

Some are concerned about the idea that you have to project revenues into the future. Of course, there is some uncertainty. We don't know exactly what will happen. In anything you do, whether it is an organization, whether it is a business, whether, indeed, it is your family, as you take into account longer term expenditures, one has to reach out and make an estimate as to what they think the revenues are going to be. That is not unusual. We have the best people who have made prognostications in the past doing that.

Under the budget, receipts grow from \$2.1 trillion in 2001 to \$3.2 trillion in 2011, an increase of 51 percent. Overall, the budget projection totals collections of almost \$30 trillion over the next 10 years. Despite the fact that to all of us, I assume, \$1.6 trillion is an almost unimaginable amount, it is, indeed, a little less than 6 percent of the total projected revenues. When you put it into the context of what we are talking about, it becomes a reasonable proposal.

I imagine probably more important than anything is that we have to take a look at the fact that we do have a surplus. Frankly, when we do have a surplus, we find, if we ask people, how much more involvement of the Federal Government, how much growth of the Federal Government do you want over here, they would say: We have about enough growth. We have about enough Government. But then over here you have a surplus so every expenditure that anyone has ever had in mind suddenly becomes a possibility, and we find ourselves then with growth beyond what most people would want to have.

The American people are paying a record level of taxation, over 20.5 percent of the gross domestic product. That is the highest it has been since World War II. The individual burden has doubled since the Clinton tax increases of 1993. All this points toward doing something meaningful in terms of tax reduction. The cut would be \$1.6 trillion; that would be left in the pockets of taxpayers.

We hear all kinds of notions that it is actually going to be \$2.2 trillion or whatever. That is not the case. It is aimed towards being \$1.6 trillion, and that is where it would be.

There is tax relief for all taxpayers. We can get into, obviously, a discussion of the fact that there are people who don't pay income taxes who will not have relief from income tax reduction. That is fairly reasonable.

Everyone who pays taxes will get some relief. A typical family of four will see their tax liabilities reduced by \$1,600, which is a sizable amount.

The other part of the equation is that there are moneys to strengthen education. There are moneys to help with defense and security. Those are a couple of the top priorities we have. We will do more with Medicare. Those dollars will be there for Medicare. Those dollars will be there for Social Security.

I hope people understand the whole package. It sometimes is made to sound as though, if we give those taxpayers a break, we will not be able to do the things we should. Not true. There will be dollars to do the things the Federal Government has as priorities. There will be dollars to reduce the debt, and, in fact, all of the reducible debt will be done by 2010. That will not be all of it because much of it is long term and, frankly, people who hold the certificates are not ready to do that.

It is something on which we need to continue to work. I think it is a good thing for the country. It is a good thing for the taxpayers. Certainly, it is something I support, and I hope others support. I see my friend from Missouri.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 528 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### RACIAL PROFILING

Mr. FEINGOLD. Mr. President, we Americans take pride in our freedom and independence. Central to our sense of who we are is our firm belief that we are free to walk the paths of our own choosing, free to move about as we please, free from the intrusion of the government in that movement.

As Thomas Jefferson wrote in his Draft of Instructions to the Virginia Delegates in the Continental Congress, "The God who gave us life, gave us liberty at the same time."

From the start, immigrants came to these shores to escape the state's intrusion into their lives. When in the early 1600's, the English government began arresting Separatists for their religious practices, about a hundred of them became the Pilgrims and sailed to Plymouth. When in 1620 the Parliament enacted a law requiring all to worship according to the laws of the Church of England, the Puritans came

to Massachusetts, the Quakers came to New Jersey and then Pennsylvania, and Catholics came to Maryland.

When, in 1636, Roger Williams sought freedom from the intrusions of the Massachusetts colony into religious practices, he founded Rhode Island. And two decades later, Jews fleeing the persecutions of numerous states settled there in Newport.

Even separated by the Atlantic Ocean, however, the American colonists continued to chafe at the intrusion of the British government into their lives. Among the colonists' foremost grievances was the manner in which the British government harassed and searched Americans without reason or probable cause. The British government did so under color of general warrants known as "writs of assistance," which gave British customs officers blanket authority to search where they pleased for goods imported in violation of British tax laws.

This harassment by the state's officers helped to spark the American Revolution. In 1761, the Massachusetts patriot James Otis attacked the writs and their use to hound American colonists as, he said, "the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law, that ever was found in an English law book," because, in Otis' words, they placed "the liberty of every man in the hands of every petty officer."

Otis' argument did much to sow the seeds of America's Declaration of Independence. "Then and there," said John Adams, "then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born."

The Supreme Court later wrote: "Vivid in the memory of the newly independent Americans were those general warrants known as writs of assistance under which officers of the Crown had so bedeviled the colonists." And in another case, the Court wrote: "It is familiar history that indiscriminate searches and seizures conducted under the authority of 'general warrants' were the immediate evils that motivated the framing and adoption of the Fourth Amendment."

That Amendment states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Early on, Chief Justice Marshall assumed that the Fourth Amendment was intended to protect against arbitrary arrests. And that position has become settled law. More recently, the Supreme Court has said:

Unreasonable searches or seizures conducted without any warrant at all are condemned by the plain language of the first clause of the Amendment." The Court went on to state that "the warrantless arrest of a

person is a species of seizure required by the Amendment to be reasonable.

It is thus fundamental to American history and rooted in American law that the officers of the state may not arrest or detain its citizens arbitrarily or without cause. Our law and Constitution protect our freedom to walk those paths of our own choosing, free from the intrusion of the government as we walk.

And it is that very individual freedom that gives our great Nation its strength. As John Quincy Adams wrote: "Individual liberty is individual power, and as the power of a community is a mass compounded of individual powers, the nation which enjoys the most freedom must necessarily be in proportion to its numbers the most powerful nation."

The point of my comments today is this is not the case for all Americans.

But, some Americans still cannot walk where they choose. Some Americans cannot travel free from the harassment of the government. Some Americans still do not receive the full benefit of their civil rights.

Too many Americans are subject to being detained by officers of the state without reasonable suspicion, without good reason, for no other reason than the color of their skin.

As I noted at the outset of my remarks, many came to these shores as immigrants to escape the intrusive state. We must not forget that many also came to these shores in chains, because of the color of their skin. They and their descendants endured our Nation's long struggle against slavery and discrimination.

Sadly, even now, skin color alone still makes too many Americans more likely to be a suspect, more likely to be stopped, more likely to be searched, more likely to be arrested, and more likely to be imprisoned.

The numbers alone are devastating: A 1999 ACLU report found that along Interstate 95 in Maryland, while African-Americans were only 17 percent of the drivers and traffic violators, African-Americans accounted for an alarming 73 percent of the drivers searched.

Last November, a front-page New York Times story reported that New Jersey state documents acknowledged that at least 8 of every 10 automobile searches carried out by state troopers on the New Jersey Turnpike over most of the last decade were conducted on vehicles driven by African-Americans and Hispanics.

Racial profiling is not limited to I-95. The Justice Department has recently been investigating 14 police departments for civil rights violations, including Charleston, West Virginia; Riverside, California; Orange County, Florida; Prince George's County, Maryland; Eastpointe, Michigan; New Orleans; Buffalo; Washington; and New York City. In Los Angeles, the Justice Department recently forced the police department to accept an independent monitor's supervision after a 4-year in-

vestigation of police abuse in the city's largely minority Rampart section.

The practice of racial profiling has not respected status or standing, wealth or privilege.

Last September, the Director of Personnel at the White House, Bob Nash, and his wife were stopped for no other apparent reason than that they are African-American. As Mr. Nash said at the time:

Until that moment, we had an intellectual understanding of the bogus crime, "Driving While Black." But, in a few terrifying moments, we felt it more deeply and more personally than any words could ever convey. Said Nash, the experience left them embarrassed, humiliated and afraid for our lives.

The Houston Chronicle reported that last year the Border Patrol pulled over and questioned United States District Judge Filemon Vela traveling to court—not once but twice—as part of an immigration crackdown in South Texas, called Operation Rio Grande.

Last November, the well-known singer Lenny Kravitz was handcuffed and detained by Miami Beach police. Mr. Kravitz, whose 1989 song "Mr. Cab Driver" speaks out against racial profiling, appears to have fallen victim to it himself. Said Kravitz:

I was very concerned and upset. Being black, I've dealt with all kinds of things because of my color, but nothing like this.

Last month, 60 Minutes aired the story of Harvard law student Bryonn Bain, who appears to have been the victim of "walking while black." He was stopped by police while simply walking down the street. In an article in the May 2, 2000, Village Voice, Bain said:

After hundreds of hours and thousands of pages of legal theory in law school, I have finally had my first real lesson in the Law.

Said Bain:

The lesson for the day was that there is a special Bill of Rights for nonwhite people in the United States—one that applies with particular severity to Black men. It has never had to be ratified by Congress because—in the hearts of those with the power to enforce it—the Black Bill of Rights is held to be self-evident.

Plainly, the practice of racial profiling is profoundly at variance with the fundamental tradition of American law and justice.

In 1790, President George Washington wrote the congregation of Touro Synagogue in Newport, Rhode Island, in words that are etched in the Holocaust Memorial Museum in Washington:

The government of the United States . . . gives to bigotry no sanction, to persecution no assistance.

But what other than "bigotry" and "persecution" can we call this practice of "racial profiling," which targets drivers, airline passengers, or pedestrians, not because of any action they take, not because of any probable cause, but solely because of the color of their skin. Too many law enforcement entities have made a crime out of DWB—"Driving While Black."

Among the many corrosive effects of this insidious practice is the way it un-

dermines the willingness of good people to work with the police. As one victim of racial profiling in Glencoe, Illinois, said:

Who is there left to protect us? The police just violated us.

As the U.S. Civil Rights Commission found last year:

Communities of color do not want to choose between safety and civil rights.

They should not have to.

We as a Nation cannot and should not tolerate this injustice. As the philosopher Herbert Spencer wrote:

No one can be perfectly free till all are free.

And as Woodrow Wilson said:

Liberty does not consist . . . in mere general declarations of the rights of man. It consists in the translation of those declarations into definite action.

Many leaders have spoken out against this intolerable abuse. Many have worked to translate the traditions of American law and justice into legislation to address this evil.

First and foremost is our colleague in the other body, Representative JOHN CONYERS. Representative JOHN CONYERS has been at the forefront of legislative efforts on this subject. We have worked together on legislation focused on a study of traffic stop data. Shortly, Congressman CONYERS and I will introduce, along with many of our colleagues, an improved version of that bill.

Last Congress and this Congress, I have been proud to cosponsor a bill introduced by my friend and colleague from Illinois, Senator DURBIN, that focuses on "flying while Black"—the practice of targeting people of color to be stopped and searched in airports. Senator DURBIN has provided valuable leadership on this issue.

Let me take a moment to notice the very intense and sincere efforts of a new colleague of ours, Senator JON CORZINE, of New Jersey, who has made addressing this racial profiling issue one of his top priorities. I very much look forward to working with the new Senator from New Jersey on this issue.

Leaders of both parties have expressed support for doing something about racial profiling.

During the second Presidential debate, on October 11 of last year, then-Governor Bush said that he would support or sign as President a federal law banning racial profiling by police and other authorities at all levels of government.

Governor Bush said:

I can't imagine what it would be like to be singled out because of race and stopped and harassed. That's just flat wrong, and that's not what America's all about. And so we ought to do everything we can to end racial profiling.

Governor Bush went on:

I do think we need to find out where racial profiling occurs and do something about it. And say to the local folks, get it done, and if you can't, there'll be a federal consequence.

He further said:

[R]acial profiling isn't just an issue at the local police forces. It's an issue throughout

our society. And as we become a diverse society, we're going to have to deal with it more and more.

I believe, sure as I'm sitting here, that most Americans really care. They're tolerant people. They're good, tolerant people. It's the very few that create most of the crisis. And we just happen to have to find them and deal with them.

On February 9 of this year, at remarks marking Black History Month, President Bush said that he would "look at all opportunities" to end racial profiling. While visiting a predominantly African-American elementary school here in Washington, D.C., President Bush said:

I'll look at all opportunities, starting with the gathering of information where the federal government can help jurisdictions gather information, compile information, to get the facts on the table to make sure people are treated fairly in the justice system.

And in his State of the Union Address two weeks ago, the President addressed the issue again. There, he said:

As government promotes compassion, it also must promote justice. Too many of our citizens have cause to doubt our nation's justice when the law points a finger of suspicion at groups instead of individuals. All our citizens are created equal and must be treated equally. Earlier today, I asked John Ashcroft, the Attorney General, to develop specific recommendations to end racial profiling. It's wrong, and we will end it in America.

I certainly welcome our new President's comments.

Attorney General Ashcroft has also stated that racial profiling will be a priority in his Department of Justice. At his confirmation hearing on January 17, Senator Ashcroft said:

I think racial profiling is wrong. I think it's unconstitutional. I think it violates the 14th Amendment. I think most of the men and women in our law enforcement are good people trying to enforce the law. I think we all share that view. But we owe it to provide them with guidance to ensure that racial profiling does not happen. I look forward to working together with you to try to find a way to do that.

Senator Ashcroft summed up:

I will make racial profiling a priority of mine.

In a follow-up written question to that hearing, I asked Senator Ashcroft whether his opposition to racial profiling included racial profiling of airline passengers or people walking down the street. Senator Ashcroft replied:

I have stated my strong opposition to racial profiling across the spectrum. There should be no loopholes or safe harbors for racial profiling. Official discrimination of this sort is wrong and unconstitutional no matter what the context.

And two weeks ago, at an extensive statement and press conference on the subject, Attorney General Ashcroft said:

I have long believed that to treat people solely on the basis of their race was a violation of the 14th Amendment to the U.S. Constitution.

He declared: "It's wrong," and said:

I believe Congress can, and will, respond constructively.

Attorney General Ashcroft also sent a letter to the Chairmen and Ranking Democratic Members of the Judiciary Committees on this subject, and I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. FEINGOLD. Mr. President, Wisconsin's former Governor Tommy Thompson, now Secretary of Health and Human Services, created a Task Force on Racial Profiling when he was Governor. That Task Force just completed its report, and concluded, among other things, that more data is needed, and recommended data collection. Congressman CONYERS and our legislation calls for data collection, among other things.

I am pleased that the President and Members of his Cabinet recognize the gravity of this issue for all Americans. Particularly in the wake of the racially divisive election and nomination of Attorney General Ashcroft, the Administration needs to make special efforts to heal the wounds that separate us as a Nation. And with the support of the Administration, we should be able to enact racial profiling legislation this year.

But we should do more. Once again, I call on President Bush to resubmit the nomination of Judge Ronnie White to serve as a U.S. District Court judge.

I also call on the President publicly to support the nomination of Judge Roger Gregory to the Fourth Circuit Court of Appeals.

These distinguished jurists deserve to sit on the Federal bench. And the effective administration of justice in America demands that the Federal courts, even the Fourth Circuit Court of Appeals, reflect the diversity of this Nation.

Let us do more to advance the cause of justice for all, and then we can truly live out the ancient wisdom, inscribed on the Liberty Bell, and "[p]roclaim liberty throughout all the land unto all the inhabitants thereof."

I yield the remainder of my time.

#### EXHIBIT 1

OFFICE OF THE ATTORNEY GENERAL,  
Washington, DC, February 28, 2001.

Hon. PATRICK LEAHY,  
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: As you know, I received a directive from the President late yesterday asking me to work with Congress to develop effective methods to determine the extent to which law enforcement officers in the United States engage in the practice of racial profiling. As you further know, racial profiling is the use of race as a factor in conducting stops, searches, and other investigative procedures. While we all recognize that the overwhelming majority of law enforcement officers perform their demanding jobs in an outstanding manner, any practice of racial profiling, even by a small minority, is unacceptable.

You may recall that during the hearing I held on the subject last year as a Senator, I stated that racial profiling, even if practiced

only by a few, is extremely problematic for two reasons. First, it undermines the public trust in the impartiality of law enforcement officers which is essential to effective law enforcement. Second, and more importantly, I personally believe such a practice violates the Equal Protection Clause of the Fourteenth Amendment to the Constitution. I share the President's commitment to ending any unequal treatment of Americans, particularly by law enforcement.

To this end, I urge you in your capacity as Ranking Member of the Judiciary Committee to consider quickly legislation authorizing the Department of Justice to conduct a study of traffic stops data that currently is being collected voluntarily by law enforcement agencies across the country. Such a study will assist us in determining the extent of the problem of racial profiling.

The Traffic Stops Statistics Study Act introduced last Congress by Congressman Conyers in the House, and proposed by Senator Feingold in the Senate, is an excellent starting place for such an enterprise. I would hope that any legislation you consider makes clear that such information is provided voluntarily, in order to quell any potential federalism concerns. Such legislation ought to permit consideration of broad categories of data, such as the reasons and circumstances of any stop, the identifying characteristics of the driver and passengers as perceived and discernable by the officer making the stop, the characteristics of the officer making the stop, the racial or ethnic composition of the area in which the stop was made, and any other data that will ensure as full a picture as possible of these contacts, such as arrest and conviction outcomes linked to traffic stops. In order to encourage participation, the legislation hopefully will make clear that the legislation will not change the burdens or standards of proof in any lawsuits. The legislation, therefore, would lend to a better study, by emphasizing the importance and seriousness of the issue while, at the same time, encouraging cooperation.

I am eager to begin work on this important task, and hope that Congress will consider such legislation quickly. If Congress is unable to authorize such a study in 6 months, I will instruct the Department to begin promptly its own study of available data. I look forward to working with you on this important issue to ensure that all Americans are guaranteed equal justice under law.

Sincerely,

JOHN ASHCROFT,  
Attorney General.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### BANKRUPTCY

Mr. BINGAMAN. Mr. President, I ask unanimous consent to be allowed to speak as if in morning business for a few minutes on two amendments that are pending to the bankruptcy bill—amendments offered by Senator WYDEN and Senator SMITH related to discharge of debts and prohibition of discharge of debts related to the California energy crisis.