

Kevin, I hear you. I hope my colleagues do, too.

Kevin is addressing a problem many families and communities all across our Nation now find themselves confronting. They are all asking the question: Is my local park safe from the arsenic-treated wood which, when the rains come, leach the arsenic from the playground wood into the soil? Should I tell my children they cannot play in the park because of the wood that is treated as a preservative with arsenic?

What I found is that local officials, county commissioners, city commissioners all across Florida and many other States have raised similar questions about the use of arsenic to treat wood in playgrounds and backyard decks. The fact is, none of these communities has been given any clear guidance of what to do about arsenic-treated wood in their parks, in their backyards, and neither have the parents of kids such as Kevin. That is why I wanted to share Kevin's letter with the Senate today. The Senate has an opportunity, after more than two decades of delay, to finally ban the use of arsenic-treated wood and to provide parents and communities and local officials the information needed so they can make intelligent decisions about safety.

While the Environmental Protection Agency recently announced a voluntary phaseout of arsenic-treated wood, this agreement with the wood-preserving industry does not go far enough. For one, it is only a voluntary agreement, reminiscent of a voluntary agreement 20 years ago that the industry did not honor. Remember, we are talking about arsenic which can cause cancer and other serious illnesses, which is what this little boy from St. Cloud, FL, is writing me about because his little brother plays in the park.

Many European countries recognized the dangers long ago. It is time we get serious about a process we know can be harmful to children and consumers. The EPA has studied and negotiated this issue to death. Yet the best deal for consumers that they can come up with is a voluntary phaseout. Also, the EPA agreement with the wood-preserving industry fails to provide enough guidance to consumers, fails to provide the guidance to parents and local government officials about what to do with all that arsenic-treated wood on those playgrounds about which little Kevin is writing.

I urge my colleagues to join me in enacting legislation I filed to permanently ban this potentially harmful product. It is S. 1963.

#### TRIBUTE TO MARVIN SEDWAY

Mr. REID. Mr. President, I rise today to celebrate the official opening of the Marvin Sedway Middle School in Las Vegas, NV. This state-of-the-art facility provides an enduring tribute to one of Nevada's most esteemed and courageous political figures.

Marvin Sedway was a man with a ferocious spirit. His language was rough

and his determination was fearless, but in everything that he did, Marvin was dedicated to the betterment of Nevada. As a State assemblyman he demonstrated an unwavering dedication to the children of his State and made their education his top priority.

Marvin Sedway moved to Las Vegas from New York City when he was 13 years old. In 1946 he graduated from Las Vegas High School and then he attended the University of Nevada at Reno. After completing his professional education at Pacific University in 1954, Marvin worked as an optometrist for almost 40 years. Throughout his career, Marvin Sedway's compassion and generosity were evident. It was widely known that Marvin volunteered thousands of hours to serve handicapped and underprivileged children who could not afford proper care.

Even before his election to the Nevada State Assembly in 1983, Marvin was an integral part of the Nevada political scene. In 1958 Marvin was a member of the Democratic Party Reform Commission, and in 1968 he became the State chairman of the "Humphrey for President" campaign. Marvin was also selected by several Nevadan Governors, including my good friend Governor Mike O'Callaghan, to serve on various State boards. He was a member of the Governor's Task Force on Rural Health Emergency Services and an advisory board member for Clark County Community College. In addition, he served as secretary of the State Board of Optometric Examiners and president of the Clark County Mental Health Society.

As a member of the Nevada State Assembly, Marvin gained prominence across the State for his service as chairman of the Assembly Ways and Means Committee, which allowed him to determine which bills would survive and which bills would not move forward. Marvin used his coveted position to advocate for those who often are voiceless including welfare mothers and low-income workers and families. In addition, while many others shied away from unpopular tax increases, Marvin's courage led him to support increases that would fund the State's expanding services and social programs.

Marvin's greatest cause was improving the education of Nevada's school children. He was a great believer in the importance of a strong public education system and continuously pushed for increasing funds for State schools. Throughout his 8 years in the Nevada State Assembly and even before then, he worked to ensure that Nevada's children had the resources to improve their lives, receive a solid education, and fulfill the American dream.

When Marvin Sedway died of lung cancer on July 7, 1990 at the age of 61, Nevada lost a great leader. But as the doors of the Marvin Sedway Middle School officially open, we can celebrate his legacy as a public servant committed to education. Thousands of young Nevadans will be educated in

this remarkable facility, fulfilling Marvin's hopes and ambitions for Nevada's children.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in August 1994 in Sioux City, IA. Two gay men were attacked when two intruders broke into their residence. The assailants, Anthony L. Smith, 17, and Henry White, 18, were charged with first-degree burglary and second-degree criminal mischief under the State hate crime statute.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

#### RETIREMENT SECURITY ADVICE ACT OF 2002

Mr. BOND. Mr. President, today I am adding my name as a co-sponsor of the Retirement Security Advice Act of 2002, S. 1978, introduced by my good friend from Arkansas, Senator TIM HUTCHINSON. I do so, and submit this statement for the RECORD, because the bill holds important implications for small businesses in this country and the millions of Americans they employ.

In 1996, we created the Savings Incentive Match Plans for Employees SIMPLE, as a pension-plan option for small firms in this country. The goal was a simple one: provide a pension plan with low administrative costs for employers so they can offer pension benefits to encourage employees to save for their retirement. I am pleased that these plans have become quite popular, and together with the other pension simplifications and improvements enacted in the last five years, they have contributed to better access to pension benefits by small businesses and their employees.

Greater retirement savings, however, have raised new and complex issues for many employees who have seen their pension accounts grow substantially. As the Ranking Member of the Committee on Small Business and Entrepreneurship, I have heard many constituents raise difficult questions in this area: What are appropriate investments for my personal circumstances and risk tolerance? Should I buy stocks, bonds, annuities, or something

else? How should I diversify my investments? When should I modify my investment mix? And so on.

The importance of these questions has increased substantially in light of recent high-profile business failures and more generally because of the economic downturn. Gone are the days of the momentum market where any dollar invested seemed to grow with little effort or risk.

The return to more cautious investing has left employees who participate in employer-sponsored pension plans in a real dilemma, hire an outside investment advisor or go it alone in most cases. Why? Current pension rules effectively preclude most employers from offering investment advice to their employees. In fact, recent estimates are that only about 16 percent of participants have access to investment advice through their pension plan. In today's complex investment environment that is simply too little help for employees who are trying to manage their retirement security.

Senator HUTCHINSON's bill addresses this situation in a responsible way. For most businesses, and particularly small firms, the logical place to look for an investment advisor would be the company that manages the plan's investment options or an affiliated firm. Under Senator HUTCHINSON's bill that option would now be available, opening the door for countless businesses to offer this important benefit at a low cost to their employees who participate in the company's pension plan. In addition, by allowing more businesses to offer investment-advice benefits, the bill creates an opportunity for increased competition among investment advisors, which can lead to better advice products and lower costs overall.

Senator HUTCHINSON's bill, however, does not simply change the rules to help the business community. It also includes critical protections for the plan participants. Investment advisors must satisfy strict requirements concerning their qualifications, and they must disclose on a regular basis all their business relationships, fees, and potential conflicts of interest directly to the participants. In addition, and arguably most importantly, the investment advisor must assume fiduciary liability for the investment advice it renders to the employee participants in the plan. In short, if the investment advisor does not act solely in the interest of the participant, it will be liable for damages resulting from the breach of its fiduciary duty. Together, the bill's provisions provide substantive safeguards to protect the interests of the plan participants who take advantage of the new investment-advice benefit.

Some have contended that a better alternative is to force small businesses to engage an independent third party to provide investment advice. I disagree. The result would simply be the same as under current law. Cost is a real issue for small businesses seeking

to offer benefits like pension plans and related investment advice, hence, the genesis of the SIMPLE pension plan. As under the current rules, if the only option is a costly outside advisor, the small firm will not offer the investment-advice benefit. As a result, we would not move the ball even a yard further, employees would still be left to their own devices to figure out the complex world of investing or they would have to seek out and hire their own advisor, which few have the wherewithal to do.

More to the point, nothing under the Hutchinson bill prevents a business from engaging an independent advisor if the employer deems that the best alternative. The standard under the Hutchinson bill for selecting the investment advisor is prudence; the same criteria that the employer must exercise under current law when selecting the company that manages the pension plan and its investment options. If a prudent person would not hire or retain the investment advisor, then under the Hutchinson bill, the employer should not do so either or face liability for breach of fiduciary duty. Again, additional protection for the plan participants.

In my assessment, investment advice is an increasingly important benefit that employees want and need. Moreover, small businesses in particular need the flexibility to offer benefits that keep them competitive with big companies as they seek to hire and retain the very best employees possible. And when we talk about small business, we are not dealing with an insignificant employer in this country. In fact, according to Small Business Administration data, small businesses represent 99 percent of all employers and provide about 75 percent of the net new jobs in this country.

The Retirement Security Advice Act provides a carefully balanced and responsible solution to this situation. Most importantly, it provides a solution that employers will actually use to offer the investment advice sought by their employees who struggle to put money aside in the hopes of having a nest egg that someday will provide them with a comfortable retirement. I am pleased to co-sponsor this bill and look forward to working with my colleague from Arkansas to see it enacted into law.

#### REMEMBERING THE VICTIMS OF SEPTEMBER 11

Mrs. BOXER. Mr. President, today, I speak with great pain in my heart as our country remembers the victims of September 11. Monday was the 6-month anniversary of the attack on the World Trade Center and the Pentagon. Once again, I want to offer my condolences for the people who lost family members, friends, and loved ones.

The amazing generosity and outpouring of love expressed by so many people in our country over these past

six months has been heartwarming, and I have never seen such unity.

Our country has been through a very difficult time. Each of us will remember where we were when we heard the news that commercial planes were turned into weapons against the World Trade Center and the Pentagon. Each of us will remember how we felt when we realized the incredible devastation of terrorism in our midst.

On that day I was in the Capitol in a meeting with Senate Majority Leader TOM DASCHLE and several other Senators when the planes struck the World Trade Center. As we evacuated the Capitol building, our brave Californians on Flight 93 were bringing down the plane, hijacked by the terrorists and most likely headed for us. I truly believe that those Californians on Flight 93 that day have made it possible for me to be here today.

Even as time has gone on, all I can think of is the people on those planes, every one of whom had a family. It is the families today that are coping with the results of September 11, and it is the families that will continue to keep the memory of the victims alive in all of our hearts. We have decided to fight and stand up for them and their memories.

I want to read the names of the victims—in the planes, in the Towers, and in the Pentagon—from the State of California: David Angell and Lynn Angell, Seima Aoyama, Barbara Aresteguis, Melissa Barnes, Alan Beaven, Berry Berenson, Yeneneh Betru, Carolyn Beug and Mary Alice Wahlstrom, Mark Bingham, Deora Bodley, Touri Bolourchi, Richard Guadagno, Daniel Brandhourst and David Brandhourst, Charles "Chic" Burlingame III, Thomas Burnett, Suzanne Calley, Jeffery Collman, Jason Dahl, Dorothy Dearaujo, Darlene Flagg, Dee Flagg, Wilson Flagg, Lisa Frost, Ronald Gamboa, Andrew Garcia, Edmund Glazer, Jeremy Glick, Lauren Grandcolas, Andrew Curry Green, Stanley Hall, Gerald Hardacre, John Hofer, Stephen Hyland, Barbara Keating, Chandler Keller, Jude Larson, Natalie Larson, Daniel John Lee, Maclovio "Joe" Lopez, Dora Menchaca, Hilda Marcin, Nicole Miller, Mildred Naiman, Laurie A. Neira, Christopher Newton, Jacqueline Norton and Robert Norton, Ruben Ornedea, Jerrold Paskins, Thomas Pecorelli, Robert Penniger, Mari-Rae Sopper, Hilda Taylor, Douglas Stone, Alicia Titus, Otis Tolbert, James Trentini and Mary Trentini, Pendyala Vamsikrishna, Timothy Ward, John Wenckus, John Yamnicky, Sr.

Every generation has its time of testing. For my parents it was World War II, and for their parents it was World War I. Now, this our time, and this our challenge.

#### THE UNINSURED

Mr. SMITH of Oregon. Mr. President, I rise today to give tribute to some of