

should allow them to be held hostage by a process that promotes the back-room inclusion of new, controversial, onerous and unpopular initiatives. It is my hope that with full debate on the bill, these last minute policy initiatives will be considered and openly discussed.

It is past time for Congress to end the process of using conference reports and appropriations bills to enact unpopular or controversial policies. Continuing debate on the controversial provisions of this bill is the first step in doing so.

Mr. President, I yield the floor.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2673

Mr. McCONNELL. Madam President, I ask unanimous consent that at 6 p.m. this evening, the pending conference report be temporarily set aside; I further ask consent that the Senate then resume consideration of the conference report at 9:30 tomorrow morning, and further that there be 5½ hours equally divided for debate only; finally, I ask consent that following the use or yielding back of that debate time, the motion to proceed and the motion to reconsider the failed cloture vote be agreed to; further, the Senate then proceed to a vote on invoking cloture on the pending conference report with no intervening action or debate; finally, I ask unanimous consent that if cloture is invoked, the Senate then immediately proceed to a vote on the adoption of the conference report to accompany H.R. 2673, with no further intervening action or debate.

Mr. REID. No objection.

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

MORNING BUSINESS

Mr. McCONNELL. Madam President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

PREVENT ALL CIGARETTE TRAFFICKING (PACT) ACT OF 2003

Mr. HATCH. Madam President, I am pleased to inform my colleagues that we have reached an agreement on final language for S. 1177, the Prevent All

Cigarette Trafficking, PACT Act of 2003, which my friend Senator KOHL and I introduced on June 3, 2003. The manager's amendment makes the PACT Act even stronger than as introduced.

The distinguished Senator from Wisconsin and I originally introduced the PACT Act because of our concern that contraband cigarette trafficking both damages the economies of several States and contributes heavily to the profits of organized crime syndicates, including global terrorist organizations. When we reported this bill from the Judiciary Committee on July 31, 2003, I pledged to work with my colleagues on both sides of the aisle to address any and all concerns they had with the legislation. The result of this bipartisan effort is a piece of legislation that will prevent cigarette and smokeless tobacco smuggling and ensure the collection of tobacco excise taxes without infringing upon the rights of Native Americans or consumers.

Internet sales of cigarettes and smokeless tobacco are an impediment States face in their collection of tobacco excise taxes. A recent General Accounting Office report indicates Internet tobacco sellers rarely comply with requirements under the Jenkins Act of 1949 (15 U.S.C. §§375-378 (2003)). The Jenkins Act, as modified by this legislation, is a Federal statute that requires tobacco retailers to register with the tax authority for each State in which they sell cigarette and smokeless tobacco products and to file monthly reports providing shipment information within each state. Failing to comply with the Jenkins Act damages not only individual States, but also retailers that are put in unfair commercial disadvantage.

By ensuring the collection of state excise taxes from all tobacco retailers, the PACT Act will neither inconvenience nor hinder smokers and smokeless tobacco users in their ability as consumers to purchase the tobacco products of their choice over the Internet. This legislation merely removes any uncertainty regarding the scope of the Jenkins Act by explicitly mandating Internet tobacco retailers also comply with existing requirements under the Jenkins Act. This strong vehicle with which to collect taxes from Internet tobacco retailers will allow States to finally claim their rightful revenue and level the playing field for all tobacco retailers.

The PACT Act as modified by the manager's amendment also clarifies that the bill will not affect existing tribal compacts relating to tobacco tax collection on tribal lands and allows Native American Tribes to maintain enforcement authority over their own excise tax laws.

As I mentioned in June, law enforcement authorities have uncovered several instances in which organized crime syndicates are illegally funding terrorist organizations, such as Lebanon-

based Hezbollah, through the smuggling of cigarettes. These groups purchase cigarettes in States with low taxes and then transport them into states with higher taxes where the contraband is sold to small retailers at below market costs. The September 19, 2003, edition of the Detroit Free Press reports that one such scheme involved a 12-member syndicate, which purchased cigarettes in North Carolina and resold them in Michigan. Because North Carolina collects a 50-cent-per-carton tax and Michigan collects a \$12.50 per carton tax, federal prosecutors estimated that one member of the scheme, Hassan Moussa Makki, who monthly smuggled \$36,000 to \$72,000 worth of cigarettes into the State during a 2-year-period, prevented Michigan from collecting \$2 million in tax revenue. Law enforcement authorities determined Makki donated a substantial portion of these profits to Hezbollah. By providing state attorneys general with the necessary enforcement tools and the Bureau of Alcohol, Tobacco, Firearms and Explosives with investigative and inspection authority, the PACT Act will ultimately disrupt this form of terrorist funding and ensure that state, local and tribal governments collect their rightful excise taxes from both cigarette and smokeless tobacco sales.

With respect to delivery sales of smokeless tobacco, this provision is intended to impose strict federal limitations on delivery sales in order to supplement, and not preempt, applicable State or local law. Accordingly, it is intended that State-specific requirements in connection with the collection and remittance of applicable smokeless tobacco excise taxes will remain controlling, notwithstanding that advance payment of excise taxes might otherwise be required by Federal law in the absence of contrary State law. Moreover, the Federal proscription of delivery sales of smokeless tobacco with respect to which excise taxes have not been paid in advance of the delivery is not intended to apply where the laws or administrative practices of the State and locality in which the delivery is made provide that the delivery seller may remit applicable smokeless tobacco excise taxes in an alternate manner.

For example, the law of the delivery State and locality may explicitly or implicitly provide for the payment of smokeless tobacco excise taxes along with the filing of a tax return in the month subsequent to the delivery sale. Under such circumstances, even though applicable State or local law may not require the applicable smokeless tobacco excise taxes be remitted after the delivery, where the law of the delivery State and locality allows for such taxes to be remitted after the delivery, the intent of this provision is that the delivery sale may be made without violating federal law provided that applicable State and local law with respect to the collection and/or

remittance of applicable smokeless tobacco excise taxes are satisfied.

I call upon my colleagues to support Senator KOHL's and my efforts to prevent the funding of global terrorist organizations and ensure the collection of all excise taxes from the sale of cigarettes and smokeless tobacco, including Internet sales, so States can utilize their rightful revenue.

THE MAMMOGRAPHY QUALITY STANDARDS ACT

Mr. KENNEDY. Madam President, I strongly support this important legislation. Women screened for breast cancer deserve mammograms of the highest possible quality. I commend Senator MIKULSKI and Senator ENSIGN for this bipartisan proposal to strengthen current standards and do more to reduce the tragic toll of breast cancer.

Breast cancer is the second leading cause of cancer death among women, exceeded only by lung cancer. It strikes more than 200,000 Americans a year. Over 39,000 will die from breast cancer this year.

Early screening is essential. More than 90 percent of breast cancers are now detected at an early stage of the disease, when treatment can be most effective. Because of early detection through regular mammograms, the death rate from breast cancer fell by 20 percent between 1990 and 2000, even though the overall incidence increased slightly.

All women deserve access to mammograms of the highest quality. It's a tragedy when tumors are missed and lives lost because a screening was conducted poorly or interpreted inadequately. The legislation that Senator MIKULSKI and Senator ENSIGN have proposed will improve the quality of mammograms and help reduce the unacceptable toll of breast cancer and I urge my colleagues to approve it. It is fitting that this important bill is one of the first actions taken by the Senate in this new session. It deserves to become law as soon as possible.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In May 2002, two young male assailants targeted a Washington, D.C. resident after he left a local gay bar. The victim suffered severe face wounds, including a broken nose. Later that night, and in the week that followed, several more gay men were attacked by an unidentified group of young men.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out

of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

MEDICARE PRESCRIPTION DRUG PRICE REDUCTION ACT

Mrs. FEINSTEIN. Madam President, I rise today to cosponsor S. 1999, the Medicare Prescription Drug Price Reduction Act, which strikes language known as the "noninterference clause" included in the recently passed conference report accompanying the Medicare Prescription Drug and Modernization Act of 2003.

I believe that language preventing the Secretary from leveraging the enormous purchasing power of the Federal Government will mean our seniors may pay more for their drugs than they could be if that language was modified to allow the Secretary negotiating ability. America's seniors already pay the highest drug prices in the world, even though American taxpayers subsidize the research that produces many of those drugs.

So this legislation gives the Secretary of the Department of Health and Human Services, HHS, authority to negotiate contracts with manufacturers of covered Medicare Part D prescription drugs in order to ensure that enrollees in Medicare prescription drug plans, PDPs, pay the lowest possible price. The authority given to the HHS Secretary is similar to that given to other Federal entities that purchase prescription drugs in bulk.

I voted for the Medicare prescription drug conference report because it delivered voluntary prescription drug coverage to this Nation's 41 million Medicare beneficiaries. Too many Americans today face the terrible choice of paying for rent or groceries or paying for their prescription drugs. In fact, some of my constituents have resorted to skipping doses in an attempt to manage prescription drug prices.

One of the strongest features of the Medicare bill is the assistance it provides for low-income Medicare recipients through the elimination or reduction of premiums, deductibles and copays. For those low-income Medicare recipients whose prescription drug spending exceeds the catastrophic limit, or \$5,100 in total drug spending, Medicare will pay all of their drug costs. For seniors who do not qualify for the low-income assistance, they will pay no more than 5 percent of their prescription drug costs above the catastrophic limit.

The Medicare prescription drug bill includes essential increases in funding for California's health care providers. California's hospitals are facing financial crises across the State. In fact, over the past 7 years, more than 62 hospitals have been forced to close.

The bill will help hospitals meet the needs of California's communities by providing \$882 million in additional

Medicare and Medicaid payments over the next 10 years. Physicians will now receive an increase of 1.5 percent per year in Medicare payments in 2004 and 2005, rather than the 4.5 percent payment cut they were expected to incur.

However, one of the most troubling aspects of the bill was language intended to promote competition among prescription drug plans in order to lower prescription drug prices. Section 1860D-11(i) says:

The Secretary may not interfere with the negotiations between drug manufacturers and pharmacies and Prescription Drug sponsors.

I believe that this language actually takes away one of the best tools the Medicare program could use to bring down prescription drug prices by denying the Government the ability to negotiate price discounts on behalf of Medicare recipients.

The Veterans' Affairs, VA, system negotiates prescription drug prices. This negotiating authority has been a terrific success in bringing down the cost of drugs purchased by the VA. Why would we prevent the Secretary of HHS from doing the same on behalf of our 41 million Medicare recipients?

Some argue that this noninterference language will spur competing prescription drug plans to drive down the cost of prescription drugs in an effort to secure contracts with the Federal Government. However, since the Secretary may not require a particular formulary or institute a price structure for covered Part D drugs, seniors may be unprotected from escalating drug costs in regions without plan competition.

Here is the most recent picture of health care spending in the United States: Health care spending in the United States increased 9.3 percent to \$1.55 trillion in 2002, the largest increase in 11 years. It now accounts for 15 percent of the Nation's gross domestic product. Prescription drug spending rose 15.3 percent to \$162.4 billion in 2002, accounting for 16 percent of the overall health care spending increase.

Spending on prescription drugs is often cited as a key contributor to rising health care costs. Unfortunately, the Medicare bill missed a significant opportunity to reign in the escalating cost of prescription drugs in the U.S.

I believe the Medicare Prescription Drug Price Reduction Act will bring real prescription drug cost relief to seniors in California and across the country.

I urge my colleagues to join me in supporting this important legislation.

THE UNINSURED

Mr. SMITH. Madam President, I rise today on behalf of the almost 44 million Americans who have no health insurance. This number has continued to grow—last year alone, the number of people who lost their insurance grew more than any other year in the past decade. The number of uninsured Americans now exceeds the cumulative