Mr. President, next year and thereafter I hope even more Americans will participate in an even greater variety of ways in the celebration of American Heritage Day. Schoolchildren could be encouraged to compete in ethnic contests, writing about the contributions of ethnic Americans. Local organizations throughout the land could select their own honored citizens and sponsor local celebrations. Constitution Hall will be the site of the principal Ethnic American Day celebration again next year. More Americans can experience the sheer enjoyment of honoring America's multiple ethnic heritages if people throughout the Nation cooperate in organizing more celebrations.

PROFESSIONAL LIABILITY

Mr. Hatch. Mr. President, we have before us a cloudburst of the motion to proceed to consideration of S. 2760, the Product Liability Reform Act. I will vote for cloture, because this is an issue that should be debated and acted upon by the Senate. In my view, the product liability crisis is one of our most critical issues facing our Nation's business. I have been concerned with this issue for quite some time. The problems are, I am sure, well known to all of you. Today, both the business community and consumers are threatened by the unpredictability of court awards and judge-made laws that allow a finding of liability even though a defendant is without fault. Insurance companies have responded to this unpredictability by doubling and even tripling their premiums each year. The heavy burden of insurance premiums has driven some companies out of business and has made life difficult for those who remain.

In fact, courts in Utah and her surrounding States have been relatively restrained when dealing with the issue. Those local courts have not joined the mass of Courts that have discarded traditional concepts of tort law that require negligence or recklessness in order to recover in favor of an expanded doctrine of strict liability. Furthermore, the Utah Legislature recently passed the Tort Reform Act of 1986 which abolished the legal theory of strict liability. But because insurance companies set their premiums based upon the worst possible scenario, producers in Utah are feeling the effects of laws made in States thousands of miles away.

This is a national problem and several proposals have been presented in Congress in an effort to reduce the insurance costs incurred by the insurance unavailability/unaffordability crisis. These proposals range from "shotgun ideas" that would federalize the entire tort system to specific "nife shots" that address only those areas most needing assistance.

Certainly, there is considerable controversy on Capitol Hill about these proposals. Part of the problem is due to opposition lobbyists like the American Trial Lawyers Association. But what, to me, is a more serious concern are the ramifications flowing on a Federal level with legal principles that have traditionally remained on the State level. However, the scope of the liability crisis is, as I mentioned, one of national concern. There are thousands of businesses across the Nation, both small and large, that are seeing their small and large businesses, their profits disappear and their risk of being used growing larger daily. In Florida, 20 percent of obstetricians have stopped delivering babies. Manufacturers of vaccines for our children are faced with skyrocket prices. Insurance premiums that increase costs, limit innovation. One Utah town with 60 registered voters was recently held liable for $2.4 million in a dispute over an auction permit. Nationwide, people have been prevented from engaging in business because of their inability to obtain insurance.

Therefore, I believe that the Federal Government can and should take steps to control the liability crisis. Earlier this month I attended hearings in the Senate Judiciary Committee in which we heard testimony demonstrating the need for national remedy for product liability. I fully endorse S. 2760, the Product Liability Reform Act, which I believe will have a great impact on the problem, but with minimal disruption of the ability of the people to govern themselves on the State level. I am confident that this bill would reduce the pressure that is currently felt by businesses who are exposed to product liability. Because businesses such as those in my own State of Utah are feeling the effects of court decrees, I am confident that the States that have not adopted such laws, passage of this proposal by Congress would establish some level of uniformity, offering insurance companies to better anticipate potential jury verdicts. A limited Federal product liability solution is needed and we must act on S. 2760.

However, as this legislation deals only with product liability, it does not alleviate the insurance crisis as it relates to our local governments and medical professionals, two other groups in great need. A separate proposal that I introduced is directed at reducing the risk of municipal liability. Courts have recently interpreted section 893, a civil right statute, so that a city or local government may be sued in Federal court for a violation of Federal law unless related to civil rights. If I introduce S. 436, to limit the broad reading that courts have given to the Federal law in question, and return the interpretation to violations of civil rights, which was the original intent of the law. This bill would also establish an immunity for decisions of local governments that were made in good faith; impose a uniformity of limitations; and require the exhaustion of State administrative remedies prior to suit in Federal court. Passage of S. 436 would significantly reduce the pressure felt by municipalities and the Federal Government.

To respond to the health care professional liability crisis, I have introduced a bill providing incentives to States who modify their laws to provide for periodic payment of damage awards over $100,000; elimination of the collateral source rule; limiting noneconomic damages to $250,000; limiting contingency fee awards; and several other provisions to ensure record-keeping and discipline.

These three approaches respond to the liability problems facing practicing professionals, local governments, and American business generally. I believe that the States should bear the majority of the responsibility for modifying the laws as tort liability is fundamentally an area of State law. However, the Federal power to provide stability in an area marked by continued turmoil, the Federal Government can join the States in making great strides in eliminating the liability crisis.

S. 2878—ANTI DRUG ABUSE ACT OF 1986

(Note: Later in today's proceedings the Senate proceeded to the consideration of S. 2878, the Anti Drug Abuse Act of 1986. By unanimous consent, the text of the bill was ordered to be printed in the Record. On motion by Senator Packwood of Oregon, the text of the bill in part was printed in the Record at this point, as follows):

S. 2878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, through Judicial use of the Federal power to provide stability in an area marked by continued turmoil, the Federal Government can join the States in making great strides in eliminating the liability crisis.
(a) The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act. The amendments made by subsection (a) shall apply to aliens entering the United States after the date of the enactment of this part.

Subtitle B—Drug Law Enforcement
Agent Protection Act of 1986

SEC. 1711. SHORT TITLE.

This subtitle may be cited as the "Federal Drug Law Enforcement Agent Protection Act of 1986.

SEC. 1712. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 861(e)) is amended by—

(1) inserting after "(e)") the following:

(1) revising paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and

(2) striking out the matter following subparagraph (A), as redesignated, and inserting in lieu thereof the following:

"(A)(A) The proceeds from any sale under subparagraph (A) or subparagraph (B)(i) of section 861(a) of any moneys forfeited under this title shall be used to pay—

(1) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

(2) awards of up to $10,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement officer.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement officer, as provided in this subparagraph, shall be paid at the discretion of the Attorney General.

(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, United States Code, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A).

Subtitle B—Common Carrier Operation Under the Influence of Alcohol or Drugs

SEC. 1781. Operation of a common carrier under the influence of alcohol or drugs.

Section 1781 of title 49, United States Code, is amended by inserting after section 1781 the following:

"CHAPTER 17A—COMMON CARRIER OPERATOR UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

"Sec. 1784. Definition of "common carrier" as used in this chapter.

"1785. Operation of a common carrier under the influence of alcohol or drugs.

"Section 1781 of title 49, United States Code, is amended by adding a new section 1781a to title 49, as follows:

"(a) Section 1781a(a) (of title 49, United States Code, as amended) is amended by striking out "any law or regulation relating to" and all that follows through "additional-operating office and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a control substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))", and

"(b) Section 1781a(b)(11) of such title is amended by striking out "any law or regulation relating to" and all that follows through "additional-operating office and inserting in lieu thereof "any law or regulation of a State, the United States, or a foreign country relating to a control substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))", and

"(c) The provisions of this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act. The provisions of this section shall apply to aliens entering the United States after the date of the enactment of this part.

"(d) This Act shall be deemed applicable to documents compiled in any lawful investigation of organized crime conducted by the Attorney General that is part of the national strategy described in section 102 of the Controlled Substances Act (21 U.S.C. 802)."
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(1) in subsection (a) by inserting after "section 401(a)(1)" the following: "or section 401(a)(2)";

(2) in subsection (b) by inserting after "section 401(a)(1)" the following: "or section 416".

Subtitle T—Controlled Substances

Technical Amendments

S. 1661. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1964 is amended in section 3672 (formerly section 3656) of title 16 of the United States Code by striking at the end thereof:

"He shall have the authority to contract, subject to appropriations, with any appropriate public or private agency or person for the detection of and control of community of an offender who is an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include, but not be limited to, providing equipment and supplies; testing, medical, educational, social, psychological, and vocational services; correction and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addictive drugs, by offering assistance for his rehabilitation, and by reducing his liability to the community."

S. 1662. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1668) is amended in the sentence beginning "as the filling", by striking out "$2,500" and inserting in lieu thereof "$5,000".

S. 1663. (a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1666(c)) as amended by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to"

(b) Section 616 of the Tariff Act of 1930 (19 U.S.C. 1666) is enacted by Public Law 98-473 is repealed.


(1) in subsection (c) by striking out "(o)" and inserting in lieu thereof "(n)";

(2) in subsection (j) by striking out "subsection (i)" and inserting in lieu thereof "subsection (e)";

(3) in subsection (k) by striking out "(o)" and inserting in lieu thereof "(m)".

S. 1685. (a) Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4) by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of any property subject to forfeiture by any one of the means provided in this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure."

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting "or a violation of State or local law that could have been