Mr. MCCONNELL. The Senator from Vermont is correct, and I thank him for this useful exchange.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. FRIST. Mr. President, I ask unanimous consent that all first-degree amendments to H.J. Res. 2 be filed at the desk by 6 p.m. on Tuesday, January 21, with the exception of the managers' amendments which are cleared by both managers.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate be in a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO PETER ARAPIS

Mr. REID. Mr. President, Peter Arapis, Jr. was born in Nevada at the Las Vegas Hospital Clinic on 8th Street. His father, Peter Arapis, Sr., was born in Greece and was heavily involved in the Las Vegas Greek community throughout his life. Peter Arapis, Sr. was the Head Chef at the Nevada Test Site for many years beginning in the early 1950s. Peter Arapis, Sr. was active in the election of Michael O'Callaghan as the Governor of Nevada in 1970. He always helped me whenever I ran for public office.

It was probably due to his father's involvement in politics that Peter Arapis, Jr. was quickly drawn in as well. As a student at Rancho High School, Peter volunteered to walk the neighborhoods, hanging campaign information on doors. All Peter's hard work paid off because O'Callaghan was elected as Governor, and I was elected as Lieutenant Governor. Little did I know that Peter would one day become an invaluable member of my senior staff and a trusted friend.

After graduating from Rancho High School in Las Vegas, NV, Peter worked as a car valet for a few years before attending college at UNLV. In 1985, he received a Bachelor of Arts in Political Science. This same year, Peter was the recipient of the L.B.J. Scholarship which afforded him the opportunity to come and work in my office in the House of Representatives as a congressional fellow. This is when Peter got his first taste of politics on Capitol Hill.

Thereafter, Peter returned to Las Vegas and worked as part of my campaign staff the first time I ran for the U.S. Senate. In 1986, I was fortunate to be elected to serve my first term in the Senate, and from that date until now, Peter has been an indispensable part of my team.

One of Peter's first lessons in Nevada politics came shortly after my first Senatorial campaign. He was hiking in Nevada, east of Ely in White Pine County, and planning to camp up on top of Mt. Moriah. Mt. Moriah had a wilderness area at the top whose preservation had been an issue during the campaign. While hiking, Peter was confronted by ranchers who were trying to keep people off the mountain. They made it quite clear to him that no one was welcome on the mountain. Unbeknown to Peter, the ranchers were the very same ranchers that had been extremely cooperative with respect to the wilderness issue during the campaign. Reason being, the ranchers were mountain lion hunting guides, and they had surrounded the entire mountain. The only way to get to the roads to gain access to the wilderness area up on top was to cross over their private property. By surrounding the mountain they had in essence turned the wilderness area into their own private property to help their guide service flourish. Peter later made the connection.

After working on the 1986 election, Peter earned a master's degree in Political Science from UNLV in 1987 where he also served as a teaching assistant.

Over the years, Peter has held nearly every position in my office. He worked for 4 years, 1987 to 1991, in my Las Vegas office as a state representative. In 1992, he decided that he wanted to return to Washington, DC, and he came to work as a Legislative Assistant responsible for Appropriations for Energy and Water, Interior and Related Agencies, Commerce-Justice-State, and Military Construction. Shortly thereafter, he served as a Deputy Legislative Director.

Peter returned to Nevada to work as a deputy campaign manager in my 1998 Senate race. He was a vital part of my team in a very close re-election. Realizing that he had caught the ''Potomac Fever,'' and having met Lynn Breaux at her restaurant, the famous Tunni Cliffs Tavern, Peter once again returned to Washington, DC.

From 1999 to today, Peter has diligently worked for me as my floor manager and senior policy adviser, aiding me daily in my capacity as Democratic whip. I am thankful to have had such a loyal and dedicated employee, but more importantly, I am thankful that I can call him my friend.

I say to Peter: Good luck, I will miss you, but always remember you are a Nevadan.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 6, 2001 in Topeka, KS. A 21 year-old man from Bangladesh was attacked in a convenience store. Police say that the victim entered the store when three men began asking him questions about his national origin and religion. One of the men used a racial slur and then started punching the victim. The victim was treated at a local hospital for injuries sustained during the attack.

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 is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

A REPORT CARD ON STATE GUN SAFETY LAWS

Mr. LEVIN. Mr. President, this week the Brady Campaign to Prevent Gun Violence, in partnership with the Million Mom March and State gun safety groups, released its 6th Annual Report Card on State Gun Laws Protecting Children. According to the report, the Centers for Disease Control and Prevention data showed a welcome decrease in the number of children killed by guns. However, children continue to be at great risk from gun violence.

The Brady Campaign State Report Cards evaluate each State on several criteria: Does the State have juvenile possession laws or juvenile sale and transfer laws? Does the State have child access prevention laws? Does the State have gun safety lock and safer design standards? Does the State allow cities to regulate guns? Does the State provide secondary private sales background checks? Does the State have carrying concealed weapons laws? In addition to these criteria, States can also receive extra credit and/or demerits for a variety of gun safety measures such as permits for handguns.

This year, according to the Brady Campaign, 11 States were awarded Sensible Safety Stars. These States resisted efforts to weaken gun safety laws and/or enacted gun safety laws that protect children from guns. I am disappointed to report that my home State of Michigan was not among them.

According to the Bureau of Alcohol, Tobacco, and Firearms and the Brady Campaign, seven states, all of whom received poor grades, were major sources of crime guns. Further, the ATF found that gun traffickers seek out States that allow criminals to purchase firearms without background checks at gun shows.

The Congress has the ability to pass legislation that will further reduce

child firearm deaths and automatically improve the grade of many States. I urge my colleagues to take up and pass commonsense gun safety legislation that will close the gun show loophole and improve child gun access prevention laws so that we might prevent kids from gaining access to guns, and improve the quality and safety of our communities.

PROMOTING DIVERSITY IN INSTITUTIONS OF HIGHER EDUCATION

Mrs. CLINTON. Mr. President, I ask unanimous consent that the following letter to the President, regarding his Administration's decision to file a brief opposing the University of Michigan's use of affirmative action, be printed in the RECORD.

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

U.S. SENATE
Washington, DC, January 17, 2003.

Hon. GEORGE W. BUSH,
President of the United States,
Washington, DC.

DEAR MR. PRESIDENT: On Wednesday, as your Administration prepared to file its Supreme Court brief opposing the University of Michigan's use of affirmative action to achieve diversity in its student body, you reiterated your commitment to increasing the number of minorities on college campuses. I applaud this commitment, but do not believe that replacing traditional affirmative action with ''race neutral'' percent plans will fully accomplish our shared goal of promoting diversity throughout our institutions of higher education. I am especially concerned that such plans necessarily depend on racial segregation in high schools and, further, that a Court decision banning traditional affirmative action could trigger a domino effect undermining our nation's anti-discrimination laws.

The Michigan cases are among the most important ever to confront the Court since Brown v. Board of Education. Over the past several decades, the story of American higher education has been a story of gradually expanding opportunity for historically excluded or marginalized groups. Anti-discrimination laws and financial aid policies have opened the doors of higher education for millions of minority students. But as you said on Wednesday, ''We should not be satisfied with the current numbers of minorities on Americans college campuses. Much progress has been made; much more is needed.''

At the very top schools in this country, including Michigan, significant racial diversity is largely attributable to affirmative action. By traditional affirmative action, I do not mean quotas, and neither does the University of Michigan. I mean the use of race as one of many factors—along with geography, socioeconomic status, and other life-shaping attributes or experiences—to achieve an educationally diverse student body. Michigan's affirmative action policies work this way, and for 25 years such policies have been constitutional, just as they are today.

If our best colleges, law schools, and medical schools were to end traditional affirmative action today, without adopting any alternative, minority enrollments would drop by two-thirds or more. So a critical question, as you suggested, is whether there are alternatives to traditional affirmative action that might do as good a job—or better—at keeping the doors of selective institutions open to qualified minority students.

You applauded the innovation of states that have adopted ''percent plans'' guaranteeing college admission to top high school graduates. I agree with you that after five years, the Texas ''10 percent plan,'' where all students who graduate in the top 10 percent of their high school class are guaranteed admission to a state university of their choosing, has shown some impressive results. After an initial drop in 1997, minority enrollment at UT-Austin, one of the state's flagship schools, has rebounded almost to the levels achieved under traditional affirmative action.

In addition, UT-Austin is now drawing students from a larger number of high schools and from a wider geographic area, a change that benefits white as well as minority students. The entering class of 2000 included students from 135 schools that had not been represented there before 1996. Those schools included predominantly minority, inner-city schools as well as predominantly white, rural schools. And, despite worries that 10-percenters from poor high schools might not be prepared for the academic rigor of UT-Austin, the most recent evidence is that 10-percenters of all races are performing as well as other students who scored 200 or 300 points better on the SAT. Retention is generally higher among 10-percenters than among other students.

Notably, these results have occurred despite the fact that average SAT scores—the often cited measure of merit among opponents of traditional affirmative action—have decreased, not increased, among 10-percenters and among black and Hispanic students at UT-Austin. Like traditional affirmative action, the 10 percent plan admits qualified students with lower test scores over students with higher scores, recognizing that test scores are not the ''be all and end all'' of an applicant's merit, potential, or character.

The early evidence is very encouraging, and I am cautiously optimistic that for some schools, racial diversity can be achieved through alternatives like this one. Even so, I think it would be a mistake to shut the door on traditional affirmative action and treat percent plans as a panacea for increasing minority enrollments. While they hold promise, they also come with pitfalls.

As I am sure you are aware, Texas's other flagship institution, Texas A&M-College Station, continues to struggle with raising black and Hispanic enrollments, even under the 10 percent plan. California's 4 percent plan and Florida's 20 percent plan, though similar in concept, differ from the Texas plan in one crucial respect: They do not guarantee top graduates admission to a state university of their choosing. As a result, minority enrollment in California has increased at less selective schools like UC-Irvine and UC-Riverside, but not at the most selective schools. Between 1997 and 2001, the number of black freshmen dropped from 252 to 138 at UC-Berkeley and from 204 to 125 at UCLA. Florida's 20 percent plan, after its first year, has kept minority enrollment in the state system steady. But the flagship school, the University of Florida, saw a 40 percent drop in black enrollment and a 7.5 percent drop in Hispanic enrollment.

My primary concern, however, is that the very success of percent plans in enrolling substantial numbers of minority students is entirely dependent on racial segregation at the high school level.

For the past 30 years, the Supreme Court has turned its back on remedying inequality in elementary and secondary schools based on race or income, even going so far as to say that ''at least where wealth is involved, the Equal Protection Clause does not require absolute equality or precisely equal advantages.'' As a result, 50 years after Brown, racial segregation is increasing in our public schools. Seventy percent of black students now attend predominantly minority schools, up from 63 percent in 1980. Forty-six percent of Hispanic students in Texas, 42 percent in California, and 59 percent in New York go to schools that are 90 to 100 percent minority. And racially segregated schools, except predominantly white schools, are almost always schools with high poverty. The average black or Hispanic student goes to school with more than twice as many poor classmates as the average white student.

Any policy of college access that is in tension with efforts to integrate public schools cannot be the best option. Instead of motivating improvement in poor and segregated high schools, percent plans give minority parents an incentive to keep their children in those schools, instead of transferring them to integrated and more academically competitive schools. And no parent should have to make a trade-off between college access and high school quality.

In fact, the Texas 10 percent plan exposes the depth of inequality that can exist in a single state. Texas has 1,500 high schools. In the year 2000, nearly half the 7,600 freshman at UT-Austin came from 74 high schools, around 50 students per school. The other half came from 718 high schools, roughly 5 students per school. Approximately 700 high schools sent no student to UT-Austin in 2000.

Just as traditional affirmative action should never distract us from the task of strengthening our elementary and secondary schools, neither should percent plans. If we are serious about expanding minority access to higher education, then we should not only take a closer look at traditional affirmative action and its alternatives; we should also fully fund Title I and increase the maximum Pell Grant. The 10 percent plan will never reach students in the poorest schools unless we commit the resources to turn those schools around and make college more affordable. These are commitments we should already be making to help the 90 percent of students not covered by the 10 percent plan.

Moreover, although percent plans have been somewhat successful in sustaining minority enrollments at the undergraduate level, none of them has proven effective at graduate or professional schools. In 1995, for example, before traditional affirmative action was eliminated at the University of Texas Law School, 7.4 percent of first-year students were black and 12.5 percent were Mexican-American. But today, only 4 percent are black and 8 percent are Mexican-American. Similarly, at UC-Berkeley's law school, Boalt Hall, there were 14 blacks and 17 Hispanics in the 2001 entering class, down from 20 blacks and 28 Hispanics in 1996. At UCLA Law School, the 10 blacks and 26 Hispanics in the 2001 entering class were substantially fewer than the 19 blacks and 45 Hispanics in 1996.

Between 1997 and 2001, the number of blacks fell from 10 to 6 at UCLA Medical School and from 12 to 7 at UC-San Francisco Medical School. In the MBA program at UC-Berkeley, there were 3 blacks and 5 Hispanics in the 2001 entering class, down from 11 blacks and 15 Hispanics in 1996. And at UCLA, there were 9 blacks and 13 Hispanics in the 2001 first-year MBA class, compared to 13 blacks and 18 Hispanics in 1996.

The fact is, at the graduate level, there are few options for sustaining minority enrollments besides traditional affirmative action. Percent plans will not achieve graduate student diversity unless the undergraduate institutions they draw from are segregated.