S. 2705: A bill to provide for the training of individuals, during a Presidential transition, who the President intends to appoint to certain key positions, to provide for a study and report on improving the financial disclosure process for certain Presidential nominees, and for other purposes (Rept. No. 106–348).

By Mr. DOMENICI, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 4733: A bill making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2001'' (Report No. 106–346).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Government Performance and Results Act of 1993'' (Report No. 106–347).

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. LOTT:

S. 2883. A bill to suspend temporarily the duty on piano plates; to the Committee on Finance.

By Mr. GRAMS:

S. 2884. A bill to amend the Internal Revenue Code of 1986 to allow allocation of small ethanol producer credit to patrons of cooperative, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 2885. A bill to establish the Jamestown 400th Commemoration Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMM (for himself and Mr. SCHUMER):

S. 2886. A bill to provide for retail competition for the sale of electric power, to authorize States to recover transition costs, and for other purposes; read the first time.

By Mr. GRASSLEY (for himself, Mr. ROBB, Ms. COLLINS, and Mr. DASCHLE):

S. 2887. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. L. CHAFEE, Mr. CLELAND, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND , Mr. TORRICELLI, Mr. VOINOVICH, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 338. Resolution relative to the death of the Honorable Paul Coverdell, a Senator from the State of Georgia.; considered and agreed to.

By Mr. ROTH:

S. Con. Res. 131. A concurrent resolution commemorating the 20th anniversary of the workers' strikes in Poland that lead to the creation of the independent trade union Solidarnose, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT:

S. 2883. A bill to suspend temporarily the duty on piano plates; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY ON PIANO PLATES

Mr. LOTT. Mr. President, I rise today to introduce legislation temporarily suspending duties on imports of certain piano plates. This legislation is needed to address a difficult situation facing the domestic piano industry.

A piano plate is an essential part of a piano. It is the iron casting over which the strings are stretched and tuned by pins inserted in the plate. Baldwin Piano & Organ Company, which employs more than 600 workers in the production of pianos in Arkansas and Mississippi, is one of a diminishing number of piano producers in the United States. Piano plates are produced in the United States by a single company, a competitor of Baldwin, whose production is for the most part captively consumed. As such, Baldwin lacks a domestic source for piano plates, other than the surplus production of one of its competitors. Due to its own demand for plates, Baldwin's competitor cannot meet Baldwin's requirements.

Mr. President the history and recent contraction in the domestic piano industry points to the critical need for this legislation. Indeed, were the production of Baldwin or other domestic producers to be curtailed due to the insufficient availability of domestically-produced piano plates, it is likely that this would engender an increase in foreign piano supply, rather than an increase in market share of other domestic producers. This is evident from the fact that, in the early 1980s, there were 15 domestic piano producers supplying approximately 80 percent of U.S. consumption, whereas now only nine domestic producers remain—servicing approximately half, if not less, of the U.S. market. The domestic piano industry is well aware that foreign production stands ready to fill any gap in domestic supply.

The legislation I am introducing today would temporarily suspend, through the year 2004, the rate of duty applicable to imports of piano plates provided for in subheading 9209.91.80 of the Harmonized Tariff Schedule of the United States. Currently, the applicable rate of duty is 4.2 percent ad valorem. If the legislation is approved, the reduction in duty collection is estimated to be between $300,000 and $400,000 per year through 2004.

Given the situation currently facing domestic piano producers, it is unlikely that there will be objection from other domestic manufacturers to the legislation proposed today. In view of the fact that Baldwin must resort to imported plates regardless of the duty rate applicable to such imports, and that no appreciable domestic production of piano plates will be displaced by imports, suspension of the duty rate will have no adverse affect upon the domestic industry. This legislation stands to ensure only that a U.S. piano producer will find a reliable source of supply for a critical component and thus will be better positioned to stand with other domestic producers in providing a secure and stable supply of pianos for the domestic market.

I ask 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. 2883

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

SECTION 1. PIANO PLATES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new item:

''	9902.92.09	Piano plates (provided for in subheading 9209.91.80)	Free	No change	No change	On or before 12/31/2004	''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. GRAMS:

S. 2884. A bill to amend the Internal Revenue Code of 1986 to allow allocation of small ethanol producer credit to patrons of cooperative, and for other purposes; to the Committee on Finance.

SMALL ETHANOL PRODUCER CREDIT

Mr. GRAMS. Mr. President, I rise today to introduce legislation to allow farmer-owned cooperatives access to the small ethanol producer tax credit. Mr. President, current law provides for an income tax credit of 10 cents per gallon for up to 15 million gallons of annual ethanol production by a small ethanol producer. A small ethanol producer is one defined as having a production capacity of less than 30 million gallons per year. The credit was enacted as part of the Omnibus Budget Reconciliation Act of 1990 and championed by our former colleague, Senator Bob Dole. Unfortunately, the credit was enacted at a time when the growth and shape of the ethanol industry was still difficult to predict.

This situation has led to an unfortunate situation in Minnesota, Iowa, and in other areas where farmer-owned cooperatives have been unable to access the credit due to the way in which the original legislation was drafted. The original legislation certainly envisioned these small, farmer-owned cooperatives as being eligible for the tax credit, but the intricacies of the tax code have made it impossible for them to do so.

Mr. President, there are currently 22 cooperative ethanol plants in the United States. Twelve of them are located in Minnesota. Eleven of these Minnesota cooperatives involve over 5,000 farmers and their families. Minnesota cooperatives are able to produce roughly 189 million gallons of ethanol per year.

My legislation would simply provide a technical correction to ensure farmer-owned cooperatives are included in the definition of who can benefit from the small ethanol producer tax credit. My bill also expands the definition to include facilities with less than 60 million gallons in annual capacity.

I want to again stress that this proposal is consistent with the original intent of the 1990 law that created the small ethanol producer tax credit. Farmer-owned cooperatives were never intended to be excluded from receiving the benefits of the tax credit if they produce less than 30 million gallons. It was just hard to envision the role and growth of cooperatives when we passed the 1990 law. Cooperatives are not huge corporate ventures, but associations of small farmers.

Mr. President, the ethanol industry in Minnesota and across the country is one we should promote. Ethanol is a crucial product for rural America, for our nation as a whole, and especially for Minnesota. I'd like to point out just a few of ethanol's impressive benefits—environmentally and economically. According to the Minnesota Corn Growers, ethanol production boosts nationwide employment by over 195,000 jobs. Ethanol improves our trade balance by $2 billion and adds $450 million to state tax receipts. It reduces emissions from gasoline use and therefore helps us clean up the environment.

According to the American Coalition for Ethanol, more than $3 billion has been invested in 43 ethanol facilities in 20 states. Those investments have directly created 40,000 jobs and more than $12.6 billion in increased income over the next five years.

Minnesota is now home to over a dozen operating ethanol plants with a capacity of over 200 million gallons annually. These plants mean new jobs with good wages and good benefits for people living in rural areas where these plants are built. According to a report by the Minnesota Legislative Auditor, those plants, and the resulting economic activity, are expected to create as many as 5,000 new, high-wage jobs—including jobs in production, construction, and support industries.

In addition to its positive economic impact, ethanol production allows our nation to move away from our dependence on foreign energy sources. The United States Department of Agriculture estimates that for every gallon of ethanol produced domestically, we displace seven gallons of imported oil. Ethanol plays a role in increasing our national energy security by providing a stable, homegrown, renewable energy supply. Ethanol is estimated to reduce our demand for foreign oil by 98,000 barrels per day.

Those are just some of the reasons why I urge my colleagues to join me in allowing small, farmer-owned cooperatives to enjoy the full benefits of the small ethanol producer tax credit.

I want to thank Senator CHARLES GRASSLEY of Iowa for working with me on this important legislation. As everyone knows, Senator GRASSLEY has been a steadfast leader of efforts to promote tax relief for farmers and rural Americans. I'm proud to be working with him on this legislation.

I ask that the full text of my bill be printed in the RECORD.

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

S. 2884

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

SECTION 1. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) Internal Revenue Code of 1986 (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—Notwithstanding paragraph (4), in the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(iii) SPECIAL RULE FOR 1998 AND 1999.—Notwithstanding clause (ii), an election for any taxable year ending prior to the date of the enactment of this paragraph may be made at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return of the taxpayer for such taxable year (determined without regard to extensions) by filing an amended return for such year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

''(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization (as so defined) determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.''.

(b) DEFINITION OF SMALL ETHANOL PRODUCER; IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g)(1) of the Internal Revenue Code of 1986 (relating to eligible small ethanol producer) is amended by striking ''30,000,000'' and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) of such Code (relating to passive activity credit) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 of such Code (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

''(3) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting ''or the small ethanol producer credit'' after ''employment credit''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 of such Code (relating to income inclusion of alcohol fuel credit is amended to read as follows:

''SEC. 87. ALCOHOL FUEL CREDIT.

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 of the Internal Revenue Code of 1986 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(d) (6).''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) CERTAIN PROVISIONS.—The amendments made by paragraphs (1) and (4) of subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. WARNER (for himself and Mr. ROBB):

S. 2885. A bill to establish the Jamestown 400th Commemoration Commission, and for other purposes; to the Committee on Energy and Natural Resources.

THE JAMESTOWN 400TH COMMEMORATION COMMISSION ACT

Mr. WARNER. Mr. President, today I introduce legislation to establish a federal commission to join the Commonwealth of Virginia in preparing for the 400th anniversary of the founding of the Jamestown settlement, the first permanent English settlement in the United States.

In a little more than six years, America will observe one of its most important anniversaries with the celebration of the Jamestown quadricentennial. On May 13, 1607, nearly five months after setting sail from London, a group of 104 English men and boys selected a site on the banks of Virginia's James River as their new home. Settling Jamestown was a momentous event in American history.

While the Spanish founded St. Augustine in Florida in the 1560's and the English attempted to colonize Roanoke Island in North Carolina in the 1580's, Jamestown was America's first successful, permanent European settlement. Jamestown is the birthplace of our nation, and is where representative government in the Americas began. The founding of Jamestown marks the beginning of what Alex de Toqueville described as the United States' ''great experiment'' in democracy.

The establishment of Jamestown remains a cornerstone event in American history because of the lasting traditions that the English brought with them, including the legacy of language and common law that have shaped our great republic for decades.

Celebrating the 400th Anniversary of Jamestown marks an important opportunity to remember and reflect on how our ancestors established Virginia: how they treated America's original inhabitants, the Indians, and how the slave trade was begun. While injustice is a major part of this historical legacy, it is also the legacy that marked the beginning of our rich cultural heritage that defines the United States today.

With the 2007 celebration we have a chance to properly remember a story—too often glossed over—of the ''darker side of the Jamestown legacy'' as one scholar has noted, ''a legacy of slavery; of warfare and conquest; of the displacement and decimation of Native Americans; of damage to the natural environment.''

The history of Jamestown is rich, complex, tragic and inspirational. Certainly, an important part of Jamestown's history is the beginning of the distinct American spirit of exploration and adventure. The Jamestown adventure led directly to the formation of the great American principles of rule of law, religious and political freedom and the rights of man. The establishment of these pillars of American government was, again, unique in the history of man and government. The United States stands today as the world's longest lived, continuous democratic republic in existence today.

The Jamestown story is also the story of the beginning of truly global commerce. Not only was the establishment of Jamestown a commercial venture, it was a venture that coincided with an emerging worldwide capitalism. The landing was one of many efforts by primarily western European countries to go beyond a country's boundaries in search of commercially important natural resources.

The English came to Virginia looking for economic gain, but found personal freedom. They quickly found that the British model of government was not well-suited to the challenges of the New World.

Americans have joined in celebrating Jamestown's founding with major events during the past two centuries, most recently in 1957. These occasions have been marked with parades to an eight-month international exposition.

The 2007 Jamestown celebration will allow us to learn from our past as we prepare for the future. It is a national event that deserves our national attention and commemoration. The commission will bring the many talents of noted historians and scholars together with the Commonwealth's plans to fully observe the Jamestown experiment and its lasting contributions to our society.

Mr. ROBB. Mr. President, I want to join my senior colleague today in introducing legislation that will establish a Federal commission to commemorate the founding of the English colony at Jamestown nearly 400 years ago. Jamestown, the first permanent English Colony in the new world, holds enormous significance for us as a nation. We are an English speaking nation and our laws are based on English law. The history of Jamestown is the earliest history of the United States, and our culture still reflects those beginnings.

Jamestown was the capitol of Virginia for 92 years and was the center of cultural activity for the new colony. The celebration of the 400th anniversary of the founding of Jamestown is important to Virginia, and the Nation. In order to ensure that the celebration be conducted in a way that all Americans can appreciate and share in the history of Jamestown, we propose to establish a federal commission that will assist in developing federal activities that will complement those programs and activities undertaken by the Commonwealth of Virginia.

Currently the Commonwealth of Virginia and the federal government, through the Department of Interior, work together at Jamestown to tell the story of the early colonial times. The commission will provide additional assistance, and coordination and will provide support for the scholarly research that is ongoing at the Jamestown site. The commission can help ensure that the celebration of our earliest history is accessible to a broad range of Americans, and not just those in the immediate vicinity of the original colony.

The authority for the Commission will terminate one year after the Jamestown celebration in 2007 and after completing a report on its activities. The report will not only tell the story of the Jamestown celebration, but will provide guideposts and information for national celebrations in the future. Having an end to the commission's work will ensure that the organization will not outlive its usefulness. The planning for this wonderful celebration has already begun, and so I ask for quick consideration of this legislation so that we can move forward together.

By Mr. GRASSLEY (for himself, Mr. ROBB, Ms. COLLINS, and Mr. DASCHLE):

S. 2887. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and

frontpay awards received on account of such claims, and for other purposes.

CIVIL RIGHTS TAX FAIRNESS ACT OF 2000

Mr. GRASSLEY. Mr. President, I rise today to introduce the Civil Rights Tax Fairness Act of 2000. I am being joined by Senator ROBB in this effort. Civil rights legislation has been in force throughout this country for nearly thirty years; its purpose being to provide real remedies to victims of discrimination.

The Civil Rights Tax Fairness Act restores certain remedies for victims of discrimination by eliminating taxes on emotional distress awards. This tax was incorporated into the Small Business Job Protection Act of 1996, making the taxation of awards received in discrimination cases involving back wages or non-physical injuries (including emotional distress) taxable. The result of the 1996 legislation was to discriminate against people involved in civil rights cases. People who received damage awards because of a bar-room brawl or slip-and-fall incident, often caused by simple negligence, get tax free awards. While, for similar types of psychological injuries caused by intentional discrimination the damages are taxed. The result of this taxation is that the attorneys and government make out better than the victims who had their rights violated.

A second part of The Civil Rights Tax Fairness Act changes the current law, which requires people who receive back pay awards in discrimination cases to be bumped up into a higher tax bracket. When back pay awards are received by a person in a case the IRS considers it taxable income to be taxed in the year it is received, even though the award received covers many years of lost wages. Currently no averaging of back pay awards is allowed, but The Civil Rights Tax Fairness Act attempts to address this problem. The act provides for income averaging of back pay awards, making it possible for the award to be taxed over the number of years it was meant to compensate.

The third area that The Civil Rights Fairness Act attempts to combat is the double taxation of attorneys' fees that takes place under current law. Presently individuals who receive awards end up having to include in that award their attorneys' fee. This fee can end up being larger than the actual award received by the plaintiff. The current tax implications in the law require the plaintiff to pay taxes on their award and on the attorneys fees received by their lawyer.

One real life example recently brought to my attention involves an Iowa citizen named Don Lyons. Mr. Lyons, a man attempting to do the honorable thing by helping out a coworker with filing a sex discrimination complaint against their employer, was unjustly retaliated against. After prevailing in court and receiving a $15,000 remitted judgment, Mr. Lyons then had to deal with the present tax laws, which not only devoured his judgment, but required him to actually pay thousands of more dollars to the government in taxes.

First, Mr. Lyons had to pay taxes on the $15,000 he received as punitive damages from his employer. After he pays his taxes he is left with $9,533. However, when Mr. Lyons takes into account the taxes that he has to pay on the combination of his settlement and attorneys' fees, he ends up owing $67,791 in taxes. When you subtract the $9,533 Mr. Lyons had left from the initial judgment he ends up still owing the government $58,236 in taxes. Mr. Lyons attorney, Ms. Victoria L. Herring, also has to pay taxes on the fee she received for taking Mr. Lyons case. Mr. Lyons ends up paying taxes on money that he never even received, making him a good example of why it is important to pass The Civil Rights Tax Fairness Act and end double taxation. Everyone should agree that this is a extreme example of unfair taxation.

Mr. Lyons helped out a co-worker, was attacked by his employer, and received damages in a court of law. People count on the legal system to protect them and when their civil rights are violated the system needs to function properly. It is disheartening to learn that, in actuality, Mr. Lyons is going to be taken to the cleaners by the government tax system, and as a result, he ends up owing $58,236 to the government for the ''privilege'' of having won his retaliation case.

It seems to me that there is something fundamentally wrong with the law when it hurts the people it is supposed to protect. This being said, it is time to change the mistakes made in the past by passing the Civil Rights Tax Fairness Act 2000. This bill will go a long way toward helping out victims of discrimination by eliminating taxes on emotional distress awards, ending lump-sum taxation, and ending double taxation. The changing of the law will have positive effects on citizens like Mr. Lyons, allowing similar victims to keep more of their awards. At the same time, it will be beneficial for business, since they will be able to settle discrimination claims for lower settlements.

I ask unanimous consent to have printed in the record after my remarks the letter I received from Mr. Lyon's attorney, Victoria L. Herring. Ms. Herring does an outstanding job of quantifying and personalizing the importance of the Civil Rights Tax Fairness Act.

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

NOVEMBER 30, 1999.

Re Tax implications of civil rights litigation.

Senator CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.
Senator TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATORS: I write you as an attorney of long-standing in Des Moines and an Iowa citizen who represents other Iowans in employment-related matters. I write to bring to your attention a problem that you should know of (as legislation is now pending to cure the problem, H.R. 1997), but perhaps the effect of the present status of the law escaped you.

As you know, for some thirty years civil rights legislation has been in force in this country; that includes Title VII, the ADA, the ADEA, and other types of such statutes. As a part of the legislative effort to provide remedies to victims of discrimination, Congress also passed an attorney fees provision that entitles a successful plaintiff to have his or her attorney fees and expenses compensated by the losing defendant, subject to the trial court's discretion. Certainly, this legislation had a salutary effect in ending some of the worst vestiges of discrimination and seeing that the litigators were paid for their efforts as ''private attorneys general''. The United States Supreme Court has endorsed this concept in numerous cases.

What I now bring to your attention is the fact that all of this legislation has been rendered meaningless and, indeed, punitive against plaintiffs and their attorneys, by the Congress's passage in 1996 of the Small Business Protection Act and the various tax laws enacted by Congress over the years. I have a real life example to bring to your attention, in the hope that you will see how unfair and offensive is the present state of the law. In fact, in light of the law as it is today, it is entirely possible that no attorney in his or her right mind would take any plaintiff's civil rights case, and that no person in his or her right mind would undertake to litigate civil rights discrimination no matter how much they were harmed by such actions.

First, it is my understanding that the tax laws now require the payment of taxes upon any and all sums obtained in litigation or settlement that are not clearly related to ''personal physical injury''. As most (if not all) civil rights and discrimination cases brought under Title VII, the ADA, etc., rarely involve ''personal physical injury'', most (if not all) jury verdicts, judge awards and/or settlements are entirely taxable to the victim of discrimination. Perhaps that was truly the intent of Congress in its 1996 passage of the amendment to Internal Revenue Code Section 104. If so, then victims of discrimination certainly do owe taxes on whatever they might receive by way of verdict, judgment or settlement, and should pay those taxes. Of course, that frequently prevents settlements from occurring or raises the cost of the settlements, but that might also be within Congress's intent in passing the legislation. (That less than salutary effect of the 1996 amendment is one reason quite a variety of groups have supported the proposed bill, H.R. 1997, among them the U.S. Chamber of Commerce, NELA, the AARP, etc.) In any event, that is not the entire problem facing victims and litigators.

The most pernicious problem and one which causes me to write to you is the combined effect of the above legislation coupled with other laws of Congress, court cases and IRS regulations. The effect is to cause any and all lawyers who might wish to advocate for plaintiffs who have been harmed by discrimination to rethink whether, in fact, they wish to continue to do that work. And it places lawyers who do continue to advocate at loggerheads with their clients' interests.

The law is now clear that victims of discrimination owe tax payments on whatever settlement/judgment they might receive. And it is clear that their attorneys owe tax payments on whatever attorney fees and expenses they are awarded. However, the law is also quite clear that the victims of discrimination also owe taxes upon the amount of

money their attorney is compensated for his/her efforts in obtaining the settlement/verdict. While in some situations it is possible to deduct those costs, given the Alternative Minimum Tax provisions and recent Tax Court cases, it is close to impossible to do so. Thus, victims of discrimination may well add up with an additional tax burden in excess of any sums of money actually obtained in the litigation to compensate them for their injuries. This must be contrary to the intent of Congress in passing civil rights legislation over the past thirty years, and the views of the Supreme Court in holding that attorney fees awards should be fully but reasonably compensatory to the attorneys, in order to facilitate attorneys in handling civil rights legislation.

I can provide you with a real-life example which impacts an Iowa citizen who successfully fought discrimination and retaliation and his attorney, the undersigned, who joined in that effort. Based on what we know now, both of us are quite sorry we ever entered into the effort to prevent discrimination and retaliation from occurring.

Don Lyons assisted a co-worker in filing a sex discrimination complaint against their employer. As a result, he and the co-worker were retaliated against. We brought suit on behalf of the co-worker for sex discrimination in employment in the Southern District of Iowa and made a claim for retaliation in violation of Title VII on behalf of both Don and his co-worker. The case was litigated in the court here, with the result that the sex discrimination case was resolved prior to trial. However, because no settlement of Don's claim was possible, his retaliation case went onto a jury trial before eight jurors from the southern District of Iowa.

We put on two days of evidence before the jury and Judge Wolle, with the result that Don was awarded $1.00 in nominal damages (a recognition of his right to bring the claim) and $150,000 in punitive damages. On post-trial motions, Judge Wolle upheld the jury's verdict on liability and held that there was sufficient evidence that ''defendant had an evil motive and had intentionally violated federal law in retaliating against Lyons because he had assisted other pilots in protecting their civil rights.'' However, Judge Wolle remitted the punitive damage amount to $15,000.00, because he thought that would be sufficient to punish the defendant. Pursuant to the attorney fee provision of the civil rights law, I have petitioned the court for approximately $170,000 in fees and expenses; that is based on my hourly rate of $180.00 an hour (a rate much less than that of lawyers in other cities, and probably much less than the two defense lawyers from Chicago who tried the case). The fees and expenses amount may seem high, but is the result of a fair amount of contentiousness and the need to take depositions in Kansas and Arizona.

The problem for my client and for myself arises from the clear tax implications of this situation. My client would normally pay out of his $15,000 in punitive damages the sum of $5,467.00, and that would be fine for him.

However, if the court awards me a ''fully compensatory'' fee and expenses figure of $150,000 (I am using that as an example, because we have run the figures on this sum), not only will I pay my taxes on this figure (gladly so), but my client will also and without the ability to deduct the sum due to the pernicious effect of the alternative minimum tax!

	Amount
Don's taxes of $15,000	$5,467.00
Don's taxes on $15,000 plus the attorney fee award of $150,000	67,791.00
Difference/Additional Taxes Owed by Don for the ''privilege'' of having won his retaliation case	58,236.00

In other words, because Don assisted someone to bring a claim of sex discrimination through appropriate channels and prevailed in his jury trial claim of retaliation, he will be forced by present tax laws to pay an additional amount of $58,236.00, which is over two-thirds of his annual salary. *And* he will not have any additional money as a result of the remittment of the judgment to pay that additional tax. And because Don hired me to be his advocate and then prevailed before a jury of eight citizens, he is penalized with a severe tax penalty for having advocated civil rights. And I need not tell you that this result has severely strained what had been a cordial and positive working relationship between attorney and client.

This is a clear injustice and one that we cannot find any way of resolving, given the present state of the law. If we could, we would. We are, therefore, bringing this to your attention because it is a concern which only legislation can rectify. We believe that H.R. 1997 is the only means possible to rectify this problem and urge you to support it strongly and vocally as soon as Congress returns.

If you have need of further information, please let me know. Both Don and I would appreciate the opportunity to visit with you or your staff to discuss this problem and to shed light upon how this situation causes me to rethink my chosen profession and Don to rethink his willingness to assist people who are being discriminated against.

Very truly yours,

VICTORIA L. HERRING,
Attorney at Law.

Mr. ROBB. Mr. President, I am pleased to introduce the Civil Rights Tax Fairness Act of 2000 with Senators GRASSLEY, DASCHLE and COLLINS. This important legislation will correct several imperfections in our Tax Code that unfairly tax the victims of civil rights violations at a time when they are most vulnerable. I'm pleased that it accomplishes this in a fashion that has bi-partisan Congressional support and has been endorsed by civil rights organizations as well as the business community.

The Civil Rights Tax Fairness Act contains several provisions. The first section excludes emotional distress awards received in discrimination cases from the gross income of the recipient. Due to a change in the Small Business Job Protection Act of 1996, damages received for emotional distress in civil rights cases are taxable, while those received in slip and fall accidents are not. There is no defensible reason for this disparity and it must be changed.

The bill would also allow employees who receive lump sum awards for back wages for civil rights violations by their employers to take advantage of income averaging. Currently, if an employee receives a large award it will generally push that person into a higher income bracket for that year due to the income spike from the damages. The result is that the victim may be taxed at a higher rate than they would if they had received the income as wages in the normal course of business. This is the wrong tax treatment and should be corrected.

Finally, this legislation ends the double taxation on attorney's fees that are awarded to a victim in a discrimination case. Mr. President, even though the attorney ultimately gets the fees, not the victim, present law not only taxes the attorney on the fees that they receive when they take them into income, but also requires that the victim include them in computing their gross income. Even though they are supposed to be able to take a corresponding deduction, due to limitations on miscellaneous deductions and the alternative minimum tax, in most cases the victims cannot get the entire amount. This is not fair and cannot be the intended effect.

I look forward to working with the senior Senator from Iowa in getting this bill signed into law. It is time to bring our Tax Code into the 21st Century. We must implement tax policies that help to eradicate discrimination.

ADDITIONAL COSPONSORS

S. 203

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 203, a bill to amend title XIX of the Social Security Act to provide for an equitable determination of the Federal medical assistance percentage.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 1016

At the request of Mr. DEWINE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1016, a bill to provide collective bargaining for rights for public safety officers employed by States or their political subdivisions.

S. 1351

At the request of Mr. GRASSLEY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1351, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from renewable resources.

S. 1378

At the request of Mr. VOINOVICH, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Georgia (Mr. COVERDELL), and the Senator from Florida (Mr. MACK) were added as cosponsors of S. 1378, a bill to amend chapter 35 of title 44, United States Code, for the purposes of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes.