

Wednesday, September 27, 2000, at 9:30 a.m. in room 485 of the Russell Senate Building to conduct a hearing on S. 2052, a bill to establish a demonstration project to authorize the integration and coordination of Federal funding dedicated to community, business, and the economic development of Native American communities to be followed immediately by a business meeting to mark up pending committee bills.

Those wishing additional information may contact committee staff at 202/224-2251.

PRIVILEGES OF THE FLOOR

Mr. GRAHAM. Mr. President I ask unanimous consent that Ms. Kimbriel Dean be allowed on the floor for the duration of my remarks.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to David Sarokin, a fellow on my staff, during the pendency of S. 2045, the H-1B visa bill.

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

MEASURE READ FOR THE FIRST TIME—H.R. 5203

Mr. ENZI. Mr. President, I understand that H.R. 5203 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

A bill (H.R. 5203) to provide for reconciliation pursuant to sections 103(a)(2), 103(b)(2), and 213(b)(2)(C) of the concurrent resolution on the budget for fiscal year 2001 to reduce the public debt and to decrease the statutory limit on the public debt, and to amend the Internal Revenue Code of 1986 to provide for retirement security.

Mr. ENZI. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

INTERCOUNTRY ADOPTION ACT OF 2000

Mr. ENZI. Mr. President, I ask unanimous consent the Chair lay before the Senate a message from the House of Representatives to accompany H.R. 2909.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Resolved, That the House agree to the amendment of the Senate to the bill, H.R. 2909, entitled "An Act to provide for implementation by the United States of the Hague Convention on Protection of Children in Co-operation in Respect of Intercountry Adoption, and for other purposes," with an amendment.

Mr. ENZI. I ask unanimous consent that the Senate agree to the amendment of the House.

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

Mr. LEAHY. Will the Senator yield?

Mr. ENZI. I yield.

Mr. LEAHY. Regarding the last bill that went through, I want to take a moment to compliment a colleague of mine from Massachusetts, Congressman DELAHUNT, who has worked so hard and so diligently. It will give me a great deal of pleasure to tell him it has passed. I thank my friend.

Mr. BIDEN. Mr. President, I am extremely pleased that today the Senate is giving advice and consent to the Hague Convention on Intercountry Adoption, and approval to the related implementing legislation.

The Senate's approval of these measures will send both of them to the President for his signature. This is good news for American parents looking to adopt overseas, and good news for the thousands of orphaned children overseas looking for loving homes.

This treaty is important for a very simple reason—it will help facilitate international adoptions and provide important safeguards for children and adoptive parents. It is a good thing when the government can make things easier for its citizens—in this case, adoptive parents. An adoption is a joyous occasion, but the current system can be confusing and present uncertainties.

The Hague Convention establishes a uniform system for adopting children from other countries—so that both adoptive parents and biological parents have the assurance that an adoption is being done right. The Hague Convention and the implementing bill also establish mechanisms for improved governmental oversight for international adoptions—in order to guard against fraud and other problems associated with such adoptions.

The implementing legislation is the product of compromise between a number of people—the Chairman of the Foreign Relations Committee, Senator HELMS, Senator LANDRIEU, Senator BROWNBACK, and myself, and several people in the other body, including Chairman BEN GILMAN, and Representative SAM GEJDENSON, BILL DELAHUNT, and DAVE CAMP. None of us got all that we wanted. But I believe we have a good product here. I want to express my appreciation to them and their staffs for the hard work that went into the drafting of this bill. Several people in the executive branch, too numerous to mention, also contributed greatly to this bill.

Now the hard work of putting the promise of the Hague Convention into reality begins. The executive branch will have much to do in implementing this treaty, and Congress will have a duty to oversee this work closely. But today we are taking an important step for parents and children—a step about which we can all be proud.

EXECUTIVE SESSION—TREATIES

Mr. ENZI. I ask unanimous consent that the Senate proceed to executive

session to consider the following treaties on today's Executive Calendar:

Nos. 15, 17, 18, and 19.

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

The clerk will report.

The legislative clerk read as follows:

Treaty Document No. 105-1, Convention On Protection of Children and Co-operation In Respect of Intercountry Adoption;

Treaty Document No. 106-8, Convention (No. 176) Concerning Safety and Health in Mines;

Treaty Document No. 106-14, Food Aid Convention 1999;

Treaty Document No. 105-48, Inter-American Convention On Sea Turtles.

Mr. ENZI. I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; all committee provisos, reservations, understandings, and declarations be considered agreed to.

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

The treaties will be considered to have passed through their various parliamentary stages up to and including the resolutions of ratification.

The resolutions of ratification read as follows:

CONVENTION ON PROTECTION OF CHILDREN AND COOPERATION IN RESPECT OF INTERCOUNTRY ADOPTION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, adopted and opened for signature at the conclusion of the seventeenth session of the Hague Conference on Private International Law on May 29, 1993 (Treaty Doc. 105-51) (hereinafter, "The Convention"), subject to the declarations of subsection (a) and subsection (b).

(a) DECLARATIONS.—The Senate's advice and consent is subject to the following declarations, which shall be included in the instrument of ratification.

(1) NON-SELF EXECUTING CONVENTION.—The United States declares that the provisions of Articles 1 through 39 of the Convention are non self-executing.

(2) PERFORMANCE OF REQUIRED FUNCTIONS.—The United States declares, pursuant to Article 22(2), that in the United States the Central Authority functions under Articles 15-21 may also be performed by bodies or persons meeting the requirements of Articles 22(2)(a) and (b). Such bodies or persons will be subject to federal law and regulations implementing the Convention as well as state licensing and other laws and regulations applicable to providers of adoption services. The performance of Central Authority functions by such approved adoption service providers would be subject to the supervision of the competent federal and state authorities in the United States.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following declarations, which shall be binding on the President:

(1) DEPOSIT OF INSTRUMENT.—The President shall not deposit the instrument of ratification for the Convention until such time as the federal law implementing the Convention is enacted and the United States is able to carry out all the obligations of the Convention, as required by its implementing legislation.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(3) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

(4) REJECTION OF NO RESERVATIONS PROVISION.—It is the Sense of the Senate that the “no reservations” provision contained in Article 40 of the Convention has the effect of inhibiting the Senate from exercising its constitutional duty to give advice and consent to a treaty, and the Senate’s approval of this Convention should not be construed as a precedent for acquiescence to future treaties containing such a provision.

CONVENTION (NO. 176) CONCERNING SAFETY AND HEALTH IN MINES

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Convention (No. 176) Concerning Safety and Health in Mines, Adopted by the International Labor Conference at its 82nd Session in Geneva on June 22, 1995 (Treaty Doc. 106-8) (hereinafter, “The Convention”), subject to the understandings of subsection (a), the declarations of subsection (b) and the provisos of subsection (c).

(a) UNDERSTANDINGS.—The Senate’s advice and consent is subject to the following understandings, which shall be included in the instrument of ratification:

(1) ARTICLE 12.—The United States understands that Article 12 does not mean that the employer in charge shall always be held responsible for the acts of an independent contractor.

(2) ARTICLE 13.—The United States understands that Article 13 neither alters nor abrogates any requirement, mandated by domestic statute, that a miner or a miner’s representative must sign an inspection notice, or that a copy of a written inspection notice must be provided to the mine operator no later than the time of inspection.

(b) DECLARATIONS.—The Senate’s advice and consent is subject to the following declarations, which shall be binding on the President:

(1) NOT SELF-EXECUTING.—The United States understands that the Convention is not self-executing.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the State Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISOS.—The advice and consent of the Senate is subject to the following provisos:

(1) REPORT.—One year after the date the Convention enters into force for the United States, and annually for five years thereafter, the Secretary of Labor, after consultation with the Secretary of State, shall provide a report to the Committee on Foreign Relations of the Senate setting forth the following:

(i) a listing of parties which have excluded mines from the Convention’s application pursuant to Article 2(a), a description of the excluded mines, an explanation of the reasons for the exclusions, and an indication of whether the party plans or has taken steps to progressively cover all mines, as set forth in Article 2(b);

(ii) a listing of countries which are or have become parties to the Convention and corresponding dates; and

(iii) an assessment of the relative costs or competitive benefits realized during the reporting period, if any, by United States mine operators as a result of United States ratification of the Convention.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

FOOD AID CONVENTION, 1999

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Food Aid Convention, 1999, which was open for signature at the United Nations Headquarters, New York, from May 1 through June 30, 1999, and signed by the United States on June 16, 1999 (Treaty Doc. 106-14), referred to in this resolution of ratification as “The Convention,” subject to the declarations of subsection (a) and the proviso of subsection (b).

(a) DECLARATIONS.—The advice and consent of the Senate is subject to the following declarations:

(1) NO DIVERSION.—United States contributions pursuant to this Convention shall not be diverted to government troops or security forces in countries which have been designated as state sponsors of terrorism by the Secretary of State.

(2) PRIVATE VOLUNTARY ORGANIZATIONS.—To the maximum feasible extent, distribution of United States contributions under this Convention should be accomplished through private voluntary organizations.

(3) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the State Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISOS.—The advice and consent of the Senate is subject to the following provisos:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTER-AMERICAN CONVENTION FOR THE PROTECTION AND CONSERVATION OF SEA TURTLES, WITH ANNEXES

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Inter-American Convention for the Protection and Conservation of Sea Turtles, With Annexes, done at Caracas, Venezuela, on December 1, 1996 (Treaty Doc. 105-48), which was signed by the United States, subject to ratification, on December 13, 1996, referred to in this resolution of ratification as “The Convention,” subject to the understandings of subsection (a), the declarations of subsection (b) and the provisos of subsection (c).

(a) UNDERSTANDINGS.—The advice and consent of the Senate is subject to the following

understandings, which shall be included in the instrument of ratification of the Convention and shall be binding on the President:

(1) ARTICLE VI (“SECRETARIAT”).—The United States understands that no permanent secretariat is established by this Convention, and that nothing in the Convention obligates the United States to appropriate funds for the purpose of establishing a permanent secretariat now or in the future.

(2) ARTICLE XII (“INTERNATIONAL COOPERATION”).—The United States understands that, upon entry into force of this Convention for the United States, the United States will have no binding obligation under the Convention to provide additional funding or technical assistance for any of the measures listed in Article XII.

(3) ARTICLE XIII (“FINANCIAL RESOURCES”).—Bearing in mind the provisions of paragraph (7), the United States understands that establishment of a “special fund,” as described in this Article, imposes no obligation on Parties to participate or contribute to the fund.

(b) DECLARATIONS.—The advice and consent of the Senate is subject to the following declarations:

(1) “NO RESERVATIONS” CLAUSE.—Concerning Article XXIII, it is the sense of the Senate that this “no reservations” provision has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and the Senate’s approval of these treaties should not be construed as a precedent for acquiescence to future treaties containing such provisos.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1998, and Condition (8) of the resolution of ratification of the Document Agreed Among the State Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(3) NEW LEGISLATION.—Existing federal legislation provides sufficient legislative authority to implement United States obligations under the Convention. Accordingly, no new legislation is necessary in order for the United States to implement the Convention. Because all species of sea turtles occurring in the Western Hemisphere are listed as endangered or threatened under the Endangered Species Act of 1973, as amended (Title 16, United States Code, Section 1536 et seq.), said Act will serve as the basic authority for implementation of United States obligations under the Convention.

(4) ARTICLES IX AND X (“MONITORING PROGRAMS,” “COMPLIANCE”).—The United States understands that nothing in the Convention precludes the boarding, inspection or arrest by United States authorities of any vessel which is found within United States territory or maritime areas with respect to which it exercises sovereignty, sovereign rights or jurisdiction, for purposes consistent with Articles IX and X of this Convention.

(5) It is the sense of the Senate that the entry into force and implementation of this Convention in the United States should not interfere with the right of waterfront property owners, public or private, to use or alienate their property as they see fit consistent with pre-existing domestic law.

(c) PROVISOS.—The advice and consent of the Senate is subject to the following provisos:

(1) REPORT TO CONGRESS.—The Secretary of State shall provide to the Committee on Foreign Relations of the Senate a copy of each annual report prepared by the United States in accordance with Article XI of the Convention. The Secretary shall include for the

Committee's information a list of "traditional communities" exceptions which may have been declared by a party to the Convention.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Convention requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. ENZI. I further ask unanimous consent that any statements be printed in the CONGRESSIONAL RECORD as if read, and that the Senate take one vote on the resolutions of ratification to be considered as separate votes. Further, that when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaties, the Senate return to legislative session.

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

The understandings to the resolutions of ratification are agreed to.

Mr. ENZI. I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the resolutions of ratification will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

LEGISLATION SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR THURSDAY, SEPTEMBER 21, 2000

Mr. ENZI. Mr. President, I ask unanimous consent when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, September 21, 2000.

I further ask unanimous consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11:30 a.m., with Senators speaking for up to 5 minutes each, with the following exceptions: Senator LOTT or his designee, 60 minutes; Senator DASCHLE or his designee, 60 minutes.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

PROGRAM

Mr. ENZI. Mr. President, when the Senate convenes at 9:30 a.m., the Senate will be in a period of morning business until 11:30 a.m. Following morning

business, the Senate will resume postcloture debate on the motion to proceed to S. 2045, the H-1B visa bill. An agreement is being negotiated regarding the Water Resources Development Act, and it is hoped that the Senate can begin consideration of the bill this week. Therefore, Senators should be prepared to vote during tomorrow's session of the Senate.

ORDER FOR ADJOURNMENT

Mr. ENZI. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, at the close of my remarks. I ask unanimous consent I be given such time as I might use.

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

THE BUDGET

Mr. ENZI. Mr. President, I have now been in the Senate almost 4 years. Some of the days have been extremely long, but the years have been extremely short. We work through a process here that I am sure, as people watch, seems extremely slow and cumbersome. That is probably because it is. It was designed that way by our forefathers. They intended that legislation that affects this Nation would be carefully considered in two separate bodies and then submitted to the executive branch for the possibility of a veto. That takes a long time.

The bodies have grown in size as a number of States came into the Nation, and that makes it more difficult. But it is a system that works better than that in any other country in the world, and it is working now. It is difficult, very difficult; long days, tough issues, tough choices.

When I first came to the Senate, the first issue I got to talk about was the balanced budget amendment. At that time, it was just a dream that at some point we could get the discipline to balance a budget. It had been years since a budget had been balanced around here. As we went through that debate, people said: Oh, this doesn't give us enough leeway. What if we would have a war? Technically, I guess, we have had a couple since that time, and we have still balanced the budget. Not only that, the economy has increased, and many will attribute that to the budget being balanced. In countries around the world, as they balance the budget, their economy improves. We balanced the budget, the economy improved. It gave us a lot more money to work with.

In fact, we have so much money, we have started talking about honesty with the Social Security surplus. That is music to my heart. I am the only accountant in the Senate. It was pretty obvious that, with our accounting techniques, we were spending the Social Security surplus. People pay into

Social Security, and the money that is paid in is, for the most part, paid in to the recipients of Social Security. It doesn't really flow into a trust fund and stay there with the portion of the trust fund for the person on retirement being used. No, the money flows in and the money flows out. But at the moment, there are more people working than receiving. As a result, there is a surplus in Social Security.

That is going to change pretty drastically in about 2013. At that point, we are going to have more people retiring than working, and there will be a deficit in Social Security. So it has been very important that we be honest on Social Security and start to put that Social Security away.

We also tried a motion to assure that would be put away. It is called a lockbox on Social Security. That has never passed around here—similar to the balanced budget amendment, which did not pass. But the American people understood how important that balanced budget amendment was, that the Federal Government couldn't spend more money, just as they cannot spend more money than they have, and they insisted on a balanced budget, and we got it. We talked about a lockbox. I think we had seven different votes to end the filibuster to put that into law. It has not happened. But the message has been delivered by the people of this country that we are going to put a lockbox on Social Security; we are going to put that money away; we are not going to touch it, so the little bit that there is—this is just a surplus, the money that is flowing in and out—will be there later.

One of the things we are doing with that is we are paying down the national debt. You will hear a number of us around here say if you really look at the accounting on this, are we paying down the national debt? No, we are paying down the public national debt. We are taking that money that individuals across this country have invested in Treasury bills and we are buying their Treasury bills back. What that does is put IOUs into the Social Security trust fund—not money. We got rid of the money.

At the moment, if you have a Treasury bill, you are paid interest periodically. We have to pay the interest if the public owns the debt. So what do we achieve by taking Social Security money and buying up this public debt? I will tell you what we achieve. We achieve the ability to spend more money because we do not pay Social Security interest in cash at the moment that it is due. We take a little bit of IOU and we use it to make the Social Security trust fund a little bit bigger. But it is not real money. If we wanted to spend it, we would have to put in money in order to take money out. How would we do that? We would increase the public debt.

If you call the Treasury and they tell you the national debt at the moment—that is, the total, public and private—