think the Senate should vote. I believe the Senate should vote. I believe that is what the Framers expected, and I believe they never considered a minority of this body could obstruct the will of a bipartisan majority when it comes to the nomination of a highly qualified judicial nominee.

I hope at the appropriate time there will be that unanimous consent agreement and we will continue to debate Justice Owen's nomination for a reasonable period of time—as long as anyone has anything new to say—but, in the end, that we will have an up-or-down vote, which is something currently being denied to Miguel Estrada. I certainly hope the precedent that has been set now in the case of Miguel Estrada—which I believe is a black mark on the record of this institution—will not be repeated in the case of Priscilla Owen.

I thank the Chair, and I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BURNS).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Montana, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

LEGISLATIVE SESSION

CARE ACT OF 2003

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now return to legislative session and proceed to the consideration of S. 476, the CARE Act, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 476) to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

The Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I have a few remarks on the legislation. I am sure my good colleague, Senator BAUCUS, has remarks as the manager for the Democratic Members. We would also like to take quick action on a managers' amendment that is in order under a unanimous consent agreement. There are a few issues that have to be cleared on the amendment.

I rise to speak on the CARE Act of 2003. I will first talk generally about the charitable provisions in the bill and then talk about those provisions designed to combat corporate tax shelters.

The CARE Act seeks to support that great American tradition—helping a neighbor in need. Our Nation's tradition of caring and charitable support goes back to the founding. When faced with tragedy or hardship in our communities, we have always been a people who have rolled up our sleeves to pitch in, rather than leaning on a shovel waiting for the government to show up.

The charitable tradition in America has certainly been for the common good. Unfortunately, there are not many K Street lobbyists for charities and for the common good.

That is why this legislation is a direct testimony to the leadership of President Bush. There is no question that but for his efforts, this legislation for the common good would not have seen the light of the Senate floor.

Let me note that commentators have rushed to state that the President's efforts to strengthen America's charitable tradition has been watered down. Nothing could be further from the truth. This legislation goes far in meeting the President's ambitious goals for a greater role for charities in assisting those most in need.

And legislation is only part of the story. The President's speeches and visits have done even more to energize the charitable sector of this country. Hardly a week goes by when I am not stopped by someone who runs a charity, or is active in a charity, and they ask me how they can get involved in the President's proposal, how they can help. Clearly, President Bush's words have been heard by America's charities and they are eager to turn his words into deeds of compassion and aid.

In addition to this legislation being a tribute to President Bush's leadership, let me also note the tremendous efforts of Senators SANTORUM and LIEBERMAN to bring this bill to the Senate floor. I commend them for their energy in making the CARE Act a reality. Finally, I'm pleased to have worked with Senator BAUCUS, the ranking member of the Finance Committee. This legislation continues our bipartisan efforts as to tax legislation.

Mr. President, for the benefit of my colleagues let me now highlight some of the major tax provisions of the CARE Act that encourage charitable giving.

First, is the creation of a charitable deduction for nonitemizers. Given that over half of Americans do not itemize their tax return, this provision will encourage taxpayers to give to charities, regardless of income. The legislation allows for charitable deduction of up to $500 for a married couple giving over $500 per year. For an individual filing single, it is a deduction of up to $250 for a person who gives over $250 per year. For example, an individual who doesn't itemize and gives $400 to charity, could deduct $150 from their taxes. This provision was designed to encourage new giving and also limit possible abuses.

Next is a major provision that will provide for tax-free distribution from Individual Retirement Arrangements, IRAs, to charities. This is a provision that is important to many major charities, particularly universities. The Finance Committee heard testimony from the President of the University of Iowa about the importance of this provision in encouraging new giving. The legislation provides that direct distributions are excluded from income at the age of 70½ and distributions to a charitable trust can be excluded after the age of 59½.

We then have language that encourages donations of food inventory, book inventory and computer technology. I would note that my colleagues, Senator LUGAR, and Senator LINCOLN, a member of the Finance Committee, were strong advocates for the legislation involving food donation. I'm particularly pleased that this legislation will give farmers and ranchers a fairer deal when it comes to donation of food.

Conservation is also a part of this bill. Efforts to conserve our land and limit development benefit our Nation as well as farmers and ranchers who work on the land. The CARE Act contains language I have long supported that will encourage conservation of land through a 25-percent reduction in the capital gains tax of the sale of undeveloped land, or conservation easements. The sale must be to a charitable organization and the land must be dedicated for conservation purposes. I am pleased that President Bush also included this proposal in his budget.

The bill also encourages gifts of land for conservation purposes. This is an issue long advocated by Senator BAUCUS, which I am pleased to support.

These are the major tax provisions that encourage charitable giving contained in this bill. I would note that I am pleased that the legislation does contain provisions requiring greater sunshine and transparency in the work of charities. It is my belief that just as we are encouraging people to write more checks, we need to ensure that those checks are being cashed for a charitable purpose. In addition, the bill authorizes a serious increase in funding for the Exempt Organizations Office at the IRS to better police the few bad apples among the nonprofits.

My colleagues should also be aware that this legislation addresses the abuse of charities by terrorist organizations, making it easier to shutdown or suspend such organizations.

Let me note also that this bill contains $1.4 billion in new funding for Social Services block grants, SSBG. This is a very important provision that will greatly benefit the States and, more

importantly, those in need. I would note that this was a matter of great priority for me, and I am glad to see we have been able to include this funding. The provision also gives States greater flexibility in how to use the SSBG funds.

My colleagues will be pleased to know that this bill is fully paid for. I turn now to discuss those provisions regarding abusive corporate tax shelters that are of great importance.

We have known for many years that abusive tax shelters, which are structured to exploit unintended consequences of our complicated Federal income tax system, erode the Federal tax base and the public's confidence in the tax system. Such transactions are patently unfair to the vast majority of taxpayers who do their best to comply with the letter and spirit of the tax law.

As a result, the Finance Committee has worked exceedingly hard over the past several years to develop several legislative discussion drafts for public review and comment. Thoughtful and well-considered comments on these drafts have been greatly appreciated by the staff and members of the Finance Committee. The collaborative efforts of those involved in the discussion drafts combined with the recent request for legislative assistance from the Treasury Department and IRS formed the basis for our most recent approach to dealing with abusive tax avoidance transactions.

The antitax shelter provisions contained in the CARE Act encourages taxpayer disclosure of potentially abusive tax avoidance transactions. It is surprising and unfortunate that taxpayers, though required to disclose tax shelter transactions under present law, have refused to comply. The Treasury Department and IRS report that the 2001 tax filing season produced a mere 272 tax shelter return disclosures from only 99 corporate taxpayers, a fraction of transactions requiring such disclosure.

Today's bill will curb non-compliance by providing clearer and more objective rules for the reporting of potential tax shelters and by providing strong penalties for anyone who refuses to comply with the revised disclosure requirements.

The legislation has been carefully structured to reward those who are forthcoming with disclosure. I wholeheartedly agree with the remarks offered by a recent Treasury Assistant Secretary for Tax Policy, that ''if a taxpayer is comfortable entering into a transaction, a promoter is comfortable selling it, and an advisor is comfortable blessing it, they all should be comfortable disclosing it to the IRS.''

Transparency is essential to an evaluation by the IRS and ultimately by the Congress of the United States as to whether the tax benefits generated by complex business transactions are appropriate interpretations of existing tax law.

To the extent such interpretations were unintended, the bill allows Congress to amend or clarify existing tax law. To the extent such interpretations are appropriate, all taxpayers—from the largest U.S. multinational conglomerate to the smallest local feedstore owner in Iowa—will benefit when transactions are publicly sanctioned in the form of an ''angel list'' of good transactions. This legislation accomplishes both of these objectives.

This year's legislation contains a new provision that would clarify the economic substance doctrine. The economic substance doctrine was created by the courts as a flexible text to determine whether a transaction is a tax scam or valid business deal.

Last year, there were several court rulings that, in my view, misapplied this doctrine. These rulings now stand as legal precedent that can be used to justify abusive schemes in the future. Today's clarification is intended to overturn those rulings. If a court finds that a shelter violates our clarification, the shelter participant would be subject to a strict 40 percent penalty on any tax due. This is a very tough anti-shelter provision.

Mr. President, I appreciate my colleagues' patience as I have reviewed the key provisions of the CARE Act. I think it is legislation that provides needed encouragement for charities and charitable giving in this country. In addition, it takes real steps toward addressing corporate tax shelters. I strongly encourage my colleagues to support this legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I thank the chairman of the Finance Committee, Senator GRASSLEY, for the great job he has done in putting this bill together. It is not easy. There are lots of different components and many Senators have legitimately different points of view. I commend him for his yeoman work. He is not here at the moment, but I want him to know, in the arena of the Senate, and publicly, he has done a great job. The folks in Iowa must be very proud of him.

The chairman and I together are considering a bill designed to help charitable organizations—that is the main goal here—and, therefore, to help our communities.

The bill is called the Charity Aid Recovery and Empowerment Act, otherwise known as CARE. Our President said it well:

> In order to fight evil we must do good. [And] it is the gathering momentum of millions of acts of kindness and compassion which define the true face of America.

I think that is very true. More than peoples in any other country, Americans are noted for their openness, their generosity, and their kindness. At a time when Americans are at war and our economy is sagging, this bill is more important than ever.

The economy is in worse shape than it has been in over a decade. Too many Americans go to bed hungry at night. Two million Americans have lost their jobs since 2001. Men, women, and children are increasingly relying on charities to meet their needs. The problem is made worse because our States are strapped with huge budget deficits. States are actually the No. 1 provider of social services, but presently they are experiencing the largest deficits they have had in 40 years.

This is where charities come in. Charities deliver food, water, clothing, and counseling to those in need. They are the first responders to these quiet tragedies. Let me give a few examples from my own home State of Montana.

Each year, the Montana Food Bank Network serves 1.5 million meals, including 200,000 meals to our State's children. Clearly our children can't learn if they go hungry.

There are roughly 30 adult literacy programs in Montana serving over 5,000 people.

Programs such as the Adult Literacy Center in Billings, MT, and the Literacy Volunteers of America in Butte provide free adult literacy classes to anyone who walks in the door, free to anyone who walks in. Groups like the Blackfoot Challenge provide local voluntary solutions to environmental problems like restoring stream habitat.

I copied the model of Senator BOB GRAHAM of Florida. He has what is called workday projects once a month and I do, too. One day I worked at Blackfoot Challenge and all of us together in the Blackfoot Valley—not all but a bunch of us, 15 people—volunteered our time and work to restore a stream habitat. Ranchers in the old days just plowed a straight channel through their places and eliminated the meandering nature of streams, which made it difficult for bull trout to come up and spawn. We decided to do this project together, in part because the higher-ups couldn't agree on anything. The Fish and Wildlife Service, State Fish and Wildlife, and Parks and all the government agencies couldn't get together, so locally we just said we are going to do it ourselves—and we did. It is such volunteer, charitable efforts that make a huge difference.

Our State's economy also benefits from tourism, and keeping our streams clean and teeming with fish is good for our economy. In fact, I might say, I was delayed coming to the floor because I was talking to a fellow who could hardly wait to get back to Montana because the right hatch is going on now. He is going to go fishing in the next couple of days. He couldn't wait to get back home.

The list goes on: Montanans, working in homeless shelters, churches, libraries, schools, boys and girls clubs, substance abuse centers, and jails.

Our State is not alone. This is true all across our country. In communities, millions of Americans depend upon the generosity of their neighbors and upon charitable organizations. The CARE Act is designed to help these organizations, helping them by creating incentives to encourage more contributions to charity—help them receive more contributions.

Let me describe some of the main provisions of the bill. The provision that has received the most attention is the above-the-line deduction for charitable contributions for people who do not itemize their deductions. Most Americans actually use the standard deduction—about 70 percent. This says: OK, all you folks who use the standard deduction—that is, you do not itemize your deductions—we will provide for an above-the-line charitable contribution for you as well, even though you do not itemize.

I must say, I have some concerns about this provision. Why? Because we tried this before. It didn't work very well. That is why we eliminated the deduction in 1986. More specifically, I am concerned that the deduction will not provide much of an incentive for charitable giving while making the Tax Code even more complicated. Nonetheless, the President has made this particular proposal a top priority and, in light of that, I am willing to give the proposal a chance. So we limited the proposal to 2 years to give us time to study it and see how it is working and gain from the experience.

While the nonitemizer deduction has received most of the attention, there are several other provisions of the bill that have strong bipartisan support. They could provide a significant boost to charitable giving. First, we provide enhanced deductions for contributions of food, of books, and computers. In response to growing economic hardship and hunger that has gone along with it, we have increased the deduction for contributions of surplus food. In most cases, the Tax Code provides the same tax deduction for food hauled to a landfill as it does for food donated to charities. That does not make a lot of sense.

Businesses that choose to contribute food instead of throwing it away are faced with the added costs of storing, packaging, and trucking the food to the charity.

So our new enhanced deduction will encourage business, farmers, and ranchers to contribute the food by offsetting these costs associated with the donations.

This makes it easier for the farmer in Montana to receive a fair deduction for giving food to a local food bank, for example.

We also make it easier for a publisher to donate extra books to a local library. Sometimes lots of books get stacked up and cannot be sold. I think it is a good idea to be able to donate them. And kids will be able to get much better access to computers and cutting edge technology.

Second, we expand the IRA rollover exception to allow individuals to donate their IRAs directly to charity without taking a tax hit.

Under current law, taxpayers, say, who are prospective donors would include their IRA income as taxable income and then take a corresponding charitable deduction, subject to limits, when they want to donate that IRA to a charity. The provision in the bill makes that easier, allowing direct giving; that is, streamlining the process and eliminating the limits that impede giving.

Third, in this bill we provide several important new incentives for voluntary conservation; for example, incentives to encourage contributions of conservation easements, which are so important, especially for my State of Montana and throughout the Nation. This means that cash poor/land rich farmers—which I must say, regrettably, is the rule, not the exception—can donate the conservation rights of their property and get a tax benefit and still keep the family farm in the family.

While the majority of the provisions in this bill encourage giving to charities, there are also provisions that help ensure that charities are responsible public citizens. As many have noticed, national newspapers have recently detailed the secretive use of charities by terrorist organizations. This is, obviously, a serious problem. The large majority of American charities are law abiding and serve an invaluable function. But there are a few exceptions.

So this legislation gives authority to the IRS to immediately revoke the tax-exempt status of charities that are suspected of giving aid to terrorist groups. When there is a crisis in confidence with respect to charities, it hurts honest groups. The charities that have worked hard to further their noble missions should not be jeopardized because of bad ''charities'' doing bad things.

The Finance Committee bill attempts to cure this by giving watchdogs and donors better tools to monitor the activities of charities. The CARE Act gives State attorneys general more authority to review the IRS filings of tax-exempt organizations.

In addition, the bill lets donors see more information about communications between charities and the IRS. These important steps will go a long way to help restore America's confidence in charities.

I have just provided some highlights of the bill, but there are a number of other important provisions. All told, this package includes many proposals that enjoy widespread support. It has bipartisan support. In fact, many provisions have been approved by the Senate.

With war costs on the horizon, and current budget deficits, it is essential we pay for this bill. I applaud Chairman GRASSLEY for insisting that these tax cuts be paid for. So let me turn to the provisions which cover the costs.

First, we have included a proposal that takes aim at the proliferation of abusive tax shelters. I, along with Senator GRASSLEY, introduced the Tax Shelter Transparency Act to encourage more timely and accurate disclosure of these abusive transactions. Under the proposal, we provide a disincentive to promoters, advisors, and taxpayers by subjecting them to stiff penalties for failing to acknowledge these transactions to the IRS.

The proposal also clarifies a definition of what is known as economic substance. That means it forces companies to engage in real business planning instead of tax-driven hoaxes. The Joint Committee on Taxation recently released its Enron report. The transactions it reviewed demonstrate the need for strong anti-avoidance rules to combat tax-motivated transactions. These deals might satisfy the technical requirements of the Tax Code, as well as administrative rules, but they serve little or no other purpose than to generate income tax or financial statement benefits; that is, there is no economic substance to the transactions. And the American taxpayers are cheated, frankly—those who do not have the ability to hire high-paid counsel and accountants to find these very complicated measures which, frankly, even the IRS cannot figure out in a lot of cases.

It is just not right when the majority of taxpayers—such as the hardware store owner, say, in Butte, MT—have to pay their fair share of taxes while these big corporations twist their way out of paying their own fair share. That is, I think, simply wrong. But it is the right thing to do to use this proposal to pay for tax incentives to benefit the charitable community. It is the right thing to do and the right time to do it.

I urge my colleagues to support this legislation.

I yield the floor.

Mr. DURBIN. Mr. President, I rise today to discuss the CARE Act and my concerns regarding the implementation of President Bush's faith-based initiative.

Like many of my colleagues, I am a person of faith. I support the good work that religious organizations undertake every day. I agree with President Bush and the sponsors of this legislation that there is an important role for the Federal Government to play in encouraging religious organizations to do more for the good of society.

In fact, I support many of the provisions of the CARE Act before us today. For example, I have been an original cosponsor of the Charitable IRA Rollover Act and a cosponsor of the Good Samaritan Hunger Relief Tax Incentive Act in the last two Congresses. I also

support the increased funding for the Social Services block grant.

However, when I read the specific details of how the President is implementing his faith-based initiative, I am concerned that the good intentions behind this proposal may be lead to troubling, unintended consequences.

It appears that what the President wants to achieve with this initiative is to fundamentally change the historic balance in the relationship between government and religion that our founding fathers struck over 200 years ago.

I believe and many of my colleagues agree: this Senate debate is historic. With our deliberations, we will test Constitutional principles regarding the place of religion in America in a way they have never been tested.

That is why many Senators joined me in insisting that the Senate take all deliberate time and attention to carefully review this bill and to add language to clarify and improve the bill.

Since the Senator from Pennsylvania has agreed not to add language that would raise concerns with respect to church and state, I have joined with Senator JACK REED of Rhode Island in agreeing not to offer our amendments at this time. However, I would like to take this opportunity to express my concerns regarding the President's implementation of his faith-based initiative which, if offered at a later time, I hope will be subject to a vigorous, important, and historic debate in the Senate.

We should begin this debate at the beginning. The opening words of our Bill of Rights state that:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

For over two centuries, those 16 words have served us well and have protected religious freedom in America.

We must continue to respect the diversity of belief in America and remember that freedom from government interference was one of the few principles that early Americans, with a variety of religious backgrounds, could agree on.

In fact, many of the settlers who colonized America fled from religious persecution by government officials in their native countries and they still do.

James Madison recognized that this history of religious persecution was based upon Government involvement in establishing official churches. He believed that Government support of certain religions could threaten the liberty of every citizen to hold his or her own religious convictions.

Madison suggested that the Government support of religion differs only in a matter of degree, and he vehemently opposed the payment of taxes in support of any religion.

Before the American Revolution, the State of Virginia rescinded a tax in support of the Anglican Church, which was their so-called established church, and instead granted its citizens religious liberty. However, in 1784, Patrick Henry became concerned with the moral decline of Virginians and he proposed a bill to restore the tax to support ''teachers of the Christian religion.''

Madison responded to this proposal with his ''Memorial and Remonstrance against Religious Assessments.'' This document—written 16 years before the Bill of Rights was adopted—reveals the earliest origins of the concepts behind the first amendment: Madison expressed his opposition to Government involvement in religion because he believed such involvement would interfere with citizens' right of free exercise. Madison also believed that the right of religious freedom was as important as freedom of the press, trial by jury, and the right to vote.

According to Madison, his Memorial was so widely accepted that Henry's proposal failed and Virginia instead enacted Thomas Jefferson's ''Bill for Establishing Religious Freedom in Virginia.''

In this bill, Jefferson expressed his belief that religious liberty is necessary to ensure that individuals are not forced to support religious opinions with which they disagree, to practice faiths they find abhorrent, or to voice allegiance to one faith over another, and:

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful.

During their Presidencies, Jefferson and Madison had the opportunity to illustrate their understanding of the first amendment to the Constitution.

In 1801, the Danbury Baptist Association wrote a letter to President Jefferson because it feared that the State of Connecticut would establish the Congregationalist Church as the official religion.

Jefferson responded to the Danbury Baptist Association with a letter on January 1, 1802, in which he reaffirmed his belief that each individual has the right to hold whatever opinion he or she may choose and that the Government should not interfere in religion. This reply contained his now-famous view that the purpose of the first amendment was to build a—in Jefferson's words—''wall of separation between church and state.''

President Madison, in his 8 years in office, vetoed only seven bills—two of which he believed violated the Establishment Clause of the first amendment.

In 1811, Congress passed a bill entitled ''An act incorporating the Protestant Episcopal Church in the town of Alexandria in the District of Columbia.'' This bill would have enacted the rules of the church as a matter of law, thereby giving legal force to the provisions of the church's constitution.

Madison believed that even supporting churches in their charitable functions would give religious organizations too much power in public and civic affairs. He wrote that the bill would be ''precedent for giving to religious societies as such a legal agency in carrying into effect a public and civic duty.'' Think of those words in the context of the proposal before us.

Madison also vetoed a bill ''An act for the relief of Richard Tervin, William Coleman, Edwin Lewis, Samuel Mims, Joseph Wilson, and the Baptist Church at Salem Meeting House, in the Mississippi Territory.'' This bill would have given a Baptist Church specific Federal Government property for the church's use.

Madison believed that:

> reserving a certain parcel of land of the United States for the use of said Baptist Church comprises a principle and precedent for the appropriation of funds of the United States for the use and support of religious societies, contrary to the article of the Constitution which declares that ''Congress shall make no law respecting a religious establishment.''

Thanks to Jefferson and Madison, first amendment protections have made America the most tolerant society in the world—a tolerance many of our critics around the world neither understand nor accept. They live in nations where government and religious belief are so closely entwined that diversity of creed is officially discouraged, if not prohibited.

Each of us, when we return home, can drive through our cities and see a Protestant church down the street from a Catholic church, next to a Jewish synagogue which is not too far from a Muslim mosque, and perhaps across the street from a Sikh Gur-dwala. Some churches even share their facilities with congregations from other religious and ethnic groups. To me, this is proof positive that the wisdom of the first amendment is alive and well in America today.

Although some may argue that the faith-based initiative does not ''establish a religion,'' the Supreme Court has ''long held that the First Amendment reaches more than classic, 18th century establishments.''

Indeed, the Supreme Court has examined the history of the first amendment and has come to the same conclusion that I have reached:

> For the men who wrote the Religion Clauses of the First Amendment the 'establishment' of a religion connoted sponsorship, financial support, and active involvement of the sovereign in religious activity.

That comes from the case of Walz v. Tax Commission in 1970.

This is one principle that President Bush seems to be willing to accept. I am heartened that the White House publication Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government is clear that faith-based organizations cannot use any part of a direct Federal grant to fund religious worship, instruction, or proselytization. Such activities must be separate in time or location.

The President also agrees that faith-based organizations cannot discriminate against beneficiaries or potential beneficiaries of a social service on the basis of religion.

However, one area where we clearly diverge is the issue of employment discrimination on the basis of religion.

The Civil Rights Act of 1964 prohibits most public and private employers with 15 or more employees from discriminating in their employment practices on the basis of race, color, national origin, sex, and religion.

However, religious employers have an exemption with respect to religious discrimination, which was expanded in 1972.

I will read the current exemption:

This subchapter shall not apply . . . to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

In 1987, the Supreme Court upheld this title VII religious exemption in the case of Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos.

I support this right of religious organizations to use religious criteria in hiring people to carry out their religious work. I have no quarrel with the title VII religious exemption. It makes sense for people of common faith to work together to further their religion's mission.

At the same time, I recognize that discrimination ''on the basis of religion'' can often include discrimination based on other factors that are prohibited by civil rights laws, such as race, ethnicity, and sex.

Dr. Martin Luther King, Jr., observed that the hour of worship is one of the most segregated hours in American society. Sadly this is still true today, but many people of similar racial or ethnic backgrounds do prefer to worship together, and there are churches throughout this Nation that target only certain races or ethnic groups.

So, unfortunately, allowing religious organizations to hire only members of their own religion, in many cases, can also mean hiring only members of a certain race or ethnic background.

For example, if employment is limited to the co-religionists of the recipients, how many African Americans will be hired by Orthodox Jewish groups? How many white people will the Nation of Islam employ as security guards in public housing? And what of the many Protestant groups that are overwhelmingly White or overwhelmingly Black or overwhelmingly Hispanic?

The courts also have read the title VII exemption very broadly to allow discrimination on the basis of religion to include the religion's ''tenets and teachings.'' This broad reading has resulted in situations where people of faith who do not necessarily follow the accepted lifestyle or private behavior of that religion have lost their jobs.

Here are some examples of how this law discriminates against people's everyday behavior in addition to their religious beliefs:

In the case of EEOC v. Presbyterian Ministries, Inc., a Christian retirement home fired a Muslim receptionist after she insisted on wearing a head covering as required by her faith.

The Church of Jesus Christ of Latter-Day Saints fired several employees because they failed to qualify for a ''temple recommend,'' that is, a certificate that they were Mormons who abided by the church's standards in such matters as regular church attendance, tithing, and abstinence from coffee, tea, alcohol, and tobacco.

This exemption, unfortunately, has had a particularly harsh impact on women and people of different sexual orientation. Here are some examples of how courts have interpreted this exemption to allow employment discrimination against women and gays under the current title VII exemption:

Numerous Christian schools fired female teachers for having extramarital sex or committing adultery; upheld by the court. A Catholic school fired a teacher who remarried without seeking an annulment of her first marriage in accord with Catholic doctrine; upheld by the court. A Catholic school fired a teacher for marrying a divorced man; upheld by the court. A Catholic university refused to hire a female professor because her views on abortion were not in accord with Catholic teaching; upheld by the court. A Baptist nursing home fired a student services specialist after she was ordained a minister in a gay and lesbian church that advocated views on homosexuality ''which were inconsistent with the [school's] perception of its purpose and mission''; upheld by the court. A church terminated the employment of an organist on the grounds that his homosexuality conflicted with the church's belief; upheld by the court.

I regret that these may be unintended discriminatory consequences today under the title VII exemption where religious organizations hire people using money raised by the church from its own congregation. But what of the case we are discussing? We are not talking about a situation where churches are spending their own money for their own religious purposes and following their own employment codes and practices under the title VII exemption. We are talking about opening up a new world where tax dollars are taken from the treasury and given to these same churches. What if the money is not raised by the congregation or coreligionists, but the money is being raised from the taxpaying public? What standard should we use?

Most scholars agree it is an open legal question as to whether a religious organization can take taxpayer money and use it to discriminate in hiring employees on the basis of religion. It would seem to me that the obvious answer to this question is no. Any other response would result in taxpayer-funded discrimination. I will return to this question and the reasons for my answer after examining asking how this issue fits into the broader picture of the President's faith-based initiative.

The faith-based initiative has been marketed as a proposal to ''level the playing field'' for religious organizations that seek government funds to pay for social service programs. However, it appears that the supporters of the initiative do not want to level the playing field; they want to create a special set of rules for religious organizations which would result in special treatment that other nongovernmental organizations do not currently enjoy.

President Bush has demonstrated, through his Executive orders and agency regulations, that his faith-based initiative goes far beyond religious icons, religious names, religious language in chartering documents or religious criteria for membership on governing boards. I do not object to any of those stated goals which I have heard from the Senator from Pennsylvania and the Senator from Connecticut as well as the President. I have seen the enforcement of rules and standards which I think have gone way too far.

I can think of my own hometown of Springfield where there is a long-simmering controversy still brought up regularly about whether a teacher could come in and teach a driver training course at the Catholic high school if that teacher were paid for out of public school funds and that Catholic high school and its classroom had a crucifix on the wall. It rubbed a lot of people of my Catholic religion the wrong way, that people would argue that the mere presence of that crucifix was somehow offensive or violated the law. That argument goes to the extreme. I do not hold those views. I support the position stated time and again by the Senators from Pennsylvania and Connecticut that we ought to draw a more reasonable line. The House of Representatives, with mottos on the walls ''In God We Trust,'' with our currency reflecting that, with chaplains in the House and Senate, we can state a reasonable standard that does not violate the basic freedom of religion or establishment clause of our Constitution. But I do object to the administration bypassing Congress to write one set of rules for secular organizations and another for religious organizations.

For example, all recipients of government grants currently are required to abide by a host of regulatory requirements, including filing IRS documentation and complying with all State and local laws. Supporters of the faith-based initiative would like to exempt religious organizations from complying with these important regulations, such as those dealing with health and safety. Explain that for a moment.

If in the State of Illinois or my city of Springfield someone wants to run a daycare center and we have decided, for the safety of the children in the

daycare center, there should be perhaps a sprinkler system, a fire alarm, or a fire escape, certain doors so that kids can get out in case of emergency, why, if this becomes a faith-based childcare center, should we reduce or limit that same application of health and safety standards? It doesn't make sense. One of the amendments which needs to be offered as part of this conversation on faith-based initiatives will address that.

Take a look at the Teen Challenge substance abuse program which President Bush has mentioned many times. In 1995, the Texas Commission on Alcohol and Drug Abuse threatened to close Teen Challenge after issuing a 49-page list of violations of State health and safety codes. The list included unlicensed counselors, food preparation that created a health hazard, a broken smoke detector system, and exposed wires and electrical outlets. Then-Governor Bush responded by exempting faith-based drug treatment programs from all of the State health and safety regulations that were followed by their secular counterparts.

I don't know how you could reach that conclusion. It is one thing to be imbued with a religion; it is another thing to ignore the obvious. If there is a terrible accident or fire or some disaster, children in faith-based institutions deserve the same level of legal protection as those in institutions run as businesses.

This special treatment was not limited to drug treatment programs. Faith-based childcare centers and residential children's homes could use an alternative accreditation program that would exempt them from State licensing. The special treatment for these alternatively accredited facilities was that there were no unannounced inspections of the facilities as required by State law. As a result, the rate of confirmed abuse and neglect at alternatively accredited facilities was 25 times higher than that of State-licensed facilities. Whom are we doing a favor for by exempting the faith-based charity from standards of unannounced inspections to make certain that they are living up to the letter of the law?

The complaint rate at alternatively accredited facilities was 75 percent compared to 5.4 percent at State-licensed facilities. Due to these staggering outcomes, this accreditation program sunset in 2001 and has never been renewed.

The White House has also given indications it may provide special treatment to religious organizations by exempting them from State and local laws addressing employment discrimination. I have a great deal of respect for the Salvation Army. They do wonderful work, not only in the United States but around the world. But they had a rather embarrassing incident in July of 2001 when an internal report was discovered that stated their group had received a ''firm commitment'' from the Bush White House to protect religious charities from State and local laws regarding sexual orientation discrimination and domestic partner benefits. I hope that is not the goal of the Bush White House in pushing this faith-based initiative.

Over the past 2 years, President Bush and his faith-based initiative have repeatedly eroded 200 years of carefully protected separation between church and state. In what the Washington Post called ''faith-based by fiat,'' President Bush signed Executive Order 13279, in December of 2002, to overturn principles of nondiscrimination in Federal contracts that have stood for over 60 years.

The House of Representatives is currently considering the reauthorization of the Workforce Investment Act. The legislation has been marked up in the House, and it would repeal 20 years of civil rights protections against religious discrimination. The House also has held hearings regarding the reauthorization of the Corporation for National and Community Service, known as AmeriCorps. In its proposed legislation, the House would repeal a decade of civil rights protections against religious discrimination in employment that were signed into law by President Bush's father.

Finally, the Department of Housing and Urban Development has proposed rules to allow religious organizations to use Federal funds to build centers where religious worship is held as long as parts of the building are also used for social services.

Supporters of the faith-based initiative want to know why we are raising these issues now, when Congress included charitable choice provisions in legislation we passed as far back as 1996. The difference is this: Then-President Clinton made it clear, as part of the technical corrections package to the welfare reform bill, that nothing included therein would change the fundamental protections against religious discrimination which were currently in the law. President Clinton did that as well in the reauthorization of Community Services Block Grant Programs in 1998 and the reauthorization of the Substance Abuse Mental Health Services Act in 2000. Unfortunately, in this debate, that same assurance has not been given.

I want to go to a point which really gets to the heart of the issue. It is a difficult one. It is one for which I don't have an answer. When you talk about faith-based initiatives, you are talking about religion in America. The obvious and important question is: What is a religion? There are many that we readily will recognize as being established religions of all different denominations. But when it comes to the definition of religion, many people self-define their beliefs and activities as religion.

Jim Jones led people to a mass suicide in Guyana, and David Koresh and his Branch Davidians in Waco, TX, have become scarred in the American memory as tragic reminders of what happens when people are blindly led by fanatics who use the guise of religion for their own personal, violent agenda. I represent a State which is the home of the so-called World Church of the Creator, which has to be one of the most perverted extremist groups in America that I know of, which claims itself to be a religion. On its Web site, the so-called ''Reverend'' Matt Hale—who graduated from law school but was not allowed to be licensed under the rules and practices of the bar in Illinois—proudly welcomes visitors, saying:

> We are a religious, nonprofit organization, with our world headquarters in the State of Illinois. At the time of this writing, we have 24 regional and local branches of the church and members all over the world.

What are the tenets of his church and religion, of this World Church of the Creator? Here is what he says in his own words:

> After 6,000 years of recorded history, our people finally have a religion of, for, and by them. Creativity is that religion. It is established for the survival, expansion, and advancement of our white race exclusively. Indeed, we believe that what is good for the white race is the highest virtue, and what is bad for the white race is the ultimate sin.

I cannot think of any more hateful rhetoric spewed in the name of religion. That is exactly what is happening today. Recently someone challenged their dismissal of employment because they were members of this church. The court came back and said it is a religion and has to be treated as such for the purpose of the Civil Rights Act of 1964.

So here we come to a point where we are talking about giving Federal dollars to those who call themselves religions for the purpose of performing social services. What is the threshold question we should ask? Is this truly a religion or is this something else in the guise of a religion? What are we doing with taxpayer dollars? Would we want to spend $1 supporting the racist views of the World Church of the Creator because they tell the Federal Government they have a program to deal with drug abuse or to provide childcare services in central Illinois? I hope not. But once you have opened this door and start talking about Federal dollars given to religion for social services, you open up a can of worms, a set of questions and great challenges that we have not faced for many years, if ever.

I am worried as I look across the various religions of the world, not just those purporting to be Christian but some who are members of different religions that have taken what in fact are extreme views.

It was only a little more that a year ago that the people of Afghanistan were still suffering under the violent and oppressive regime of the Taliban, which suppressed and punished its people in the name of Islamic fundamentalist religious beliefs.

Thanks to the leadership of the United States and our military, we

have now liberated the Afghan people from the Taliban, which, like Al Qaeda, had distorted the peaceful religion of Islam for their own destructive purposes.

The leaders of the Taliban were trained in ''madrassas,'' which are characterized as religious schools. But those familiar with these institutions often call many of them ''jihad factories'' because of the extreme nature of their ''religious'' indoctrination and the militancy they train.

At madrassas, the Taliban preached that freedom afforded to women is the main reason for social degradation, and that the best place for women was inside the four walls of their homes—cut off from education and cut off from opportunity.

They also preached that television is the ''spark of hell'' responsible for moral degradation, and watching it or listening to music was un-Islamic and sinful. And when they came to power, the Taliban put all of these distorted lessons to practice against their own people.

The Taliban is perhaps the most recent example of extremism in the name of religion that we have witnessed.

But since the 1979 Islamic revolution in Iran, we have seen numerous radical Islamic fundamentalists utilize their religious ideology as the driving force behind the most active Middle Eastern terrorist groups and state sponsors.

For example, Hizballah of Lebanon calls itself the ''Party of God'' although there is nothing godly about its terrorist activities.

Hizballah was founded in 1982 as a faith-based organization by Lebanese Shiite clerics who were inspired by the Islamic ideology of Iran's Ayatollah Khomeini. Its original goal was to establish an Islamic republic in Lebanon. But many of the Shiite Muslims who rule Hizballah studied in Iran's theological seminaries while receiving terrorist training there as well.

The trainings paid off as this terrorist group became responsible for the detention of most, if not all, American and other Western hostages held in Lebanon during the 1980s and early 1990s. Eighteen Americans were held hostage during that period, three of whom were killed.

Hizballah is also suspected in the April 1983 suicide truck bombings of the U.S. Embassy in Beirut and the U.S. Marine barracks in October 1983 that killed 220 Marine, 18 Navy and 3 Army personnel.

And Hizballah is also suspected to have been behind the hijacking of TWA Flight 847 in 1985, and the killing of a Navy diver, Robert Stethem, who was on board.

Hamas, Al-Jihad, Abu Sayyaf, and Islamic Movement are some of the other better-known extremists that argue their organizations are based on Islamic religious beliefs.

There are radical Jewish groups as well, such as Kach and Kahane Chai. These two Jewish movements seek to expel all Arabs from Israel and expand Israel's boundaries to include the occupied territories and parts of Jordan. Founded by extremist Rabbi Meir Kahane, these groups also argue for strict implementation of Jewish law in Israel.

I do not mean to suggest here that the President's faith-based initiative will necessarily lead to such religious extremism.

At the same time, I want to make it clear that this is not an easy question. To dismiss it simply as a question about whether or not we are tolerant of religion is one thing, but the question of whether we are going to subsidize religious belief that reaches the extreme is really something else.

The important message we must send is that religious organizations that take taxpayers' money should not be able to use those funds to discriminate in hiring employees on the basis of religion. The American people have been asked their opinion on this issue. The response is interesting.

According to the Washington Post, in a 2001 survey conducted by the Pew Research Center:

> When people were asked whether ''religious groups that use Government funds [should] be allowed to hire only those who share their religious beliefs,'' 78 percent said ''no'' and 18 percent said ''yes''—a degree of objection that so surprised researchers that they repeated the question three different ways. . . .

They received the same answer time and time again. On the other hand, the Bush administration believes that Government-funded discrimination in hiring on the basis of religion is acceptable.

According to a U.S. Department of Justice Office of Legal Counsel memorandum on June 25, 2001:

> We conclude, for the reasons set forth more fully below, that a faith-based organization receiving direct Federal aid may make employment decisions on the basis of religion without running afoul of the Establishment Clause.

In the only case that directly addressed whether the Title VII exemption applies to a position funded by government funds, the Southern District Court of Mississippi ruled that it did not.

In the 1989 case Dodge v. Salvation Army, Jamie Dodge was employed by the Salvation Army in its Domestic Violence Shelter as the Victims Assistance Coordinator.

After the Director of the shelter saw Ms. Dodge using the Salvation Army's copy machine, Ms. Dodge admitted that she had made copies of manuals and information on Wiccan rituals.

Soon after making these admissions, Ms. Dodge was terminated.

She filed a complaint that because the shelter where she worked received substantial federal and state funds, the Title VII exemption could not be applied to her.

The District Court ruled that ''even though the religious exemption does permit the Salvation Army to terminate an employee based on religious grounds, the fact that the plaintiff's position as Victims' Assistance Coordinator was funded substantially, if not entirely, by federal, state, and local government, gives rise to constitutional considerations which effectively prohibit the application of the exemption to the facts in this case.''

Furthermore, the Court held that ''Based on the facts in the present case, the effect of the government substantially, if not exclusively, funding a position such as the Victims' Assistance Coordinator and then allowing the Salvation Army to choose the person to fill or maintain the position based on religious preference clearly has the effect of advancing religion and is unconstitutional.

Despite this ruling, the issue is considered an open legal question because the case was not considered beyond the District Court and there are several other cases which at least partially address this question.

However, this is not just a legal question or a hypothetical line we are drawing in the sand.

One of the cases I would like to point out is a case that really talks about discrimination firsthand. It is the case of Alan Yorker and his experience with United Methodist Children's Home in Decatur, GA. The children's home, which receives almost half of its money from Government sources, provides residential group foster care for 70 young people, many of whom are in State custody.

Mr. Yorker responded to an advertisement in the Atlanta Journal-Constitution for a position at the home. As a psychotherapist with over 20 years experience counseling young people and their families and over a decade of experience teaching in Emory University professional schools, the home determined that his credentials placed him among the top candidates for the position. He was rushed in for an interview, where he was required to disclose in an application form his religious affiliation, his church and minister. Mr. Yorker, a Jew, supplied the names of his synagogue and rabbi. During the interview, an administrator noted that Mr. Yorker was Jewish and told him that this children's home doesn't hire people who are Jewish. He was shown the door.

Let me tell you that this didn't happen decades ago; this is of recent vintage. The same administrator told another employee that it is the home's practice to throw the resumes of applicants with Jewish-sounding names in the trash. The Yorker name got past her.

Ironically, Yorker has not always been the family name. Alan Yorker's Jewish paternal grandfather, Harry Monjesky, spent many years as a conductor on the New York Central Railroad. When the railroad began to face tough times, Jewish and African-American workers were singled out for layoffs first, regardless of their seniority.

Mr. Monjesky was fired and left without a livelihood. Several years later, when Alan's father reached adulthood, he changed his name to Yorker. He wanted to make sure that his children would be judged by their merit and not by their surname or private religious beliefs.

That is how Alan Yorker's resume landed at the top of the pile instead of the home's trash bin. And nearly a century after his grandfather was turned away by the Railroad because of his religion, Alan Yorker faced the same discrimination when applying for a government-funded position.

I will conclude by saying that these are examples of what is being done in the name of religion. For it to be done by a religious organization to achieve a religious goal, with funds raised by coreligionists, is certainly allowed in title VII of the Civil Rights Act. To say, however, that we are going to open the Federal Treasury and provide millions of dollars to religions for social services, and then approve of their discriminatory activity in the name of religion, is branching out in a direction that our Founding Fathers could never have considered, let alone condoned.

In light of this complex constitutional issue, I think it is fair to ask why we even need a faith-based initiative. President Bush believes it is necessary because ''people should be allowed to access money without having to lose their mission or change their mission.'' However, current law already permits groups that are affiliated with religious entities to provide social services with Government funding.

Catholic Charities, Lutheran Social Services, Jewish Federations, and many other religious organizations have received—and continue to receive—taxpayer funds from the Government to provide much-needed services that our Government is often unable and unavailable to provide.

These organizations access Federal funds without changing their missions. For example, Catholic Charities has a publication entitled ''10 Ways Catholic Charities are Catholic.'' At the same time, Catholic Charities in Chicago, which I am proud to represent, also issues the following statement on its Web site:

> Catholic Charities employs more than 3,000 dedicated, compassionate and professional men and women, regardless of race, religion, or ethnic background.

Many Catholic Charities across the Nation have similar equal opportunity statements.

As thousands of Americans visit our Nation's Capital, many will stop at the Jefferson Memorial and read the following inscription, in the words of Thomas Jefferson:

> No man shall be compelled to frequent or support any religious worship ministry or shall otherwise suffer on account of his opinions in matters of religion.

These words, from Jefferson's ''Bill for Establishing Religious Freedom in Virginia,'' are as relevant now as they were in 1785. Although we don't debate the faith-based initiative proposal in its entirety today, I look forward to the opportunity to continue to protect our historic balance in the relationship between church and state.

I yield the floor.

Mr. KENNEDY. Mr. President, the CARE Act is a significant bipartisan effort to create improved opportunities for charitable giving. That is a goal I wholeheartedly support. Charitable giving is a continuing reaffirmation of the deeply held community spirit of the American people. It recognizes our responsibility to help the less fortunate, and the work of charitable organizations is essential in protecting the well-being of millions of our fellow citizens.

The key provision of the bill will at long last allow those who do not itemize their deductions to receive a tax deduction for their charitable contributions. This deduction will benefit millions of low and middle-income families who are already making significant charitable contributions each year, and it will encourage even more charitable contributions in future years.

The agreement to remove the controversial title 8 makes sense, so the bill can move quickly through Congress. All of us share the goal of enhancing community-based services for low-income people through public, private, and faith-based organizations. Our concern with title 8 was that it failed to see that faith-based organizations do not use these public funds to discriminate on the basis of religion.

Many of us continue to be concerned about a separate development on the discrimination issue. The President has issued an Executive order repealing more than 60 years of Federal protections against religious discrimination in publicly funded programs. Under the President's order, organizations can receive public funds and then refuse to hire persons because of their religion, their marital status, or their sexual orientation. As the Senate considers future legislation to support and fund community-based organizations that provide social services, including faith-based organizations, I look forward to working with my colleagues to see that civil rights protections are safeguarded.

I am pleased that the CARE Act restores funding for the social services block grant. Congress made a promise in 1996 to do so, and it is essential to keep that promise, so that vulnerable Americans can continue to rely on the funding in the years ahead.

For too long, Congress has ignored its responsibility to those most in need. Since 1995, annual funding for SSBG has been cut by more than $1 billion, from a high of $2.8 billion to the current level of $1.7 billion. This bill will restore the amount to $2.8 billion in the next fiscal year.

The social services block grant pays for critical services for 11 million children, families, seniors, and persons with disabilities each year. In 2000, $683 million in these funds was used to support child protective services, foster care, and adoption services alone. Twelve percent of the funds was used for disability services, and $181 million was used to provide services to the elderly. This program is the only Federal source of funding for Adult Protective Services, which provides assistance and protection for elderly and disabled adults who are victims of abuse.

Restoring these funds is especially important now, when most States are cutting and even eliminating the very services and programs that the social services block grant was enacted to support. The economic downturn, escalating State deficits, and reduced funding for social services, has left State program officials with the impossible task of deciding who to help and who to turn away.

We must do all we can in Congress to ensure that States have the resources they need to support their most vulnerable citizens. I commend my colleagues on the Finance Committee on the provision to restore SSBG in the CARE Act for the coming year. Our goal now is to see that we keep doing that in future years as well.

Today's action should not be just a temporary, 1-year fix. We owe a lasting commitment to the children, families, and seniors who need our help the most, and I look forward to working with my colleagues to achieve this goal.

Mr. JEFFORDS. I would like to briefly discuss one of the provisions in the CARE Act, an incentive that will encourage the conservation of environmentally sensitive land. This conservation incentive will allow landowners who own environmentally sensitive land to exclude part of the gain they realize if they sell their land to conservation organizations for the purpose of conservation.

We are losing our farms, ranches, and open spaces at an alarming rate. Many landowners would like to transfer their land to a conservation organization that would conserve it or preserve its original use. For many of them, however, donating land to a conservation organization is not an option. Their land is an important asset, the sale of which will yield an important source of income.

The CARE Act creates a new tax incentive for these ''land rich/cash poor'' taxpayers who cannot take advantage of the current law's charitable deduction. This new incentive is an exclusion from income for one-fourth of the gain that taxpayers realize upon a sale of land, when the land is sold for conservation purposes, to a conservation organization. The exclusion will also be available for a transfer of a partial interest, such as a conservation easement. With this provision, landowners would pay less tax when they transfer land for conservation purposes.

I first introduced a bill similar to the CARE Act provision in the 106th Congress. In 2000, both Presidential candidates endorsed this approach. This year, and in the previous 2 years, a provision like the conservation exclusion in the CARE Act has been included in the President's budget proposals. It has also been endorsed by a diverse range of interest groups, including the Farm Bureau, Ducks Unlimited, the Land Trust Alliance, the American Farmland Trust, and the Nature Conservancy.

My bill—and President Bush's budget proposals—called for a 50-percent exclusion. If, as I believe, this tax incentive proves to be an effective way to encourage conservation, I hope that we will someday be able to increase the exclusion. This new tax incentive will mean more conservation with no new appropriations, and no new restrictions on land use. It adopts a new, market-based approach to conservation, using funds that have either been privately raised or set aside by State and local governments.

Mr. LUGAR. Mr. President, I rise today in support of the Charity, Aid, Recovery, and Empowerment Act. I am proud to be an original cosponsor of this important legislation, which would encourage more citizens to contribute to non-profit programs and institutions. I want to commend my colleagues, Senators SANTORUM and LIEBERMAN, for introducing this important bipartisan legislation. The CARE Act is designed to promote charitable giving at a time when charities report increasing demands on their services along with a decline in contributions.

After the tragedy of September 11, charitable contributions were greatly deminished. Donations to charitable organizations dropped last year by 2.3 percent and they are lagging even further behind this year. At the same time, more people are turning to charities for help because of job lay-offs, health concerns, and the needs of our children. The tax incentives contained in the CARE Act to encourage charitable giving are needed now more than ever.

Included in this bill is language to encourage charitable giving by allowing a tax deduction for charitable giving for non-itemizers. Eighty-six million Americans do not presently itemize their deductions on their tax returns. This provision would allow for a tax deduction up to $250 for individuals and $500 for couples. Organizations such as the American Red Cross, the March of Dimes, and other charitable organizations that rely on low dollar donations believe that they will be able to generate more donations if everyone could take a deduction regardless of which form they file with the Internal Revenue Service.

The ability to roll over excess funds from Individual Retirement Accounts to a charitable organization or university is also a part of this legislation. Many organizations and universities benefit from planned gift revenues. The IRA rollover provision will allow charities to increase the number of planned gifts, while being able to diversify their planned gift portfolios.

I have been a supporter of Individual Development Accounts and was pleased that this initiative to expand these accounts is included in the bill before us. These accounts are made up of dollar-for-dollar matching contributions up to $500 from banks and community organizations to be used by lower-income working families to buy a home, start or expand a small business, or pay for college.

I believe that one of the most important provisions that has been included in this bill is the Hunger Relief Tax Incentive Act. This important provision allows for expanded charitable tax deductions for contributions of food inventory to our nation's food banks. Demand on food banks has been rising, and these tax deductions would be an important step in increasing private donations to the non-profit hunger relief charities playing a critical role in meeting America's nutrition needs.

As I have traveled around Indiana, I have visited many food banks in our state. They have confirmed the results of a study by the U.S. Conference of Mayors that showed demand for food at food banks has risen significantly. The success of welfare reform legislation has moved many recipients off welfare and into jobs. In many states, welfare roles have been reduced by more than half. But we need to recognize that these individuals and their families are living on modest wages. As the states' unemployment rates have risen, so has the demand placed on the food banks and soup kitchens.

According to the Conference of Mayors survey, during the last year, requests for emergency food assistance has increased one hundred percent. Forty-eight percent of the people requesting emergency food assistance are either children or their parents. The number of elderly persons requesting food assistance has increased by ninety-two percent.

Private food banks provide a key safety net against hunger. According to an August 2000 report by USDA, 31 million Americans are living on the edge of hunger.

USDA statistics show that up to 96 billion pounds of food go to waste each year in the United States. If a small percentage of this wasted food could be redirected to food banks, we could make important strides in our fight against hunger.

The food bank provisions under the CARE Act would allow farmers and small business owners to take a deduction when they donate food to their community food bank. Currently this deduction is available to large corporations but not to small businesses. This approach would stimulate private charitable giving to food banks at the community level.

Each citizen can make an important contribution to the fight against hunger at a local level. I have been especially impressed by the remarkable work of food banks in Indiana. In many cases, they are partnered with churches and faith-based organizations and are making a tremendous difference in our communities. We should support this private sector activity, which not only feeds people, but also strengthens community bonds and demonstrates the power of faith, charity, and civic involvement.

I would like to thank Senators SANTORUM, LIEBERMAN, GRASSLEY, and BAUCUS for their efforts in helping America's charities meet their funding goals, and to those individuals who take advantage of the services provided by these groups.

Mr. GRAHAM of Florida. Mr. President, I am pleased that the Senate is considering the CARE Act today. By enacting this legislation, Congress acknowledges the inherent good in millions of Americans.

The bill includes a number of changes to the tax rules that will make it easier for individuals to donate to the tens of thousands of worthwhile charities that operate across this nation. By making the charitable deduction available to those taxpayers who don't itemize their deductions, married couples can deduct as much as $500 of the contributions they make to charity.

Provisions in the legislation also make it easier for individuals to donate funds they have saved in an IRA. Rather than having to report this amount in income and then take a commensurate deduction for the contribution, the new rule allows the funds to be transferred directly to the charity.

The bill also eases the burden of gaining tax benefits for those individuals who wish to make donations of food, books, and scholarly compositions to charity.

While these charitable giving incentives are useful to many citizens and the charities they desire to help, this legislation may be even more important because it contains strong provisions that will help the Internal Revenue Service and the Nation's courts crack down on abusive tax shelters.

In his last report to the IRS Oversight Board, the IRS Commissioner Charles Rossotti identified abusive corporate tax shelters and promoters of tax schemes of all varieties as among the most serious compliance problem areas. In addition to the revenue lost by the Federal Government—funds that could be used for defending the homeland, education, and protecting the environment—the proliferation of these schemes represents in Commissioner Rossotti's words ''a failure of fairness to the millions of honest taxpayers whose commitment to paying their taxes is based on the principle that the IRS will act if they or their neighbors do not pay their fair share.''

This administration has been slow to embrace measures that crack down on those who manipulate the Tax Code to

avoid paying their taxes. Despite the previous administration having identified the proliferation of tax shelters as a large and growing problem as far back as 2000, President Bush's initial budget contained no legislative recommendations to stem the proliferation of tax shelters.

Only after it became clear that Congress was going to address this issue, did the Bush Administration take notice. Even then, their approach to combating this problem was, at best, timid. The Bush administration's solution was to continue to rely solely on the Service's ability to detect an abusive tax shelter from within the minutiae of a taxpayer's tax return. If the Service was fortunate to uncover a tax shelter, it could then initiate steps to shut it down. This is a difficult and time-consuming process for the IRS to undertake.

While disclosure of these schemes by taxpayers and promoters can be useful in combating the proliferation of tax shelters, the IRS also needs some additional tools. This is why the bill includes a statutory requirement that transactions utilized by taxpayers have an economic rationale beyond the creation of tax benefits, commonly referred to as the ''economic substance doctrine''. The bill backs up this new requirement with stiff penalties for taxpayers who engage in such transactions.

It is a simple requirement. You don't even need to be a tax attorney to understand it. Simply put, it would require that transactions conducted by taxpayers have a business purpose. What does that mean? The proposal requires that a taxpayer have a reason other than the creation of tax benefits for engaging in a transaction.

A cursory review of the recent Joint Committee on Taxation report on the tax returns of Enron Corporation highlights the dire need for this legislative change. The Joint Committee on Taxation found that Enron paid total federal income taxes for the period 1996 through 2001 of $63 million. During this same period Enron reported to investors that it had profits of nearly $6 billion. How was Enron able to paint such obviously contrasting pictures?

According to the Joint Committee on Taxation's report, Enron transformed its tax department from an administrative function to a profit center. Enron spent millions of dollars on tax attorneys and shelter promoters who helped it cook up transactions that had no purpose other than to artificially reduce its tax liability.

According to the JCT Report, these transactions:

> demonstrate the need for strong anti-avoidance rules to combat tax-motivated transactions that might satisfy the technical requirements of the tax statutes and administrative rules, but that serve little or no purpose other than to generate income tax or financial statement benefits.

This bill provides those strong anti-avoidance rules, and I hope they will become law sooner rather than later.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, I thank Senator BAUCUS for the compliments he gave me. More importantly, it emphasizes, as I have tried to indicate, the great cooperation I have had from him. Legislation such as this has some controversial provisions in it, and you don't get a piece of legislation such as this to the floor without the bipartisan cooperation that has been exhibited. I thank him for that.

AMENDMENT NO. 526

(Purpose: To provide a Managers' amendment)

Mr. President, I send an amendment to the desk and ask for its immediate consideration. This is what is referred to as the managers' amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. BAUCUS, proposes an amendment numbered 526.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. GRASSLEY. Mr. President, I ask unanimous consent that all time be yielded back on the amendment.

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

Mr. GRASSLEY. Mr. President, I further ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 526) was agreed to.

Mr. GRASSLEY. Mr. President, I have already complimented Senator SANTORUM and Senator LIEBERMAN for their joint work on most of the provisions of this legislation. I am happy to have Senator SANTORUM, who is also a member of the Senate Finance Committee, manage a bill that he has been central to getting those provisions into law.

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. SANTORUM. 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. SANTORUM. Mr. President, I thank the Senator from Iowa, the chairman of the Finance Committee, for his kind words and his cooperation. I thank the ranking member of the committee for his cooperation.

There are some things in this legislation that he is not particularly enamored with, but he was most cooperative and helpful in moving the legislation forward. We are now at a point where we are within 24 hours of passing the legislation. Most of all, I thank my colleague from Connecticut, Senator LIEBERMAN, who has been a faithful partner—to use a play on words—a faithful partner in putting this initiative together.

We have worked together closely with the President, who has been truly the motivating force to try to provide some ammunition to the armies of compassion out there on the front lines every day, fighting for hope and opportunity for the millions of Americans who have yet to realize their dreams in dealing with the problems that confront them.

The President has, through his faith-based initiative, been very clear in the role of charitable organizations, particularly people of faith within those organizations, to heal many of the ills that confront society. We are a society that, while very prosperous by any measure, even at a time of economic downturn that we are experiencing right now, we are still the wealthiest country in the history of the world. With that great wealth comes responsibility. So many people have taken up that responsibility, trying to meet and serve those who in a society of great wealth have experienced a multitude of problems in trying to achieve, both from the economic perspective but again, as I said before, pursuing their dreams.

This piece of legislation, while it is not everything the President requested—it is not all of his faith-based initiative—certainly gets at one of the most important components which is the one funding organizations which do charitable purposes or have charitable purposes.

No. 2, there is a provision called the Compassionate Capital Fund which is grants to small organizations with less than six employees or less than $½ million in funding, to go out and be able to, for the first time, compete for Federal funds.

A lot of these small organizations, most of which are faith based in nature, have not been successful in applying for government grants principally because they don't have the resources or the expertise to do so. When you are running a food pantry with one or two people, most of whom are part-time employees and many volunteers, you don't have the expertise to apply for Federal grant dollars or any other kind of grant dollars. You try to do what you can to make ends meet. This provides the kind of technical assistance necessary for a lot of smaller, mostly inner-city organizations that right now do not take advantage of the money available through the Federal Government, again, whether they are faith based or not.

Most of these organizations are faith based in nature so there is a faith component to this. As I will show later, many of the provisions in the act will have a disproportionate benefit to

charitable organizations which are faith based.

It doesn't accomplish a couple of the things the President set out to do. The issue Senator DURBIN spoke of earlier having to do with equal treatment, even though it is not in this legislation, let me address it very briefly and then maybe in more detail later on.

The whole concept of equal treatment is to allow those who have some element of faith within their organization—and there is a whole range across the charitable organization horizon. There is a whole range of faith, how much faith is integrated into those organizations—some are, to use the term, ''saturated'' or completely faith based in nature and expressively faith based in their programs, to the whole range of the other side which are those that are exclusively secular and even to some degree hostile to faith. In between there are gradations.

What the President has tried to do is instead of, as we do right now, as we did prior to the 1996 welfare reform, which allowed for charitable choice, in other words, for some government programs to go, these dollars to go to faith organizations, we sort of eliminated all these people of faith and all these organizations that have faith as a component of their mission or their vision or their program and left it to a very rather narrow category.

We, in 1996, on the Senate floor, with President Clinton signing it, said we would stop that discrimination against people of faith who wanted to act based on their faith to help their fellow man, as long as they didn't do certain things such as use it for faith worship or proselytizing, things that are not delivery of service.

We expanded greatly the range of faith organizations and nonfaith organizations. We expanded greatly those who can participate in government funds. When you do that, you run into some problems, some questions.

We have seen tremendous success and very few cases where problems have arisen, but in the areas where they have, there have been questions as to what government statutes apply, what provisions or regulations apply to faith organizations as opposed to nonfaith organizations.

One of the principal questions has to do with people's religious liberties and their ability to practice their faith bumping up against other rights. The one that the House of Representatives dealt with and the Senator from Illinois referred to had to do with the issue of employment and whether religious organizations which are provided with government funds can say that someone cannot work for that organization or they can refuse to hire someone who works for that organization who doesn't share that organization's values with respect to tenets and teaching of the faith which is expressed through their program.

One of the things I believe is essential to a lot of faith organizations, one of the reasons that faith organizations should be and need to be included in providing social services, is that a lot of these faith-based organizations don't just treat the symptom. They don't just treat the hunger, if it is someone who comes in for food assistance, or they don't just treat the dependency on drugs or alcohol, if someone comes in for addiction treatment. It doesn't just treat the problem of a lack of a GED or education, if someone comes in for education and training. What they do, because of their mission, they treat the mind. They treat the spirit and they treat the emotional well-being of this person. They treat the whole person. That is one of the keys to success in trying to truly turn people's lives around in a way that brings them back into productive life in America.

The key to these faith organizations is having people who have this mission they share out there teaching and bringing people in based on a certain core value structure. My argument is, we should not discriminate against people who have programs that are value laden—those values may be based on Scripture, the Old or New Testament or some other book—as opposed to saying we are going to discriminate against you because the values you have are based upon a religious belief, as opposed to an organization that is secular and its values are not based on a religious belief. I don't understand the reason for the discrimination. I don't believe it should exist.

I have had this discussion in brief, and we can talk more about it. I am sure we will. But having said all that, none of that is in this bill. We decided not to have this issue before us today because the need of getting resources out to the charitable organizations meeting human service and educational and other needs is, frankly, too urgent.

While we will debate this—and I am sure others will want to debate this issue—the true debate will wait for another day. That will be when the welfare reauthorization comes up. That is where this whole conversation of charitable choice and allowing faith-based providers to participate in government grants came about, back in 1996. And it is where we should continue that debate. I pledge to you that whether we get that bill or have that amendment in committee, or whether we bring it to the floor, this will be a topic of discussion and one I encourage all Members to think about and participate in.

But the charitable crisis is real, and that is why I agreed—and my colleagues in the House have been more than cooperative in putting together, hopefully, a compromise we can quickly get to the President's desk. We understand the crisis is real. Adjusted for inflation, charitable giving 2 years ago, in 2001, was 2.3 percent lower than in 2000. You have to remember at the end of 2001, unfortunately, we had to deal with the aftermath of 9/11, where there was a tremendous outpouring of giving. Even with that outpouring of giving, because of the sluggish economy, charitable giving fell again last year. Corporate giving fell again between 2000 and 2001 by 14.5 percent.

Again, we don't have the final numbers for 2002, but it was supposed to be off again last year. We saw the American Red Cross—I'll give a couple of examples. Their contributions declined anywhere from 20 to 60 percent; Salvation Army, off 5 to 10 percent; United Way, off 4 to 5 percent. We can go on and on. Colleges and universities saw a decline in the amount of charitable giving to their organizations, too.

So what we are doing is trying to respond in a comprehensive way. When I say that, I mean if you look at this bill, it is carefully crafted to provide incentives for all different types of givers—corporate, foundations, and individuals who don't itemize on their tax forms. By the way, if those with IRA rollovers want to give money to charitable organizations, they can do so without having to pay taxes under this legislation. So whether it is the small giver to, hopefully, the retiree, or someone who has a large IRA, or corporations who may want to give more money—all the way down the line to food donations, which is another area where the Senator from Indiana, Senator LUGAR, has a provision in this legislation that I think is very important, we have a provision that will encourage literally billions of dollars of additional food donations over the next several years by providing a tax incentive for corporations; but for the first time, partnerships, individual proprietors, and S corporations will be able to take the fair market value of their donation as a deduction—it is up to twice the cost of the basis of that food item—as a deduction for giving to charitable purposes.

We have about a billion pounds of food donated right now to people in America to help feed the hungry in America. It feeds about 26 million people. There are 96 billion pounds of food wasted in America. That is just an enormous amount. It is almost incomprehensible that we are talking about that amount. When you consider the fact that roughly 1 billion pounds of food donated helps feed 26 million, can you imagine, if we just increase it by a very small percentage, the amount of donated food there could be and how many people we could feed in America?

Senator LUGAR's legislation is included. We believe it will make a dramatic impact on hunger in America. There are a lot of other provisions.

I see my colleague from Indiana, Mr. BAYH. I will be on the floor for a while. I want to give him the opportunity to share with us some of the things he has been active with. He has a provision in the legislation he has shepherded through the process. I will have him talk about that. He has also been a champion and strong supporter of this legislation and the entire package from day one. I thank him for his support,

and I appreciate him coming to the floor to talk about this issue.

I yield the floor.

Mr. SANTORUM. Mr. President, I see the Senator from Indiana. I yield to him as much time as he may consume.

Mr. BAYH. Mr. President, I thank my colleague from Montana for his leadership, his friendship, and his devotion to this issue. I have listened with interest to his comments about the importance of ensuring that the incentives in the bill actually increase the charitable giving, as intended, and that we not inadvertently run a risk of lack of compliance. I concur with those sentiments and the need for a study to make sure we accomplish what it is we intend to accomplish.

I also want to begin by thanking our colleague from the State of Pennsylvania. It is fair to say we would not be here today without Senator SANTORUM's leadership. He has been persistent and willing to strike principled compromises. It has not always been easy, but it is to his credit in choosing to make progress rather than just having an issue. I thank him. Thanks to him, we are on the cusp of a significant breakthrough with regard to doing some things that will, in fact, lead to better care for the American people.

To our other colleagues involved in the effort, including Senators LIEBERMAN, NELSON, GRASSLEY, and my colleague from Indiana, Senator LUGAR, I salute them. I observe that at a time and in our body that is too often driven by politics and partisanship, this has truly been a bipartisan undertaking.

As I have observed before, just as faith can move mountains, perhaps it can also bring together Members of the Senate and span the political divide that too often separates those of us on one side of the aisle from the other. That is a good thing that the debate has brought to the Chamber—a greater sense of comity and devotion to progress and bipartisanship.

I reflect today, as our military men and women are in harm's way in Iraq, on the fact that our country's greatest military strength lies not in our weapons systems, not in the planes, the tanks, and the missiles, as important as they are but, rather, in the character, the bravery, and the courage those men and women honor us by demonstrating in the defense of our national security interests—just so our greatest strength domestically is not the financial markets we enjoy, not the technology or the factories, as important as they are to our prosperity. Instead, it is the innate goodness and spirit of the American people. That is what we celebrate today, Mr. President. That is what we advance with this legislation, and that is why I am such a strong supporter of the CARE Act. Through its provisions, we will enlist literally tens of millions of our fellow citizens in the urgent cause of making this country an even better place.

As my colleague mentioned, about 70 percent of American taxpayers currently do not itemize. The provisions of this legislation that will allow their charitable contributions to be tax deductible will enlist literally tens of millions of our fellow citizens in philanthropy, charity, good civic works, community level to address the urgent needs of our time: Homelessness, hunger, medical needs, fighting drug and alcohol abuse and addiction, teen and juvenile violence—these sorts of things—helping to mend the social fabric that is in too great a risk these days.

Very often, as my colleagues know, we get consumed in this Chamber in debates not about whether these urgent tasks are being performed, but instead about who is performing them. Mr. President, my strong sense of where the American people stand today, and my strong sense of where the Senate needs to stand today, is on the side of those who are getting these works done, effectively addressing the needs of the American people.

When it comes to housing the homeless, feeding the hungry, caring for the sick and afflicted, it is more important these tasks are being accomplished in the most effective way rather than getting bogged down into who is accomplishing it and exactly how.

We will enlist thousands of additional organizations, empower them, and increase their efforts—church groups, civic groups, other groups dedicated to doing good deeds, who enlist our citizens in the cause of not only doing well but also accomplishing good, and that is vitally important for the future well-being of our great society.

There are two additional points I think should be remarked upon. Senator SANTORUM alluded to the first. It is the individual development account provisions of this legislation. It involves a bringing together of the best thinking on both the left and the right. This provision would empower those who are less fortunate in our society to get a stake in the American dream, a stake toward owning a first home, starting a small business, going to college—the kinds of activities that will lead to greater prosperity and progress for individuals who currently do not have much in the way of hope for either. It gives them a property interest and a stake in the marketplace in which traditionally those on the ideological right would have a greater interest, but it focuses the property interest and the competitiveness in the marketplace on those who are less fortunate, giving them all an opportunity to make the most of their God-given talents, something that those on the ideological left speak to with great fervor.

This is a provision that brings the best of thinking across the ideological spectrum, regardless of ideology, to do what is right for the American people. That is why it is a sensible and important step that is included in this legislation.

There is something else in this legislation that is near and dear to my heart. We have an outstanding example in my home State of Indiana. I know my colleague from Pennsylvania has spent a great deal of time thinking about how to break the cycle of poverty. He has worked extensively in the area of welfare reform. As a matter of fact, to set an example for his colleagues of actually reaching out to individuals who have been in the welfare system and not only moving them from welfare to work, but moving them into jobs in his own office. I salute him for that success. Again, it is an example we would all do well to emulate.

As the Senator from Pennsylvania knows well, we spend hundreds of billions of dollars in this country dealing with the manifestations of what really are deeper underlying causes. If one looks at the causes of welfare dependency, at the causes of juvenile violence, teen pregnancy, alcohol and drug abuse, educational and economic underperformance, all too often one will find the root causes of these manifestations and all the expense we go to in how we treat our children.

There is an important provision in this legislation in this regard. It deals with maternity homes. We have an outstanding example: Saint Elizabeth's in Jeffersonville, IN, in Clark County. It is an outstanding example of how this money can be leveraged not only in helping the teen mothers but in helping the children and, in so doing, helping taxpayers and the rest of society.

Their experience indicates that 90 percent of these young women who are expectant mothers who have the benefits of the services of Saint Elizabeth's go on to finish their high school education, to get a diploma, to accomplish that first educational step on the ladder toward a more successful life.

It is about the same percentage for their children. New babies are born healthy rather than with serious health problems. And about the same percentage of those new mothers do not go on to have additional children out of wedlock. So it is good for the mothers because they finish their education, it is good for the children because they are born healthy, and it is good for society because we deal with some of the root causes of poverty, homelessness, teen violence, drug and alcohol addiction, and education underperformance, and in so doing, help society as a whole and the taxpayers in addressing these problems at the root cause, rather than waiting to address the symptoms, the manifestations at a later stage.

I am pleased to join with my colleague. This legislation, frankly, has been too long in coming, but here we are on the cusp of a great step forward to make our Nation not only more prosperous, not only more secure, but more decent, more compassionate, more just. That, at the end of the day,

is the test of a great society and a great nation, measured not only by the strength of our arms as being demonstrated abroad as we speak, not only in the size of our gross domestic product, as important as that is, but in the opportunity and the decency we demonstrate to our fellow citizens in the course of their daily lives and in our own.

For all those reasons, Mr. President, I count myself a strong supporter of this legislation. I again thank the Senator from Pennsylvania. Without his efforts, we would not be here. I thank those on our side of the aisle who worked so hard on this legislation. I am hopeful that in short order we not only can pass this bill and send it to the President for signature, but, in so doing, help millions of our fellow citizens. I thank my colleagues for their time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from Indiana for his overly kind words with respect to my participation in this legislation. The Senator from Indiana has been truly one of the people out front and has been very supportive. I cannot count the number of press conferences I have asked the Senator from Indiana to be at trying to keep this ball rolling, and at times with a very busy schedule. He has always found time to associate himself with this cause and to continue to make sure it was on track in a bipartisan way.

That is how we get things done around here. I am very happy to have him as one of the prime cosponsors of this legislation. I again appreciate very much his kind words, but even more so appreciate his tremendous effort on making this legislation a reality.

I see the Senator from Rhode Island. If he is on a time schedule, I will be happy to yield the floor to provide him an opportunity to speak.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I commend Senators GRASSLEY and BAUCUS for bringing this important legislation to the floor, but I particularly commend and thank Senators SANTORUM and LIEBERMAN for their principled and tireless efforts to bring this legislation to the floor and for recognizing that original versions of this legislation contained elements that were, to say the least, controversial.

Senator SANTORUM particularly recognized the need to provide additional resources to faith-based organizations and other charitable organizations through new incentives in the tax code to encourage people to contribute to charities. All of these issues compelled him to make a very difficult choice, a very important choice, and I think a very statesmanlike choice to send to the floor today a version of the bill that I assume will get the unanimous approval of this Senate.

It recognizes our shared belief that the more resources we can direct to organizations that are committed to helping people, the better off we will be. The increase in the social service block grant is a tremendous step forward and is something I know I am proud of, but certainly the Senator from Pennsylvania has to be very proud of because he is the principal architect of this effort, and the new tax advantages also are very important.

Indeed, Senator SANTORUM and Senator LIEBERMAN worked very hard to improve legislation that in the other body was submitted as the Community Solutions Act of 2001, known as H.R. 7 in the 107th Congress. That legislation contained a number of controversial and potentially unconstitutional provisions, but they worked very diligently, very carefully, very thoughtfully to eliminate those provisions from their bill and ultimately today to bring this legislation to the floor, which I think and believe will get, as I said, unanimous approval by this body. Certainly I approve of it.

The CARE Act is going to provide increased resources for needed social services, and it is going to do so without including at this juncture troubling provisions that were in the original House bill. I know the Senator from Pennsylvania reserves his right to engage again on this issue—in fact, I believe he will exercise his right in all forums, and that is the glory of this body, and we shall engage in more extended debate, I think, in the future. But this afternoon is an opportunity to commend him, thank him, and recognize his wise and statesmanlike conduct. I again thank Senator SANTORUM.

The debate about church and state in this land precedes, indeed, the Constitution of the United States. It has been ongoing since the early days of the American experience. Religion has been an important part of our national life throughout our history. Indeed, European immigration in large part was motivated by the search for an environment conducive to freedom of conscience and religious exercise unhampered by State involvement.

Today, in the year 2003, religion remains a vital force in our national life and religiously affiliated institutions play a critical role in the provision of social services. For example, in 1996, Federal, State, and local governments granted $1.3 billion to Catholic Charities USA, comprising 64 percent of its budget. In 1999, 53 percent of Catholic Charities' budget came from State and local governments, and an additional 9 percent came from the Federal Government.

In 2001, United Jewish Communities received a Federal grant of $59.8 million. If indirect payments were included—for example, Medicaid, Medicare, vouchers, or food stamps—the amount flowing through religious organizations would be significantly higher.

Both of these mission-driven, faith-based groups are independently or separately incorporated as nonprofits and both are able to distinguish their religious activities from their secular social services activities.

So an initial point we must recognize in the debate about faith-based initiatives is that it is not whether religious groups will or should play a role in the spiritual and temporal lives of Americans—they do, and they will continue to do so—nor is the question about whether the government discriminates against faith-based charitable groups. The question is how the important roles faith-based organizations play can continue to meet the constitutional requirement of separation between church and state, both as a matter of law and as wise public policy.

This constitutional standard has strengthened religion in America compared to other countries around the world. We can see on the nightly newscasts the effects of intolerance across the globe, of established religions battling other beliefs. In America, we have been spared much of that. I believe it is directly attributable to the wise condition included in the First Amendment.

My awareness and sensitivity to these issues might spring in large part from my roots growing up in Rhode Island. As a child, I learned the history of Roger Williams and the founding of the colony of Rhode Island and Providence Plantation. Upon leaving the enforced orthodoxy of the Massachusetts Bay Colony, Roger Williams started a settlement that ultimately became Rhode Island. This settlement was founded on his belief, in his words: ''that no man should be molested for his conscience.''

The spirit of Roger Williams was captured by his contemporary, John Clarke, in the petition for a new royal charter by the people of Rhode Island in 1663. In his words, the people of Narragansett Bay:

> have it much in their hearts, if they may be permitted, to hold forth a lively experiment, that a flourishing and civil state my stand, yea, and best be maintained. . . . with a full liberty in religious commitments.

As a result of this religious liberty, Rhode Island became a refuge for people persecuted for their religious beliefs elsewhere. And Anabaptists, Quakers, and Jews settled in Rhode Island because of its commitment to religious liberty and tolerance.

This lively experiment became a model for the Founding Fathers and helped lead to the drafting of the First Amendment: ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.''

In explaining what the First Amendment meant to the Danbury Baptist Association in 1802, Thomas Jefferson wrote that the combined effect of the establishment and free exercise clauses of the Constitution was a ''wall of separation between church and state.''

Jefferson's comments were not unique to him. Senator DURBIN has already made a reference to President

James Madison. President Madison what was meant by this separation of church and state extremely clear in several messages he delivered on Government funding of religious endeavors. In 1811, he vetoed a congressional bill granting the use of some Federal land to a church in the Mississippi territory. President Madison stated:

Because the bill in reserving a certain parcel of land in the United States for the use of said Baptist Church comprises a principle and precedent for the appropriation of funds to the United States for the use and support of religious societies, contrary to the article of the Constitution which declares that ''Congress shall make no law respecting a religious establishment''. . . Resolved. That the said bill does not pass.

Indeed, I find it interesting that conservatives would so cavalierly dismiss so much of the history of this country and disregard so many of the fundamental principles of the Founding Fathers. President Bush and his conservative followers want to transform the relationship between church and state by directly funding pervasively sectarian organizations. He has done this by regulation and by Executive order, since he has largely been unsuccessful in accomplishing these tasks through the legislative process.

Just consider some of the changes that he has advanced thus far. In a June 2001 Department of Justice memorandum, the Department of Justice took the legal position that faith-based organizations that are given Federal taxpayer dollars to run governmental programs should be able to engage in employment discrimination on the basis of religion. Subsequent to this memorandum, the President by Executive order overrode a rule first enunciated by President Franklin Roosevelt that the Federal Government should not give contracts to employers who engage in discrimination on the basis of religion. Thus, it is now the position of the White House that government contractors can discriminate.

The President believes the government should fund faith-based organizations who use proselytization and prayer to cure drug addiction and other social programs. In his State of the Union Address, President Bush cited one such program in Louisiana that expressly combats drug abuse with faith. The head of another often-cited religious program, Teen Challenge, boasted to Congress that he was not only able to get kids to stop using drugs, he converted Jews into Christians in the process.

In newly proposed HUD regulations, the Administration says that Federal funds can be used to construct a religious building used for religious activities if the building also can be used for a public purpose such as counseling or a food pantry. At least that is the proposal.

With these and other initiatives, the President is attempting to breach the wall the Founding Fathers set up between church and state. These initiatives are clearly designed to fund proselytization and to promote certain types of religion.

There are legal challenges being raised to many of these proposals. But the long and short of it is, we have an opportunity to debate and to decide these issues through the legislative process, and we have an obligation to do so. And when there is a more robust, more extensive attempt to legislatively condone or sanction these faith-based initiatives, I believe there are going to be three major areas we will need to address.

One area is effective restraints on proselytization with taxpayer funds. The second is compliance with local regulatory standards in the delivery of public programs. And the third is prohibiting the use of public funds in employment discrimination.

First, with respect to proselytization. If the separation of church and state means anything, then in my mind, it must mean that no American should be compelled to pass a sectarian test or participate in sectarian exercises to receive a public benefit. This principle should be included in legislation and not left to the more shifting sands of regulatory pronouncements.

Second, many advocates of faith-based initiatives argue that they simply want a level playing field. Let's take them at their word. If State licensing arrangements are appropriate and necessary to protect children in publicly funded programs, why should religious providers be exempt from such licensing requirements? If we consider this issue, we will need to look for the even application of local and state laws, particularly laws with respect to the protection of children and public health. This is what we will need to do in order to truly create an even playing field.

Finally, we must address the issue of employment discrimination. Title VII provides an exemption for religious groups in certain situations. In the Amos case, the Supreme Court held that a religious group using its own funds may claim the Title VII exemption. In the words of the Court, the purpose of the exemption was to alleviate ''significant governmental interference with the ability of religious organizations to define and carry out their religious missions.''

Today, with respect to the Administration's proposal, we must recognize that rather than seeking autonomy from governmental interference, religious groups are seeking taxpayer funds to carry out governmental responsibilities. Indeed, in the one unreported case that has ruled on the use of public funds in this way, the court, in this labor case, concluded that the title VII exception does not apply.

As James Madison said in 1785, in his ''Memorial and Remonstrance Against Religious Assessments,'' in opposition to a proposal by Patrick Henry that all Virginians be taxed to support teachers of the Christian religion:

If ''all men are by nature equally free and independent,'' . . . above all are they to be considered as retaining an ''equal title to the free exercise of Religion according to the dictates of conscience.'' Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offense against God, not against man: To God, therefore, not to man, must an account be rendered.

All of this leads me to my final point. In the words of the New England poet, Robert Frost, ''Good fences make good neighbors.'' What might be permissible under the law does not always guarantee the wisest policy.

We need to remember that as we debate the President's faith-based initiative, religion has thrived in America because few people confuse religion with government. Religion has been a citadel of conscience and a check on government because it draws its strength and its support from its adherents, not from bureaucratic patrons.

The religious communities of America that have been unequivocally supporting the President's attempts to allow discrimination with Federal dollars might be mindful of the old saying: Be careful of what you pray for.

As the House of Representatives has made clear, we are going to be discussing this issue in the upcoming months on welfare, SAMSHA, National Service, and other programs. It is my hope the Senate will undertake a more careful look at how the charitable choice provisions in these bills inhibit the free exercise of religion, rather than encourage it.

Again, I thank the sponsors and the chairman and ranking member of the Finance Committee for bringing this bill to the floor. This is something we will all support, and we will do so with the notion and the idea and the commitment to provide resources for people who want to help other people, and do so consistent with the spirit and the letter of the Constitution.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank the Senator from Rhode Island for his kind remarks with respect to the compromise that Senator LIEBERMAN and I have engaged in to move this legislation forward. I appreciate his support of this legislation, as I do that of all of my colleagues.

As he stated, and he is correct, I do take issue with his perspective on the issue of charitable choice and the funding—allowing of government funds to be used by organizations that have some element of faith within their structure, whether it has been the guiding principles of the organization or with the programs that they administer.

I do not believe it violates the ''separation of church and state.'' I do believe organizations of faith should not

be discriminated against. We should not be in the business of just funding a set of organizations that have no faith component in them at the expense of those that do—for a lot of reasons, not the least of which is there is a lot of evidence out there, most of which is anecdotal I understand, but a growing body of evidence that organizations of faith are much more effective in dealing with problems, particularly the more systemic problems that we have.

But I object to the underlying premise of this argument that somehow or another we are violating the Founding Fathers' understanding of the separation of church and state.

I talk at a lot of schools. I ask kids: What words are in the Constitution, ''the free exercise of religion'' or ''separation of church and state''? Usually about 75 to 80 percent of the kids say, ''separation of church and state'' is in the Constitution, which of course it is not.

The Senator from Rhode Island talked about the genesis of that in referring to one of the Founding Fathers, referring to the establishment clause as erecting a wall of separation between church and state. But what were they talking about? They were talking about certainly the country from which they came, which was England, which had an established church. The Government funded the church, as many European countries did historically, for long periods of time. Certainly prior to the Reformation, the Catholic Church was intertwined very much so with the state. After the Reformation, each reform church had its own country and was funded in many cases.

People came to this country for religious freedom. They did not want an established religion. But even at the time in America there were certain colonies that had affinities for different religions. Maryland, for example—neighboring Maryland was considered more of a Catholic colony. Pennsylvania was home to the Quakers—on down the line.

There was a concern that that could come over here to this country, so they put in this clause that we should not have an established religion.

The difference is between the constitutional provisions that allow for the free exercise of religion and the prohibition against the establishment of religion. But this is really about freedom of religion; in other words, to practice whatever religious tenets you want and for the government not to get in your way in doing so.

What some are really arguing is freedom from religion, which I can tell you is completely antithetical to what our Founding Fathers believed.

We will have this debate. I am looking forward to it because I think it is important for the Senate, arguably the greatest deliberative body in the world, to talk about these important issues.

The role of faith in our society is central. It is central to the success of America. One of the reasons we are a successful country is because we are a faith-filled country. One of the reasons we are a faith-filled country is because we have a tremendous marketplace of ideas, whether it is the street-corner preacher or the old church down the street that has been there for centuries.

We have a marketplace of ideas of faith and that is what makes us: People out preaching the Word, talking about the values that faith imparts and the messages that faith imparts and its relevance to people's lives.

Here is a statistic I just marvel over. There are more people who go to church in America over a weekend, church and synagogue and temple, than to all the sporting events throughout the entire year in America. On one weekend, more people go to their places of worship than to all the sporting events that are held in America over the course of a year. That is remarkable. It is a great thing about America. It is what makes us unique. It is because we have not established religion. But it is not because we are saying people need to be free from religion. I think that is one of the concerns I have with the tack that the Senator from Rhode Island was taking.

Let me mention a couple of issues. Again, this is the beginning of a debate that is not about this bill. I repeat, we have taken everything having to do with the concept of equal treatment out of this legislation. We will save that debate for another day. But there are some things in this legislation I would like to address very briefly.

I see the Senator from New Jersey. I will not keep him long.

One of the items I am most excited about in this legislation is a provision called individual development accounts. Senator LIEBERMAN and I and Senator FEINSTEIN and many others, who have been advocates of this legislation for quite some time, are very excited about it being part of this initiative. Individual development accounts are a matched savings account for low-income and low- to moderate-income individuals who will have an opportunity to put up to $500 a year into a savings account and have that matched, dollar for dollar, up to $500. So it will be $1,000 total.

It is an exciting opportunity for these individuals to be able to put money aside. For what? So they can put it aside for three reasons: to buy a home, to get education, higher education, or, in some cases, technical training, vocational training, as well as start a small business, start a business. So it is a way for people to save for events in their lives that can transform their future economically: better education; a home, a place where they can save, invest, and build equity.

As everybody knows in this Chamber, the place where most people have the bulk of their savings is in their home, in the equity they have in their home. So the opportunity for home ownership, and having that money for a downpayment, is so important. And IDAs create that opportunity.

And finally, for starting that small business, being that entrepreneur—that spirit really drives America and really is the ladder of success so many people in America have access to—we want to create a nest egg for people to be able to buy that first piece of equipment. If you want to start a landscaping service, you can buy that lawn mower, you can buy the other tools you need to do that job, or a variety of other interests people get engaged in as their first business.

So we, Senator LIEBERMAN and I, are very excited about this opportunity. We think it builds not just the opportunity for access to the home or to the education or to that small business, but it builds the virtue of deferred gratification. That is a virtue we sometimes do not practice very much in America, but it is a virtue of delaying the expenditure of that dollar, to put it aside, to save it for something that is more important than what you immediately have before you. And when I am talking about gratification, I am not talking about luxuries. I am talking about maybe simple things, maybe very minor things in the lives of people who are low to moderate income. But deferring that to something that may be transformational in their lives is really something we should create incentives to do because, again, it helps people move up that ladder of success in America.

I see a couple of my colleagues are in the Chamber. I am happy to yield the floor for their input.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank my colleague from Pennsylvania.

Mr. DORGAN. Will the Senator from New Jersey yield for a consent request?

I ask unanimous consent that I be recognized for 10 minutes, following the Senator from New Jersey, to speak on the bill.

Mr. SANTORUM. Reserving the right to object, I may have a Senator on the way down to the Chamber who is trying to fit in here. How long is the Senator from New Jersey going to speak?

Mr. LAUTENBERG. Less than 10 minutes.

Mr. SANTORUM. I have no objection.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Once again, I thank my colleague from Pennsylvania. And I assure my friend from North Dakota, although it is not my time to give, I am happy he is going to be recognized.

Mr. President, I want to take just a few minutes to talk about the legislation before us, the CARE Act, and note its timeliness, because I think fundamental to a lot of good ideas is the fact that it is time to encourage participation in the spirit of harmony and unity within our country.

I have been struck by the fact I have not heard a call for either participation or voluntary—call it sacrifice, if you will, although compared to what our young men and women are doing in Iraq, nothing we are going to do here looks like that much of a sacrifice—but it does show good intent. To me, that is important.

So I am pleased the sponsors of this bill, Senators LIEBERMAN and SANTORUM, have agreed to make this more palatable by removing controversial language that raised some constitutional and civil rights concerns.

The bill contains several very good provisions, including changes to the Tax Code we all hope will increase charitable giving and certainly encourage the spirit of charitable giving, as well as being an incentive.

In addition, the bill increases funding for the social services block grant by over $1 billion. That will restore some of the cuts that have been made in the program over the years. This increase in the social services block grant funding will benefit thousands of Americans who are suffering in this economy, who truly need help.

If the President's faith-based initiative means anything, then, obviously, this dedication of funding for charitable work by religious and secular charities confirms that is an appropriate thing to do; that is, to look to our charitable interests to firm up the fact we do feel some commitment to commemorate the sacrifice that is being made by so many.

If this funding disappears in conference, I think it would be tragic because it would say, OK, if it passes the Senate—and I certainly hope and believe it will—and then suddenly this mystery hole opens up between here and the House of Representatives—and these things often fall in it—then it is left to people who have a curiosity about what happened, as they say, on the way to the other forum, when things just disappear. But it is a convenient sleight of hand for those who really don't want to support it but don't want to be identified with withdrawing their support.

So even though this bill is silent on civil rights issues, the President's overall faith-based initiative contains some disturbing civil rights problems. The President has announced several policies that I think should trouble Americans who care deeply about civil justice and equality.

The President has issued an Executive order that authorizes organizations that receive Federal funding to discriminate in employment—it is based on religion—for Government-funded positions. That is not fair, it is not appropriate, and I certainly don't think it is appropriate for faith-based organizations.

A policy that says ''Catholics need not apply'' should never, ever be funded by the Federal Government. If a religious group wants to restrict employment with their own money, that is their business, but they should not be able to discriminate in staffing up Government programs paid for with public dollars, tax dollars.

The American people agree. A poll by the Pew Forum on Religion and Public Life found that 78 percent of Americans oppose allowing religious groups that receive Federal funding to discriminate in employment.

And it is not merely a hypothetical problem. It is a real-life problem.

In Georgia, a man named Alan Yorker sent his resume to a Government-funded faith-based program for troubled youths. The position he sought was paid for with taxpayer dollars. The faith-based group said they were impressed with his resume and called him in for an interview. When Mr. Yorker arrived, he was asked to fill out an application form. The form asked for the name of his church. He wrote in the name of his synagogue. It also asked for the name of his pastor, and he filled in his rabbi's name.

When he sat down for the interview, he was told, straight out, they don't hire Jews. A former employee of the organization later told Mr. Yorker they usually throw resumes with ''Jewish-sounding names'' in the trash, but they did not recognize his last name as Jewish.

This was a taxpayer-funded job to perform social service work pursuant to a Government program. And President Bush thinks maybe it is OK to deny someone employment because they are of a different persuasion.

The administration thinks it is fine for a Government-funded program to tell a Catholic or a Mormon they can't get a taxpayer-funded job simply because of their religion. Well, I disagree. I think it is wrong. And I am going to join my colleagues, Senators REED and DURBIN, in fighting it during this session of Congress.

Again, I commend the sponsors of this legislation. The Senator from Pennsylvania did a very good job, I believe, in developing this legislation, for removing the controversial provisions from the bill before us.

I hope the bill will further the good work that faith-based and secular charities do every day. While this bill moves in the right direction, the administration is on, I believe, the wrong track regarding civil rights. I hope the President will reverse that course.

Mr. President, our faith should bring us together, not divide us.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from North Dakota.

Mr. DORGAN. Madam President, this is a good piece of legislation. I am pleased to rise in support and pleased particularly that it is bipartisan legislation that advances very important interests.

A wise old fellow from my small hometown once asked me if I had ever seen a U-Haul hooked up to a hearse. I said: No. He said: Well, it goes to show you, you can't take it with you.

He is right. You can't take it with you. The question is, What do you do with the resources you develop over a lifetime? It seems to me you find ways to help other people.

There is an old saying that we make a living by what we get but we make a life by what we give. The issue of charitable giving and providing nourishment and incentives to the notion of charitable giving is a very important impulse. This legislation advances that in a significant way.

Two years ago I introduced S. 1375, and then, in this Congress, S. 283. I am pleased that these provisions were included in this legislation by the Senate Finance Committee. Let me describe what they are and why they are so important.

The provisions in the CARE Act that relate to the legislation I have introduced, with some of my colleagues, allow individuals to make tax-free outright gifts to charities from their IRAs at age 70½ and charitable life-income gifts at age 59½. The reason that is important—to be able to make tax-free gifts from IRAs to charities—is they won't face adverse tax consequences when they rollover that money from their IRAs. The detrimental tax consequences have persuaded some that they can't roll these assets over into a charity.

I heard from a good many charities, when I introduced this legislation 2 years ago, that people frequently ask them about being able to give to a charity by using their IRAs to make the donation itself. But many donors decide not to make a gift from their IRA after they are told about the potential tax consequences. Tax-free charitable IRA rollovers will eliminate this concern completely.

In his fiscal year 2004 budget, President Bush proposed allowing individuals to make tax-free outright charitable IRA rollover distributions after age 65. That proposal has a lot of merit. But the approach taken in the Public Good IRA Rollover Act, S. 283, and that's included in CARE Act, is superior because it will not only allow direct charitable IRA rollovers, but it will allow tax-free life-income gifts from the IRA at age 59½. That means the assets can be donated to the charities, but the donor retains an income stream from those assets. This approach would stimulate more charitable giving, while comporting with the federal government's policy of encouraging individuals to provide for and safeguard adequate resources after retirement. This is a very important provision that could put billions of dollars of additional dollars from a new source to work for the public good.

I'm told that a senior Salvation Army official once said that ''providing for IRA charitable rollovers would be the single most important piece of legislation in the history of public charitable support in this country.''

I don't think he necessarily understates the proposition. Charitable giving is critically important. The mechanisms by which we incentivize and nurture charitable giving are in this legislation and will advance the interests of charitable giving across the country.

Let me make another point. This legislation contains more than just that provision. I single that provision out simply because I have been working on it a couple of years.

I ask unanimous consent to print in the RECORD a list of principally North Dakota organizations, 18 of them, that have been working with me on this proposition.

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

NORTH DAKOTA & FARGO-MOORHEAD CHARITIES THAT HAVE ENDORSED THE CHARITABLE IRA ROLLOVER

1. North Dakota State University Foundation, Fargo, ND; 2. University of North Dakota Foundation, Grand Forks, ND; 3. Bethany Homes, Inc., Foundation, Fargo, ND; 4. Red River Zoological Society, Fargo, ND; 5. Fargo Catholic Schools, Fargo, ND; 6. Oak Grove Lutheran School, Fargo, ND; 7. Meritcare Health System, Fargo, ND; 8. Evangelical Lutheran Church in America, Eastern North Dakota Synod, Fargo, ND; 9. Red River Human Services Foundation, Fargo, ND; 10. Eventide Homes, Moorhead, MN; 11. Fargo-Moorhead Community Theatre, Fargo, ND; 12. Plains Art Museum, Fargo, ND; 13. Fargo-Moorhead Symphony, Fargo, ND; 14. Village Family Service Center, Fargo, ND; 15. Fargo-Moorhead Area Foundation, Fargo, ND; 16. Foundation of Grand Forks, East Grand Forks & Region, Grand Forks, ND; 17. United Way of Fargo-Moorhead, Fargo, ND; and18. Prairie Public Broadcasting, Fargo, ND.

As of Monday, May 13, 2002.

Mr. DORGAN. The provision in the CARE that deals with charitable deductions for non-itemizers is also very important. All of this coming together is legislation I am proud to support. It is a significant step for good.

Let me say one additional point. In order to pay for these proposals—and these proposals are paid for with a revenue portion of the bill—there are additional curbs on tax shelters. I strongly support that as a matter of good tax policy. Last year, former IRS Commissioner Rossetti told Congress:

> Nothing undermines confidence in the tax system more than the impression that the average honest taxpayer has to pay his or her taxes while more wealthy or unscrupulous taxpayers are allowed to get away with not paying.

He is correct. What we have seen, with front-page stories in journals and technical publications, as well as major daily newspapers, is the growth of abusive tax shelters. Shutting those down makes a lot of sense. I don't believe that there is a provision in this bill that deals with the issue of moving corporate headquarters overseas and renouncing your U.S. citizenship in order to save on taxes. But that is another piece we ought to do as well.

I simply make the point that the other piece of this bill that is important is we pay for this, and we pay for it with good tax policy by curbing tax shelters.

There are a lot of things in this country that are done that make people feel good. One of those is the charitable giving that Americans do. Americans do a great deal of charitable giving. They do it because they know there is a need, and they know people who need help can count on others who will offer it. With respect to the provision I have been working on, there is an impediment that has prevented people from saying, I would like to roll over my IRA assets to a charity and provide that charity with resources it needs. To do that under present law significantly penalizes them through the Tax Code. This legislation responds to that.

Allen Huffman on my staff and others have worked together for a long while on this particular provision of the bill. There are other provisions that have merit as well.

I thank the manager of the bill and the ranking member of the committee who bring it to the floor. When we pass this—and we will—it will represent a significant positive step toward good public policy. I am pleased to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I congratulate Senators SANTORUM and LIEBERMAN and everybody else who has had a voice and hand in shaping and crafting the CARE legislation before us. It makes a significant contribution to the strength of volunteer organizations and charitable organizations. It is a very significant contribution to that wonderful cause and to this wonderful land of ours. I commend them.

I would like to take a moment here to highlight a provision in the managers' amendment to strengthen the ability of the Securities and Exchange Commission to detect, investigate, and punish violations of Federal securities law. This provision has been added to the CARE Act, because we have had the support and we have been able to utilize the efforts of the managers of this bill, Senators GRASSLEY and BAUCUS, and of the chairman and ranking member of the Banking Committee, Senators SHELBY and SARBANES. This is an effort that Senator BILL NELSON and I and others have been involved in for some time. Now it will come to fruition, at least in the Senate, tomorrow when we adopt this legislation, including the managers' amendment.

I also thank the Securities and Exchange Commission for its assistance in crafting this legislation and for the agency's support of our efforts to enact it into law. Senator BILL NELSON and I and others have been working on this addition to the SEC enforcement powers for a long time. We are very grateful to all those who have worked with us, including Senators CORZINE and BIDEN who cosponsored the SEC Civil Enforcement Act, S. 183, which we introduced earlier this year—in January—which is identical to the language which is in the managers' amendment.

The SEC Chairman, Bill Donaldson, is very supportive of our SEC enforcement legislation. I ask unanimous consent that a letter from the SEC Chairman supporting this provision and describing it as one that will ''significantly supplement and strengthen the Commission's ongoing enforcement efforts'' be printed in the RECORD at this time.

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

U.S. SECURITIES
AND EXCHANGE COMMISSION,
Washington, DC, April 2, 2003.

Hon. CARL LEVIN,
Ranking Minority Member, Permanent Subcommittee on Investigations, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: I want to express my thanks for your recent introduction of S. 183, your proposal to enhance the Commission's authority to seek civil penalties for violations of the Federal securities laws, increase the penalties the Commission may seek, and eliminate a procedural requirement that may slow the Commission's efforts to trace and recover misappropriated investor funds.

I support this proposal, which was previously reflected in a bill you introduced in the 107th Congress, to significantly supplement and strengthen the Commission's ongoing enforcement efforts. I very much appreciate your steadfast dedication to supporting the work of the Commission in protecting investors.

Please do not hesitate to contact me or Stephen Cutler, Director of the Division of Enforcement, at (202) 942–4500 if we can be of any assistance in this regard.

Sincerely,

WILLIAM H. DONALDSON,
Chairman.

Mr. LEVIN. Madam President, here is a description of what the Levin-Nelson provision would do.

First, the provision will grant the SEC administrative authority to impose civil monetary fines on any person who violates Federal securities laws. Under current law, only broker-dealers, investment advisers, and certain other persons are now subject to administrative fines by the SEC. Our legislation will allow the SEC to impose administrative fines on anyone who violates Federal securities law, including, for example, corporate officers, directors, auditors, lawyers, or publicly traded companies, none of whom are now subject to being fined by the SEC in administrative proceedings. These fines, of course, would be subject to judicial review, as are all SEC administrative determinations.

Last year, the Permanent Subcommittee on Investigations, which I then chaired, conducted an extensive investigation into the collapse of Enron. As a result of that investigation, the Subcommittee determined that Enron's board of directors and officers and certain major financial institutions assisted Enron in carrying out deceptive accounting transactions and other abuses that misled investors and analysts about the company's finances.

The Subcommittee's last Enron hearing in December also highlighted the fact that the SEC is in need of additional tools to deal with the individuals and entities that participated in Enron's deceptive accounting or tax strategies. Our legislation would give to the SEC new authority to impose an administrative fine on anyone who violates the Federal security laws—not just broker-dealers or investment advisers, but also corporate directors or officers, employees, bankers, lawyers, auditors, law firms, accounting firms, corporations, financial institutions, partnerships, and trusts.

Second, the provision will significantly increase the maximum civil administrative fine that the SEC is able to impose on persons who violate Federal securities laws. The civil administrative fines that the SEC is currently authorized to impose have statutory maximums that, depending upon the nature of the securities law violation, range from a maximum of $6,500 to a maximum of $600,000 per violation. Again, the particular amount depends upon the nature of the violation. In a day and age when some CEOs make $100 million in a single year, and a company like Enron can report gross revenues of $100 billion in a single year, a civil fine with a maximum of $6,500 is laughable. Here is what one SEC staff stated about the current maximums in a document dated June 2002, and this explains why the agency is supporting our legislation:

> The current maximum penalty amounts may not have the desired deterrent effect on an individual or corporate violator. For example, an individual who commits a negligent act is subject to a maximum penalty of $6,500 per violation. This amount is so trivial it cannot possibly have a deterrent effect on the violator.

Our provision would increase the civil fine maximums from a range of a maximum of $6,500 to a maximum of $600,000 per violation, depending on the nature of the securities law violation, to a range that goes from a maximum of $100,000 to a maximum of $2 million per violation. At a time when we are seeing corporate restatements and misconduct involving billions of dollars, these larger fines are critical if the fines are to have an effective deterrent or punitive impact on wrongdoers.

Third, the Levin-Nelson provision would grant the SEC new administrative authority, when the SEC has opened an official SEC investigation, to subpoena financial records from a financial institution without having to notify the subject that such a records request has been made, thereby bringing the SEC's subpoena authority into alignment with the subpoena authority of Federal banking agencies like the Federal Reserve and the Office of the Comptroller of the Currency. This authority would allow the SEC to trace funds, evaluate financial transactions, and analyze financial relationships without having to alert the subject of an investigation to the SEC's inquiry. Under current law, the SEC either has to give the subject advance notice of the subpoena or spend precious time seeking to obtain a court order to delay notification.

Cases we are seeing today involve allegations of persons using offshore accounts to move millions of dollars or engage in complex transactions that materially affect the financial statements and tax returns of publicly traded companies in the United States. The SEC must be able to look at financial records quickly without giving the subject of the inquiry an opportunity to move funds, change accounts, or further muddy the investigative waters.

This authority is particularly important in light of the Patriot Act of 2001, which for the first time requires securities firms to detect and report possible money laundering through U.S. securities accounts. The SEC cannot be expected to effectively monitor these anti-money laundering efforts or act quickly to trace possible terrorist financing or other suspicious financial conduct if, as is the case now, the SEC must provide advance notice to investigative subjects or obtain court orders granting delayed notification. No Federal banking agency operates under these types of constraints in its anti-money laundering efforts, and there is no reason why the SEC should. Our provision would modernize the SEC's oversight authority and bring it into alignment with the Federal banking agencies.

Last year, the Sarbanes-Oxley law strengthened law enforcement and stiffened penalties for Federal securities crimes. By enacting the Levin-Nelson provision this year, Congress would help put some teeth into SEC enforcement on the civil side. We originally offered this legislation as an amendment to the Senate bill that resulted in the Sarbanes-Oxley Act, but were unable to obtain a vote before time ran out. That is why we are back.

Investor confidence in U.S. capital markets has not been fully restored, and Congress needs to provide strong leadership to assure U.S. investors that their interests are protected. A vigorous SEC that can act quickly to impose civil fines on those who violate Federal securities laws can help restore investor confidence in the effectiveness of U.S. securities laws and capital markets. In addition, since many securities violations warrant civil rather than criminal treatment, strengthening the SEC's civil enforcement authority would help streamline the available civil enforcement options and give the SEC better tools to fashion appropriate civil penalties.

Again, I thank my colleagues for supporting this provision.

Madam President, I ask unanimous consent that a letter from the former Chairman of the SEC, Harvey Pitt, dated August 30, 2002, also endorsing this legislation be printed in the RECORD at this time.

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

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, August 30, 2002.

Hon. CARL LEVIN,
Chairman, Permanent Subcommittee on Investigations, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEVIN: This letter responds to your letter of August 9th, seeking my views on your proposal to enhance the Commissions' authority to seek civil penalties for violations of the federal securities laws, increase the penalties the Commission may seek, and eliminate a procedural requirement that may slow the Commission's efforts to trace and recover misappropriated investor funds.

The three additional enforcement tools you contemplate reflect recommendations we have made previously in an effort to facilitate our goal of achieving ''real-time enforcement.'' Especially in light of recent events, I believe these proposals would enhance our efforts and the interest of investors. As you know, during this Congressional session, with the bipartisan support of Congress and the Administration, the Commission already has been given, and has begun to implement, greater authority to pursue and punish corporate wrongdoers and enhance corporate accountability. The additional authority about which you inquire would be a welcome addition to our enforcement arsenal, if the proposals achieve bipartisan support.

Again, thank you for your interest in strengthening penalties for securities fraud violations. Please do not hesitate to contact me or Stephen Cutler, Director of the Division of Enforcement, at (202) 942–4500 if we can be of further assistance.

Yours truly,

HARVEY L. PITT.

Mr. LEVIN. Madam President, I thank the managers and all the other persons who worked with us to get this legislation included in the managers' amendment and, hopefully, passed tomorrow.

Mr. SARBANES. Madam President, I rise in support of the Levin-Nelson provision included in the managers' amendment to the CARE Act of 2003. This provision, the SEC Civil Enforcement Act, will strengthen the Securities and Exchange Commission's authority to prosecute securities fraud violations and augment investor protection. Senator LEVIN is to be commended for his unwavering advocacy on behalf of investors and his role in ensuring that our capital markets retain their reputation as being the fairest, most efficient, and most transparent in the world.

The Levin-Nelson provision has the full support of the SEC Chairman, William Donaldson, and it has been supported by the full Commission and by former SEC Chairman, Harvey Pitt, who remarked that this provision would promote the SEC's goal of achieving ''real-time enforcement.'' The legislation has been sought by the SEC's Enforcement Division because it will eliminate inefficiency, provide the SEC with additional flexibility, and strengthen the Commission's ability to hold securities law violators accountable for their actions.

The SEC Civil Enforcement Act effectively complements the statutory framework created by the Public Company Accounting Reform and Investor Protection Act of 2002—the ''Sarbanes-Oxley Act.'' Against the backdrop of a series of corporate scandals and a severe drop in investor confidence last year, the Sarbanes-Oxley Act sought to take steps to ensure investors that corporate executives and financial reports are trustworthy, accountants and analysts independent, and that the SEC has adequate resources and enforcement authority to fulfill its mandate.

In its continuing, ''real-time'' investigation into accounting irregularities at HealthSouth Corp., the Commission has put these new powers to work. As The Wall Street Journal of April 4 noted, ''the HealthSouth inquiry has already netted eight criminal convictions, accomplishing in just weeks what might have stretched across months or even years in the past.''

The Levin-Nelson provision will significantly buttress the SEC's enforcement efforts in this area. I urge enactment of the provision to further protect securities investors and help assure the U.S. capital markets remain the envy of the world.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. NELSON of Florida. Mr. President, I wish to talk about the CARE Act. I rise to speak in favor of the Charity Aid Recovery and Empowerment Act, or the CARE Act.

As the Senate is considering this legislation, it is important to remember both Republicans and Democrats have cosponsored the CARE Act. This reflects the bipartisan spirit of this legislation which out of this legislative caldron was created by compromise, and we had last year as the goal of increasing charitable giving and helping the needy.

In light of the uncertain economy, charities across the Nation are serving the needs of more people with fewer resources. This particular legislation is an opportunity to encourage Americans to help their neighbors, community, and their country by giving. By extending the charitable contribution deduction for 86 million Americans who do not itemize their tax returns, and allowing people to make charitable contributions from their individual development accounts, IDAs, this legislation creates incentives for giving to charity.

This legislation also provides an enhanced charitable deduction for restaurants and businesses that make donations of food to charitable organizations. For some two decades, my wife Grace and I have been working with organizations to distribute food to the hungry. One such organization is back in our State of Florida. It is actually a part of our State Department of Agriculture. Its name is Farm Share. What it operates on is the original concept of gleaning, which was a biblical concept. In biblical times it was their social security system. When the farmers would go in and harvest the field, they would leave the rest of the crop so that then the poor people could come into the field and harvest the remaining crop, called gleaning; that was their way to support those least fortunate in the society of the day.

When you take that ancient concept and bring it forward to today, look at all the crops that are wasted. So this concept of Farm Share, a part of our State Department of Agriculture, although not going directly into the field, what we find is enormous amounts of edible food wasted in the distribution process—in the collection, in the actual harvesting, then at the packinghouse and the rest of the distribution process.

So what Farm Share does is go to the packinghouse where tomatoes, for example, a winter crop in south Florida, might have a blemish on them. They are completely edible, but they might not be marketable for that particular company buying those tomatoes. Or a company that uses a lot of tomatoes, such as McDonald's Corporation, wants a tomato of a certain size. So the tomatoes that are not that size are discarded. But it is good food that is going to waste. It is a form of gleaning, to save that, to have it packaged, and then ready for distribution.

When my wife and I announce a distribution and we reach out to all the soup kitchens and reach out to the churches that are so effective throughout the communities in distributing food to the poor, when we send word out that the next morning there is going to be a distribution of food, and you arrive the next morning, there is a lump in your throat to suddenly see the lines of hundreds of hungry people in America; that they are so grateful, so orderly, so polite, and so thankful for the food that is going to be distributed.

It is not unusual I would come as a cosponsor of this act and be very thankful that the Senate is considering it. It looks as if we have our differences worked out, and we are going to be able to pass it. This new legislation is more than just tax provisions. Individual development accounts are also expanded in this legislation. These IDAs are special savings accounts that offer matching contributions from participating banks or community organizations. This innovative program encourages low-income families to build assets and proposes reduced costs for banks and community organizations that offer the IDAs.

This legislation also increases the funding for the social services block grant. That supplies States with resources to support a variety of social services. These funds can be used to assist the elderly and disabled so they do not need to enter institutions. Those funds can also be used to prevent child and elder abuse and to prevent things that go on that we read about in the newspaper that we shudder at in regard to the care of our elderly. These funds can be used to provide child care, to promote and support adoption, and many other purposes.

By creating tax incentives for charitable contributions we can help support and give incentives to the natural instincts of the American people, which are to be generous, to give. When they do, faith-based and community organizations can pass on the gains to a community.

We know that faith-based groups are doing good work all over the country, and their work is already being funded by Federal dollars because they are running programs that work to better people's lives. These faith-based groups operate soup kitchens, they run homeless shelters, and they rehabilitate drug users. Our Nation already funds many of these programs. I have seen these programs all over Florida. I have seen them here in Washington, DC. Anyone would be amazed just a stone's throw from where we are in the U.S. Capitol at the kinds of programs going on in the inner city to feed the poor and minister to the least privileged in society.

Lives have been changed. I have seen cities, particularly the inner cities, being transformed from neglect to respect.

This legislation is all about grassroots change, change from the ground up, by people who are close to the problems and who care enough to take up the challenge.

I have cosponsored this legislation before. I am going to continue to work with our colleagues to try to find ways to help those who help others.

This is one way. As we have been considering this emergency funding bill that we just passed and that is now in the conference committee, I thank the Senate for increasing the food aid. Back earlier when we were considering legislation, the task fell to me to increase the appropriation with regard to food aid, particularly destined for Africa, where they are experiencing another enormous drought which has caused a great deal of famine and death. The United States is a generous country. So, too, from our generosity, when we see a problem such as that, we want to try to take care of it.

We passed a level of increased food aid here at $500 million. It was watered down in conference to $250 million. A lot of that money was squirreled away from Africa to meet the food needs there will be in Iraq. Because of that, a few nights ago on this floor we agreed to an amendment to the emergency

supplemental appropriations bill that would have an additional $600 million to go for emergency food assistance. That will then be able to get to Africa with all of its famine that is ravaging the land.

It is my hope, as the Appropriations Committees are meeting in conference right now on the emergency supplemental to determine the final outcome, that they will honor all those images they have seen on television of starving children and they will not reduce that $600 million very much.

It is with this spirit of thanks, of humility, and thanksgiving that I come to speak on behalf of this legislation and to thank the Senate and the many participants here who have worked out all the kinks in this legislation so we could pass it in a unanimous fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

UNANIMOUS CONSENT REQUEST—NOMINATION OF PRISCILLA OWEN

Mr. BENNETT. Mr. President, as in executive session, I ask unanimous consent that there be an additional 6 hours for debate on the Owen nomination, provided further that the time be equally divided between the chairman and ranking member of the Judiciary Committee, or their designees, and that following the conclusion of that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Reserving the right to object, we on this side are perplexed. We have indicated to the majority leader that there are at least three circuit judges who, with just a little bit of work, could be approved this week. The average during the Clinton 8 years was eight circuit judges a year. If the three were approved, that would be five already by Easter.

One of those is Edward C. Prado of the Fifth Circuit. They could go to that tomorrow—tonight. So we believe there is more here than meets the eye. There are three circuit judges who are available with just a little bit of work. This has all been discussed with the majority leader.

So for these and many other reasons, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. Mr. President, I modify the request to 10 additional hours.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Yes. Mr. President, reserving the right to object, we have approved, during the time President Bush has been President, 116 judges. Two have been turned down—116 to 2. One of those who was turned down is back. Owen is back. This would be the first time in the history of this country that a judge who has been turned down is back and would be approved.

The hours that have been suggested by my friend from Utah I appreciate very much, but there are productive things that could be done during those 10 hours, including the approval of more judges. There could be at the end of this week 120 judges instead of 116.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. Mr. President, I ask if any number of hours would be sufficient for the Senator from Nevada.

Mr. REID. Speaking for the Senator from Nevada, there is not a number in the universe that would be sufficient.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

CUBAN OPPRESSION

Mr. NELSON of Florida. Mr. President, I wish to call the attention of the Senate to the important events happening right now in the island nation of Cuba. Over the past several weeks, Fidel Castro has been rounding up democracy activists, independent journalists, librarians, and signers of the Varela Project and throwing them in jail.

Fidel Castro has used the world's focus on the war in Iraq to divert attention in order for him to brutally crack down and further oppress Cubans who yearn for freedom. It has been difficult to get the exact number, but we think it is approximately 80 Cubans who have been arrested. Yesterday, a number of those activists who had been arrested were sentenced to terms of 15 to 25 years—if you can believe that—on charges of ''undermining the socialist state.'' It is reported that at least 11 of those could get life sentences, and at least one could get the death penalty.

I take the floor of the Senate to call to its attention that last night the Senate passed S. Res. 97, a resolution introduced by this Senator from Florida and cosponsored by the junior Senator from Virginia, Mr. ALLEN. The resolution passed the Senate unanimously. It condemns these actions, and it calls for the release of the prisoners of conscience in Cuba.

Why did the Senate want to take a stand, and why do we want to bring further attention to this other than has already been in the Nation's newspapers, pointing out that under the cloak of the world's attention being diverted to Iraq, Fidel Castro has started this crackdown and these arrests and these sentences, even possibly a death sentence? Well, it goes back to the fact that the Cuban Government does not like the world's attention that has been brought to the courageous 11,000 people who signed the petition under the Cuban law—the Cuban Constitution—which said that if at least 10,000 people sign a petition, the issues in that petition are then brought to the national assembly for action. Not only did 10,000 brave, courageous Cuban souls sign that petition, but over 11,000 did. It called for actions that you and I take for granted.

It called for freedom of speech, freedom of the press, release of political prisoners, and a free enterprise economy. It called for them to be brought before the Cuban National Assembly.

The Varela Project embodies the principles upon which all the world agrees: the right of the Cuban people to petition their government for civil and human rights, including free and fair elections.

The leader of this project, Oswaldo Paya, has continued to advance this important project at great risk to himself, his family, and his associates.

In May of 2002, Oswaldo Paya led a group of Cuban citizens who delivered exactly 11,020 verified signatures to the Cuban National Assembly supporting that referendum on civil liberties and all of the issues I have mentioned.

These are basic rights to which anyone is entitled. Recent reports indicate that the Varela network has been especially targeted in this crackdown by Fidel Castro. I take us back to last year, realizing the courageous effort by Senor Paya and the signers of that petition.

I sponsored and this Senate adopted the resolution 87 to 0, with the help of other supporters of the resolution, Senator DODD and Senator Helms. That resolution commended the Varela Project and Oswaldo Paya. It was an early step to providing international attention and support to Mr. Paya and those who signed on to the Varela Project.

The resolution that was adopted last year 87 to 0 was obviously bipartisan, and the resolution that was just adopted last night is similarly bipartisan and builds on that previous consensus and highlights that upon which we can all agree. What is that?

The resolution that was adopted last night condemns the recent arrest and other intimidation tactics against democracy activists by the Castro regime, and it calls on the Cuban Government to immediately release those imprisoned during the most recent crackdown for the acts that the Government of Cuba wrongly deems ''subversive, counter revolutionary, and provocative.''

The resolution adopted last night also reaffirms S. Res. 272, the Varela Project resolution, that the Senate unanimously agreed upon last year, which calls for, among other things, amnesty for all political prisoners. The resolution we adopted last night praises the bravery of those Cubans who, because they had simply practiced free speech and signed the Varela Project petition, have now been targeted in this most recent government crackdown.