal Government on which our Nation was founded.

First, the bill directs Federal agencies to adhere to constitutional principles and not to encroach on the constitutional authority of the States. The Clinton federalism order would have shifted the presumption against Federal intervention to provide new policy justifications for Federal interference in State and local affairs. My bill returns us to the language of the Reagan order.

Second, the bill would restore the preemption standards established in the Reagan order. The Clinton order would have encouraged Federal agencies to intrude into State affairs and deleted the Reagan preemption principle that, when in doubt, agencies should err on the side of State sovereignty.

Third, the bill would direct agencies to prepare a federalism assessment of certain agency actions, such as regulations that have significant federalism implications. The Clinton order would have deleted this requirement.

Finally, the Federalism Enforcement Act would express the sense of the Congress that Federal agencies should not propose legislation that would regulate the States in ways that would interfere with their separate and independent functions, attach conditions to Federal grants which are unrelated to the purposes of the grant, or preempt State law in ways inconsistent with the act. Because only the President can enforce

this requirement using his article II constitutional powers, it is expressed as a resolution urging him to do so.

The principles of federalism rightly are being reinvigorated. Much of the innovation that has improved this country began at the State and local level. People want important decisions that affect their daily lives to be made in their community—not dictated on high from Washington. And federalism is blossoming in recent constitutional interpretations of the Supreme Court. The Federalism Enforcement Act I am introducing today will continue this restoration of the balance between national and State power as conceived by the Framers of the Constitution.●

By Mr. LUGAR:

S. 2447. A bill to require the Secretary of Agriculture, in consultation with the heads of other agencies, to conduct a feasibility and cost-benefit study of options for the design, development, implementation, and operation of a national database to track participation in Federal means-tested public assistance programs; to the Committee on Governmental Affairs.

FOOD STAMP INTERSTATE FRAUD PREVENTION

● Mr. LUGAR. Mr. President, I rise today to introduce a bill to combat fraud and waste in the food stamp program—overpayments resulting from individuals receiving benefits in two or more states at the same time. This bill is the result of the last in a series of General Accounting Office studies that I requested dealing with groups of ineligible people receiving food stamps. In the report being released today, GAO identifies over 20,000 individuals who received benefits in at least two states at the same time during 1996. Using administrative records from four states (California, Texas, New York and Florida), the GAO estimates overpayments of $3.9 million in those states alone.

Last year the GAO reported to the Agriculture Committee that over $3 million in food stamp benefits were overpaid to prisoners' households. In response we passed legislation to stop prisoners from receiving benefits. Earlier this year, the GAO reported that 26,000 deceased individuals in four states were counted as members of a food stamp household. According to the GAO this resulted in overpayments of an estimated $8.6 million. The Agriculture Committee reported a bill to match food stamp files with Social Security Administration data.

My bill will require the United States Department of Agriculture to conduct a feasibility study to identify options for a national database to track food stamp participants and combat interstate fraud. The GAO's report validates a Department of Health and Human Services computer match of 15 states which found 18,000 potential duplicated Temporary Assistance for Needy Families (TANF) cases. This suggests that the problem is not confined to USDA. My bill would direct the USDA to work in consultation with other agencies to develop a systematic approach to developing a national database.

At present there is no appropriate national database that tracks in means-tested benefit programs. States have been working individually on the problem of benefits paid in multiple jurisdictions. For example, some states have developed cooperative agreements with neighboring states to share data. Current state efforts are effective, but anything short of a national system is inefficient.

Mr. President, the welfare reform bill required states to guard against fraud and abuse, and specifically prohibited participants from receiving benefits in two states. However, the bill did not give states tools to combat this type of fraud. The welfare bill also did not give states the tools to implement other important provisions. To effectively implement the TANF and food stamp time limits, some type of national tracking system is necessary.

Therefore, this bill directs the agencies involved to address a broader range of issues than simply the receipt of benefits in different states at the same time. HHS has already fulfilled a congressional mandate to look into some of these issues, so I expect the participants in this new study to use the completed project as a base upon which to build.

Further, I believe that the study should explore the possibility of a ''real time'' database, so that eligibility workers will instantly know if there are any problems with an application. This will avoid the ''pay-and-chase'' problem that forces states to recoup overpayments from beneficiaries after the fact—sometimes years later. This method of fraud enforcement is inefficient, and often a burden on the recipient as well. A national database should not be seen as purely an enforcement tool. There are many cross program benefits for the poor, benefits which may not be apparent today. As with any large governmental database, the study should address how the system will safeguard recipients' privacy and limit unauthorized use and disclosure of data.

Means-tested benefits, including food stamps, provide a safety net for millions of people. We cannot allow fraud and abuse to undermine the food stamp program and welfare reform. Integrity is essential to ensure a program that can serve those in need. It is our responsibility to help end fraud and abuse in all federally funded programs. This legislation is an important step in that direction and will help ensure that welfare reform is a success.

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

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

S. 2447

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

SECTION 1. FINDINGS.

Congress finds that—

(1) during 1997, the Federal Government spent over $21,000,000,000 to deliver food stamp benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to over 23,000,000 individuals;

(2) a portion of the funds spent on food stamp benefits annually is misspent through overpayments and fraud, which undermines the integrity and confidence in the food stamp program;

(3) the Comptroller General of the United States has found that—

(A) as many as 20,000 individuals were receiving food stamp benefits in at least 2 to 4 States at the same time during 1996;

(B) due to this duplication, overpayments to the households in those States during 1996 totaled approximately $3,900,000; and

(C) there was a similar duplication of payments in other Federal means-tested public assistance programs, such as the temporary assistance to needy families (TANF) program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(4) certain States currently have cooperative agreements under which matches of recipients of means-tested public assistance programs are tracked and coordinated with neighboring States, but there is no comprehensive national database or information system to track participation across State lines;

(5) the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) created a number of requirements to track means-tested assistance throughout the United States, including time-limited receipt of assistance under the food stamp program and the temporary assistance to needy families (TANF) program;

(6) a centralized database would be the most effective tool to prevent receipt of means-tested assistance in multiple jurisdictions and would avoid duplicated effort on the part of States;

(7) according to the Director of the Office of Management and Budget, improved mechanisms to provide accurate information to employees who determine eligibility for means-tested assistance would help prevent overpayments and improve service to clients; and

(8) data sharing at the time of application for means-tested assistance could change enforcement efforts from a pay-and-chase method to a method that would be more proactive and efficient.

SEC. 2. STUDY ON NATIONAL DATABASE FOR FEDERAL MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, the Commissioner of Social Security, and the Secretary of the Treasury, shall conduct a feasibility and cost-benefit study of options for the design, development, implementation, and operation of a national database to track participation in Federal means-tested public assistance programs.

(b) ADMINISTRATION.—In conducting the study, the Secretary of Agriculture shall—

(1) study an option under which information in the national database is collected and made available in real-time; and

(2) provide safeguards to protect against the unauthorized use or disclosure of information in the national database.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report on the results of the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000.●

By Mr. KERRY (for himself, Mr. WELLSTONE, Mr. HARKIN, and Ms. LANDRIEU):

S. 2448. A bill to amend title V of the Small Business Investment Act of 1958, relating to public policy goals and real estate appraisals, to amend section 7(a) of the Small Business Act, relating to interest rates and real estate appraisals, and to amend section 7(m) of the Small Business Act with respect to the loan loss reserve requirements for intermediaries, and for other purposes; to the Committee on Small Business.

SMALL BUSINESS LOAN ENHANCEMENT ACT

● Mr. KERRY. Mr. President, today I am joined by Senators WELLSTONE, HARKIN, and LANDRIEU, to introduce the ''Small Business Loan Enhancement Act.'' To give small businesses more of an advantage, we propose small but significant changes to the Small Business Administration's three primary lending programs: the 7(a) guaranteed business loan program, the 504 Development Company program, and the Microloan program. These changes would foster loans to growing women-owned businesses and enhance small business lending by saving costs for small business borrowers, reducing paperwork for lenders, and increasing available capital for microloans and technical assistance. This bill will also enable small businesses to use SBA's most popular loan guarantee program to fix year 2000 problems.

Women-owned businesses are increasing in number, range, diversity and earning power. They constitute one-third of the 23 million small businesses in the United States, contribute more than $2.38 trillion annually in revenues to the economy and range in industry from advertising agencies to manufacturing. Addressing the special needs of women-owned businesses serves not only these entrepreneurs, but also the economic strength of this nation as a whole. Since 1992, SBA has managed to increase access to capital for women and has worked in earnest to move women entrepreneurs away from expensive credit card financing to more affordable loans for financing their business ventures. While the percentage of 504 loans to women-owned businesses has increased from 4.2 percent in 1987 to 14.7 percent in 1998, we need to increase lending opportunities to better reflect that 40 percent of all businesses are owned by women. By expanding the public policy goals of the 504 loan program to include women-owned businesses, we are ensuring that loans to eligible women business owners aren't capped at $750,000 but are now available for as much as $1 million. According to Certified Development Company professionals, loan underwriters are conservative when it comes to approving loans for more than $750,000 and that this directive would undoubtedly help eligible women business owners get the financing they need to expand their facilities and buy equipment as their businesses grow.

In addition to increasing access to capital, the SBA plays a critical role in eliminating barriers that keep entrepreneurs from entering the economy, reducing regulatory burdens and lowering transaction costs. The Senate has an opportunity to reduce time and costs to both lenders and small business borrowers in real estate transactions by modernizing appraisal requirements for real estate transactions for 7(a) and 504 loans. Under current operating procedures, where more than $100,000 of the authorized loan proceeds in a financing package includes real estate (acquisition, construction and improvement to land and buildings), SBA requires a state-certified or state-licensed appraisal. Our bill would raise the requisite appraisal amount to $250,000, consistent with other agencies, including, among others, the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision. Raising the threshold does not increase the government's risk in these loans because the bill specifies that lenders must require a state-certified or state-licensed appraisal on loans less than $250,000 if that is their standard for similar non-SBA loans. Depending on the area of the country, savings in the 7(a) and 504 programs are estimated to be from $1,000 to $5,000 per loan by requiring an evaluation instead of a state-certified or state-licensed appraisal. In the 504 program, this change is estimated to save money for 2,000 out of the some 6,000 annual 504 borrowers, which are often minority and women-owned businesses.

To complement those regulatory improvements, this bill also encourages lenders to use the 7(a) program for their borrowers by streamlining paperwork requirements those lenders must complete after a 7(a) loan defaults. Two years ago, Congress enacted a requirement that reduced by one percent the interest rate paid on the guaranteed portion of defaulted 7(a) loans. Although the change was expected to substantially decrease the subsidy costs of the program, this has not proved to be the case. Instead, it has created a paperwork burden disproportionately high compared to the savings realized.

To help small businesses meet the escalating challenges of the Year 2000 computer problem, also called the Y2K problem, this bill clarifies Congressional intent that the 7(a) guaranteed loan program be used for this purpose. As amended, the 7(a) loan program will specify that small businesses can use these loans to finance the cost of making their systems and computers Y2K-compliant. In addition to legitimate concerns about function and survival that make this provision important for small businesses, Y2K compliance will also be a regulatory concern for bankers and small business borrowers. We understand that bank regulators will be requiring lenders to survey their borrowers and to certify that they are Y2K-compliant. Congress recognizes that small businesses may be harmed by the Y2K problem and that the 7(a) program is an appropriate means and established SBA program that can immediately help them deal with it. In fiscal year 1997, the 7(a) loan program reached more than 40,000 businesses, making 45,288 loans and approving loans totalling $9.5 billion.

The last component of this bill amends SBA's Microloan program. This important economic development tool has, in six short years, provided close to 7,000 microloans worth some $68 million. More than 40 percent of those loans went to women, 42 percent went to minorities, and 11 percent went to veterans. This program, which provides loans that average $10,000 and can be for as little as a few hundred dollars, has improved the landscape of some our country's poorest communities, creating jobs, helping people move from public assistance to weekly paychecks, and contributing to the tax base. As stated in a July Boston Business Journal article, ''There are many people out there who can't get traditional bank loans because they have bad credit histories, or no credit histories or no assets.'' In spite of these realities that make microentrepreneurs too risky for banks, the government has suffered no losses in this program. It is successful because it helps entrepreneurs turn their talents into businesses, such as a furniture upholsterer or a pet shop, and then augments the capital infusion by providing technical assistance to teach microentrepreneurs how to run a successful business.

This amendment would authorize the SBA Administrator to reduce an microlender's loan loss reserve (a reserve of cash to guarantee that the government is paid back if a loan defaults) from 15 percent to not less than ten percent after an intermediary has been participating in the microloan program for at least five years and has demonstrated its ability to maintain a healthy loan fund. Each microlender's loan loss reserve will be established based on its average loss rate for the previous five-year period. Because of the program's success so far, 36 out of 42 microlenders would qualify under this bill's requirements to maintain a loan loss reserve of ten percent rather than 15 percent. The proposed change would continue to protect the government's interest in these loans and at the same time enhance the program because it frees up cash that microlenders can reprogram for more microloans or technical assistance.

In closing, I want to again thank my colleagues for supporting this bill. If enacted, they will have improved the business climate and taken a few more steps to ensure that small businesses have access to capital, are less burdened by regulations and paperwork, have the resources to meet Y2K problems and that women-owned businesses can get loans of sufficient size to expand their businesses.

Mr. President, I thank my colleagues for their support and ask unanimous

consent that the full text of the bill be printed in the RECORD.

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

S. 2448

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Loan Enhancement Act''.

SEC. 2. LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND EXPANSION.

(a) PUBLIC POLICY GOALS.—Section 501(d)(3)(C) of Small Business Investment Act of 1958 (15 U.S.C. 695(d)(3)(C)) is amended by inserting ''or women-owned business development'' before the comma.

(b) REAL ESTATE APPRAISALS.—Section 502(3) of the Small Business Investment Act of 1958 (15 U.S.C. 696(3)) is amended by adding at the end the following:

''(F) REAL ESTATE APPRAISALS.—

''(i) LOANS EXCEEDING $250,000.—Notwithstanding any other provision of law, if a loan under this section involves the use of more than $250,000 of the loan proceeds for a real estate transaction, prior to disbursement of the loan, the Administrator shall require an appraisal of the real estate by a State licensed or certified appraiser.

''(ii) LOANS OF $250,000 OR LESS.—Notwithstanding any other provision of law, if a loan under this subsection involves the use of $250,000 or less of the loan proceeds for a real estate transaction, prior to disbursement of the loan, the participating lender may, in accordance with the policy of the participating lender with respect to loans made without a government guarantee, require an appraisal of the real estate by a State licensed or certified appraiser.

''(iii) DEFINITION.—In this subparagraph, the term 'real estate transaction' includes the acquisition or construction of land or a building and any improvement to land or to a building.''.

SEC. 3. SECTION 7(a) LOAN PROGRAM.

(a) YEAR 2000 TECHNOLOGY REQUIREMENTS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended, in the matter preceding paragraph (1), by inserting ''and to assist small business concerns in meeting technology requirements for the Year 2000,'' after ''and working capital,''.

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

''(27) REAL ESTATE APPRAISALS.—

''(A) LOANS EXCEEDING $250,000.—Notwithstanding any other provision of law, if a loan guaranteed under this subsection involves the use of more than $250,000 of the loan proceeds for a real estate transaction, prior to disbursement of the loan, the Administrator shall require an appraisal of the real estate by a State licensed or certified appraiser.

''(B) LOANS OF $250,000 OR LESS.—Notwithstanding any other provision of law, if a loan guaranteed under this subsection involves the use of $250,000 or less of the loan proceeds for a real estate transaction, prior to disbursement of the loan, the participating lender may, in accordance with the policy of the participating lender with respect to loans made without a government guarantee, require an appraisal of the real estate by a State licensed or certified appraiser.

''(C) DEFINITION.—In this paragraph, the term 'real estate transaction' includes the acquisition or construction of land or a building and any improvement to land or to a building.''.

(c) INTEREST RATES.—Section 7(a)(4) of the Small Business Act (15 U.S.C. 636(a)(4)) is amended—

(1) by striking ''(4)'' and all that follows through ''Notwithstanding'' and inserting the following:

''(4) INTEREST RATES.—Notwithstanding''; and

(2) by striking subparagraph (B).

SEC. 4. MICROLOAN PROGRAM.

Section 7(m)(3)(D) of the Small Business Act (15 U.S.C. 636(m)(3)(D)) is amended—

(1) in the first sentence, by striking ''The Administrator'' and inserting the following:

''(i) IN GENERAL.—The Administrator''; and

(2) by striking the second sentence and inserting the following:

''(ii) LEVEL OF LOAN LOSS RESERVE FUND.—

''(I) IN GENERAL.—Subject to subclause (II), the Administration shall require the loan loss reserve fund to be maintained at a level equal to not more than 15 percent of the outstanding balance of the microloans owed to the intermediary.

''(II) REDUCTION OF LOAN LOSS RESERVE REQUIREMENT.—After the initial 5 years of an intermediary's participation in the program under this subsection, upon the initial request of the intermediary made at any time after that period, the Administrator shall annually conduct a review of the average annual loss rate of the intermediary and, if the intermediary demonstrates to the satisfaction of the Administrator that the average annual loss rate for the intermediary during the preceding 5-year period is less than 15 percent, and the Administrator determines that no other factor exists that is likely to impair the ability of the intermediary to repay all obligations owed to the Administration under this subsection, the Administrator shall reduce that annual loan loss reserve requirement to reflect the actual average annual loss rate for that intermediary during that period, except that in no case shall the loan loss reserve requirement for an intermediary be reduced to less than 10 percent of the outstanding balance of the microloans owed to the intermediary.''.●

By Mr. CLELAND:

S. 2449. A bill to amend the Controlled Substance Act relating to the forfeiture of currency in connection with illegal drug offenses, and for other purposes; to the Committee on the Judiciary.

DRUG CURRENCY FORFEITURES ACT

● Mr. CLELAND. Mr. President, there have been a series of recent cases in which courts have ruled against one of law enforcement's most effective anti-drug tools—asset forfeiture. Just consider:

Law enforcement agents at an airport found almost $50,000 wrapped inside a pair of jeans. A drug dog responded positively to the presence of narcotics on the money, and the traveler, when confronted by the agents, produced a fake driver's license and offered other false evidence. United States v. $49,576.00 in U.S. Currency, l16 F.3d 425 (9th Cir. 1997).

In another instance, narcotics agents found $30,000 wrapped in bundles and stashed under the seat of a car. Despite the courier's demonstrably false explanation of the source of the money, the court nevertheless found insufficient evidence to establish probable cause for forfeiture. United States v. U.S. Currency, $30,060.00, 39 F.3d 1039 (9th Cir. 1994).

These are but two in a series of cases in which the courts found circumstantial evidence sufficient to establish that the money was derived from some form of criminal activity, but insufficient to establish that the illegal activity involved drug trafficking. The courts therefore ruled that the money seized was not subject to forfeiture, and the proceeds were returned to the trafficker. See also United States v. $13,570.00 in U.S. Currency, 1997 WL 722947 (E.D. La. 1997) (seizure of cash at airport lacked probable cause despite dog sniff, evasive answers, fake ID, courier profile, and prior drug arrest); United States v. $14,876.00 in U.S. Currency, 1997 WL 722942 (E.D. La. 1997) (same); United States v. $40,000 in U.S. Currency, 999 F. Supp. 234 (D.P.R. 1998) (dog sniff, drug courier profile, quantity of currency and evasive answers are not sufficient to establish probable cause where government fails to establish any connection between claimant and any drug trafficker).

Mr. President, these court decisions are coming at a time when drug sales in this country are generating $60 billion in illegal proceeds every year. Most of this drug money finds its way to drug kingpins in Mexico and Colombia. And the drugs find their way to Americans of all ages and walks of life. The consequences are devastating. Substance abuse is now the single largest preventable cause of death in this country, with illegal drugs and alcohol killing 120,000 Americans each year.

It's an enemy that respects neither class nor age group. High school athletes, runaways, soccer players, gang members, and class valedictorians use and sell drugs. Nationwide, the percentage of teens reporting illegal drug use has doubled over the last 5 years. And now the National Household Survey on Drug Abuse reports that teen drug use rose in 1997, led by increasing marijuana smoking among teenagers who view it as a low-risk ''soft drug.'' It is no wonder that in survey after survey, Americans are reporting that illegal drugs top their list of national concerns.

In recent testimony before the Senate Select Committee on Intelligence, a top official at the Drug Enforcement Administration (DEA) painted a chilling portrait of the powerful threat to the United States posed by international drug organizations. He said, and I quote, ''These individuals, from headquarters located outside the U.S., influence the choices that many Americans make about where to live, or where they send their children to school. The drugs, and the attendant violence which accompanies the drug trade, have reached into every American community and, in essence, have robbed many Americans of the dreams they once cherished.''

These organized crime leaders are sophisticated and possess the power that comes with unlimited resources. Because they are worth billions of dollars, these drug lords have at their disposal some of the world's most technically advanced airplanes, boats,

radar, and communications equipment. They possess weapons in quantities that, DEA testified, ''rival the capabilities of some legitimate governments.'' These drug kingpins send thousands of couriers into the United States who answer to them on a daily basis via faxes, cellular phones, or pagers.

Since the disruption of the notorious Cali cartel leadership, we know that traffickers from Mexico have joined together with Colombian traffickers in an emerging alliance which has largely taken over U.S. heroin distribution from Asian organizations and is now producing some of the world's most potent heroin. The manufacture of the vast majority of cocaine in South America is still under the control of the Colombian cartels, which use commercial maritime vessels, containerized cargo and private aircraft to transport the cocaine from their laboratories in the jungles of southeast Colombia through Mexico and the Caribbean into U.S. border points of entry. In fact, 50 to 60 percent of all the cocaine, as well as 25 percent of the heroin and 80 percent or more of the meth coming into the United States, are transported into our country through the U.S.-Mexico border.

The DEA testified that the influence of Colombian trafficking organizations in the Caribbean is ''overwhelming.'' Several Colombian drug syndicates have set up command and control bases in Puerto Rico and the Dominican Republic and use the Caribbean Basin to ferry tons of cocaine into the United States each year. According to the DEA, seizures of 500 to 2,000 kilos of cocaine in the Caribbean are now commonplace. Unlike the monopoly-like rule of the Cali cartel, many of the new Colombian cartels have chosen to franchise a large portion of their wholesale heroin and cocaine operations. As a result, criminals from the Dominican Republic have now become the dominant force in the wholesale cocaine and heroin trade on the East Coast of the United States.

In addition to heroin and cocain, methamphetamine has become a growing threat within our borders. Methamphetamine trafficking, which until recently had been stopped west of the Mississippi River, is aggressively moving eastward and is now rapidly challenging cocaine as the primary focus of illegal drug trafficking in Georgia and other eastern seaboard States. According to the DEA Atlanta Field Division, Washington may soon declare Atlanta the meth capital of the Southeast.

During February alone, DEA seized almost 90 pounds of methamphetamine in metropolitan Atlanta. Ten pounds of the drug was seized from passengers on buses originating in Texas and California. Acting on a tip, DEA agents found another 25 pounds stashed in hidden compartments in a vehicle. And law enforcement agents apprehended two Los Angeles passengers at Hartsfield Airport who had smuggled 20 pounds of meth into the State. These drugs are being ferried into my State by couriers employed by Mexican trafficking organizations operating out of Mexico and California. DEA has determined that a number of its recent meth seizures in Georgia are directly linked to the AMEZCUA drug trafficking organization—one of Mexico's principal drug cartels.

The amounts of money generated by these illegal drug transactions are staggering. The DEA reported that one Mexican drug syndicate forwards $20 to $30 million to Colombia for each major drug operation, and makes tens of millions of dollars in profits each week. Moving this money from Mexico to Colombia, or from the U.S. to Mexico, is a relatively simple matter. The most popular method is to ship the currency in bulk by courier or cargo, or transport it overland or by air. Oftentimes, the same vehicle or even the same courier that originally transported the drugs into the United States will carry the drug proceeds out.

It was not long ago that a Customs investigation made front page headlines. Three of Mexico's largest banks were indicted by the U.S. for laundering hundreds of millions of dollars in drug money from this country. The three-year sting was unprecedented on two counts. This was the largest money laundering case in the history of U.S. law enforcement. And it was the first time ever that Mexican banks and bank officials have been directly linked to laundering U.S. drug profits.

The sting resulted in the arrest of 70 people, including 14 Mexican banking officials. Thirty-five million dollars in illegal drug proceeds was seized immediately. One hundred and twenty-two million dollars more is expected to be recovered from over 100 bank accounts frozen in this country and in Europe. While unprecedented, this operation netted only a drop in the bucket compared to the estimated $60 billion in illegal proceeds reaped from U.S. drug sales each year. Like most of the drug proceeds, this money was earmarked for drug lords in Mexico and Colombia. In this case, Mexican bankers allegedly aided the Juarez cartel in Mexico and the Cali cocaine and heroin syndicate in Colombia.

If we ever expect to make in-roads in the so-called ''war on drugs,'' it is not enough just to apprehend the drug trafficker. We must seize his assets as well. Let me give just one example. The Rodriguez-Orejuela brothers in Colombia once ran the most powerful international organized crime group in history. Based on evidence supplied by the U.S. Government, Miguel Rodriguez-Orejuela has been sentenced to 21 years in prison, although it is expected that he will serve only 12. Last year his brother Gilberto was sentenced to 10½ years in prison on drug trafficking charges. Even now, the Rodriguez-Orejuela brothers are able to run their drug trafficking business from prison through the use of private quarters and telephones. They are by no means the exception. Last year the Colombia National Police took control of four maximum security prisons from the Bureau of Prisons, in an effort to halt jailed traffickers from continuing their illegal operations from behind prison walls. In the final analysis, the only way to destroy the drug cartels is to hit them where it hurts the most—their pocket books.

The transportation and transmission (by electronic means) of drug proceeds are enormous problems for law enforcement, but they also present law enforcement with an enormous opportunity. Because drug proceeds in the form of cash occupy much more space than the drugs themselves—often filling suitcases, vehicles, and even airplanes—the movement of the cash is often the most vulnerable part of the drug operation. Indeed, law enforcement agents are frequently successful in intercepting such cash shipments by stopping couriers at airports, opening containers at Customs checkpoints, and encountering cars stuffed with cash during routine traffic stops.

However, the ability of law enforcement to confiscate the money—and thus break the drug trafficking cycle—hinges on the government's ability to establish that the money is, in fact, drug proceeds, and not the proceeds of some other form of unlawful activity. Therefore, today the distinguished chairman of the Senate Caucus on International Narcotics Control, Senator GRASSLEY, and I are introducing the Drug Currency Forfeitures Act. Our bill enhances the ability of law enforcement agents to interdict and confiscate the huge quantities of drug money that are being moved through our airports, up and down our major highways, through our ports, and in and out of financial institutions here and abroad—while at the same time it upholds Fourth Amendment constitutional protections against illegal searches and seizures. Specifically, our bill would create a ''rebuttable presumption'' that money is subject to forfeiture as drug proceeds in cases involving drug couriers carrying large amounts of cash through drug transit areas, and in cases involving international money laundering. The presumption would apply if any of the following factors is established by the government.

Factor one: There is more than $10,000 in currency being transported in one of the transit places commonly used by drug traffickers—for example, an airport, an interstate highway, or port of entry—and any of the following circumstances commonly associated with the transportation of drug proceeds exists: the money is packaged in a highly unusual manner; or the courier makes a false statement to a law enforcement officer or inspector; or the money is found in close proximity to drugs; or a properly trained dog gives a positive alert.

I note here that there has been much criticism of the use of drug dogs to

interdict drug money, on the ground that so much currency now in circulation in the U.S. is tainted with drug residue that the drug dog's positive alert is meaningless. Let me say, however, that recent scientific research has refuted this notion and indeed supports the proposition that a drug dog's alert to currency is highly relevant in a forfeiture case. A study by Dr. Kenneth Furton, Director of the Criminalistics Program in the Chemistry Department at Florida International University, has established that a properly trained drug dog does not alert to the cocaine residue on currency, but alerts instead to methyl benzoate—a highly volatile chemical by-product of the cocaine manufacturing process that remains on the currency only for a short period of time. Thus, even if it is true that a high percentage of our currency is contaminated with cocaine residue, the drug dogs are alerting only to money that has recently, or just before packaging, been in close proximity to a significant amount of cocaine. See K.G. Furton, Y.L. Hsu, N. Alvarez and P. Lagos, ''Novel Sample Preparation Methods and Field Testing Procedures Used to Determine the Chemical Basis of Cocaine Detection by Canines,'' Forensic Evidence and Crime Science Investigation, Proc. SPIE 2941, 56–62 (1997). I am attaching to my remarks an article describing Dr. Furton's work.

Factor two: The property subject to forfeiture was acquired during a period of time when the person who acquired it was engaged in a drug trafficking offense, and there is no other likely source for the money. I note that this presumption already exists in criminal forfeiture cases. See 21 U.S.C. § 853(d).

Factor three: The property was involved in a transaction that occurred, in part, in a bank secrecy jurisdiction or was conducted by, to or through a shell corporation. These two factors appear repeatedly in cases involving international money laundering and therefore are highly indicative of illegal money laundering activity. However, to ensure that the presumption is focused narrowly on the problem this bill is designed to address, it would apply only where the money was being moved in or out of one of the countries the President has listed as a ''major drug-transit country,'' a ''major illicit drug producing country,'' or a ''major money laundering country,'' all of which are defined terms in the Foreign Assistance Act.

Factor four: Any person involved in the transaction has been convicted of a drug trafficking or money laundering offense, or is a fugitive from prosecution for such an offense. This factor reflects the obvious fact that the movement of money by a convicted drug trafficker, money launderer or fugitive is highly likely to involve drug proceeds.

The existence of any one of these four factors would be sufficient—by itself, or in some cases, in combination with the facts and circumstances which led to the seizure of the money—to establish probable cause to believe that the money represents drug proceeds, and if left unrebutted, would be sufficient to establish that the money is subject to forfeiture under the Controlled Substances Act, 21 U.S.C. §881(a)(6), or the Money Laundering Control Act, 18 U.S.C. § 981(a)(1), by a preponderance of the evidence. The owner of the money, of course, would be free to rebut the presumption by submitting admissible evidence that the money was derived from a legitimate source, and the government would have to respond either by impeaching the reliability of such evidence, or by offering admissible evidence of its own to support the forfeiture of the money. See *United States* v. *$129,727.000 U.S. Currency*, 129 F.3d 486 (9th Cir. 1997). In this way, legitimate owners of untainted money will be protected. However, drug traffickers and money launderers will no longer be able to rely on the ambiguities inherent in the movement of cash and electronic funds—as well as the ambiguities inherent in the standard of proof in civil forfeiture law—to win the release of their ill-gotten gains without having to come forward with any evidence whatsoever.

On June 22, the Supreme Court handed down a highly controversial decision which is certain to have far-reaching ramifications on U.S. drug interdiction policy. That sharply divided ruling involved the case of Hosep Bajakajian, who had attempted to take $357,000 in undeclared cash to Syria, and who had lied about the amount of money he had with him when questioned by a Customs inspector. By ruling that the federal government cannot seize the money of a person trying to carry funds out of the country when that individual fails to declare it, unless the government can show it is tainted money, the High Court's decision may very well reinforce the recent lower court decisions against forfeiture—a critically important weapon in our drug interdiction arsenal. Our bill would address these adverse court decisions by providing needed statutory guidance on the important and contentious issue of property subject to seizure.

Our bill has been endorsed by the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, and the Federal Law Enforcement Officers Association. I hope that my colleagues will support this bill.

Mr. President, I ask unanimous consent that the text of our bill be printed in the RECORD together with appropriate relevant materials.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2449

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 ''Drug Currency Forfeitures Act''.

SEC. 2. DRUG CURRENCY FORFEITURES.

(a) IN GENERAL.—Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by inserting after subsection (j) the following:

''(k) REBUTTABLE PRESUMPTION.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'drug trafficking offense' means—

''(i) with respect to an action under subsection (a)(6), any illegal exchange involving a controlled substance or other violation for which forfeiture is authorized under that subsection; and

''(ii) with respect to an action under section 981(a)(1)(B) of title 18, United States Code, any offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance for which forfeiture is authorized under that section; and

''(B) the term 'shell corporation' means any corporation that does not conduct any ongoing and significant commercial or manufacturing business or any other form of commercial operation.

''(2) PRESUMPTION.—In any action with respect to the forfeiture of property described in subsection (a)(6) of this section, or section 981(a)(1)(B) of title 18, United States Code, there is a rebuttable presumption that property is subject to forfeiture, if the Government offers a reasonable basis to believe, based on any circumstance described in subparagraph (A), (B), (C), or (D) of paragraph (3), that there is a substantial connection between the property and a drug trafficking offense.

''(3) CIRCUMSTANCES.—The circumstances described in this paragraph are that—

''(A) the property at issue is currency in excess of $10,000 that was, at the time of seizure, being transported through an airport, on a highway, or at a port-of-entry, and—

''(i) the property was packaged or concealed in a highly unusual manner;

''(ii) the person transporting the property (or any portion thereof) provided false information to any law enforcement officer or inspector who lawfully stopped the person for investigative purposes or for purposes of a United States border inspection;

''(iii) the property was found in close proximity to a measurable quantity of any controlled substance; or

''(iv) the property was the subject of a positive alert by a properly trained dog;

''(B) the property at issue was acquired during a period of time when the person who acquired the property was engaged in a drug trafficking offense or within a reasonable time after such period, and there is no likely source for such property other than that offense;

''(C)(i) the property at issue was, or was intended to be, transported, transmitted, or transferred to or from a major drug-transit country, a major illicit drug producing country, or a major money laundering country, as determined pursuant to section 481(e) of 490(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e) and 2291j(h)), as applicable; and

''(ii) the transaction giving rise to the forfeiture—

''(I) occurred in part in a foreign country whose bank secrecy laws render the United States unable to obtain records relating to the transaction by judicial process, treaty, or executive agreement; or

''(II) was conducted by, to, or through a shell corporation that was not engaged in any legitimate business activity in the United States; or

''(D) any person involved in the transaction giving rise to the forfeiture action—

''(i) has been convicted in any Federal, State, or foreign jurisdiction of a drug trafficking offense or a felony involving money laundering; or

''(ii) is a fugitive from prosecution for any offense described in clause (i).

''(4) OTHER PRESUMPTIONS.—The establishment of the presumption in this subsection shall not preclude the development of other judicially created presumptions, or the establishment of probable cause based on criteria other than those set forth in this subsection.''.

(b) MONEY LAUNDERING FORFEITURES.—Section 981 of title 18, United States Code, is amended by adding at the end the following:

''(k) REBUTTABLE PRESUMPTION.—In any action with respect to the forfeiture of property described in subsection (a)(1)(A), there is a rebuttable presumption that the property is the proceeds of an offense involving the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance (as defined in section 102 of the Controlled Substances Act), and thus constitutes the proceeds of specified unlawful activity (as defined in section 1956(c)), if any circumstance set forth in subparagraph (A), (B), (C), or (D) section 511(k)(3) of the Controlled Substances Act (21 U.S.C. 881(k)(3)) is present.''.

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, August 6, 1998.

Hon. MAX W. CLELAND,
U.S. Senate, Washington, DC.

DEAR SENATOR CLELAND: I am writing to advise you of the strong support of the more than 272,000 members of the Fraternal Order of Police for your draft legislation, ''The Drug Currency Forfeitures Act.''

This bill will amend the ''Controlled Substances Act'' as it relates to the forfeiture of currency deemed to be in connection with illegal drug trafficking or money laundering operations. In order to stem the flow of drugs into the United States, and to reduce the risks to law enforcement officers, government at all levels must have the ability to take away the resources of drug traffickers—whether it is currency, property, or other ill-gotten gains from their illegal narcotics transactions.

One of the most frustrating aspects of law enforcement is seeing those who poison our cities and neighborhoods with the scourge of drugs amass sizable fortunes as a result of their actions. Your legislation addresses this issue by taking money away from those who threaten the lives of our children and our nation's law enforcement officers, and is a major step toward tackling the problems posed by drug traffickers and their considerable financial resources.

Forfeiture of drug money, and the assets of money laundering operations, increases the penalty for drug dealing and reduces the benefits of engaging in illegal drug trafficking. On behalf of the more than 272,000 members of the Fraternal Order of Police, I want to commend and applaud your leadership on this issue. If I can be of any further assistance, please do not hesitate to contact me, or Executive Director Jim Pasco, at my Washington office, (202) 547–8189.

Sincerely,

GILBERT G. GALLEGOS,
National President.

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS,
Alexandria, VA, July 13, 1998.

Hon. MAX CLELAND,
U.S. Senate, Washington, DC.

DEAR SENATOR CLELAND: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union, the third largest union in the AFL–CIO. The IBPO is the largest police union in the AFL–CIO.

On behalf of the entire membership of the IBPO, I want to thank you for introducing legislation that would create a ''rebuttable presumption'' that money is subjected to forfeiture as drug proceeds in cases involving drug couriers carrying large amounts of cash through airports and on major highways, and in cases involving international money laundering. The IBPO officially endorses your legislation and looks forward to working with you to see this bill become law.

Your legislation will hurt drug dealers in the most effective way—in the pocketbook. Forfeiture of this money will also benefit the many police departments across the country who supplement their budgets with these types of seizures.

The IBPO wishes to thank you for all your support on behalf of the law enforcement community. Be assured that the IBPO will make your legislation a top priority in the 105th Congress.

Sincerely,

KENNETH T. LYONS,
National President.

COMMENTS OF BOBBY D. MOODY, PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE AND CHIEF OF THE MARIETTA, GEORGIA POLICE DEPARTMENT

One of the most effective weapons that law enforcement has in the domestic drug war is the ability to deprive drug dealers of the proceeds of their illegal activities or the instruments used to commit their crime through the use of civil asset forfeiture proceedings. Senator Cleland's legislation will preserve and enhance law enforcement's ability to seize the assets of drug dealers and their associates. I want to thank my friend, and law enforcement supporter, Senator Cleland for his efforts to protect the most valuable tool law enforcement has in combating drug traffickers and money launderers.

ABOUT THE IACP

Founded in 1893, the International Association of Chiefs of Police is the world's oldest and largest organization of police executives with more than 16,000 members in 102 countries. IACP's Leadership consists of operating chief executives of federal, state, local and international agencies of all sizes.

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION,
East Northport, NY, August 7, 1998.

Hon. MAX W. CLELAND,
U.S. Senator, Washington, DC.

DEAR SENATOR CLELAND: On behalf of the over 14,000 members of the Federal Law Enforcement Officers Association (FLEOA) I wish to express FLEOA's views regarding your proposed legislation concerning asset forfeiture. This proposed legislation will enhance the ability of law enforcement officers, at all levels, to seize the assets of drug dealer. FLEOA wishes to inform you of our overwhelming support for this legislation.

FLEOA represents criminal investigators and special agents from over fifty-five federal agencies, as listed on the left masthead. We feel that legislation that creates a rebuttable presumption that currency in excess of $10,000 is subject to forfeiture as drug proceeds when transported through an airport, on a highway, or at a port-of-entry, and is found in close proximity to a measurable quantity of a controlled substance would assist law enforcement in our fight against narcotics.

We would be pleased to meet with you, or your staff, to discuss our views on this issue in more detail. I can be reached at (516) 368–6117, or you may contact FLEOA's Executive Vice President Walt Wallmark at (202) 433–9230.

Thank you for your time.

RICHARD J. GALLO,
President.●

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. DEWINE, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from North Carolina (Mr. HELMS), and the Senator from Virginia (Mr. ROBB) were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 1301

At the request of Mr. GRASSLEY, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1301, a bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes.

S. 1329

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1329, a bill to prohibit the taking of certain lands by the United States in trust for economically self-sufficient Indian tribes for commercial and gaming purposes, and for other purposes.

S. 1365

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1380

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1380, a bill to amend the Elementary and Secondary Education Act of 1965 regarding charter schools.

S. 1459

At the request of Mr. GRASSLEY, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Arkansas (Mr. BUMPERS) were added as