United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, THURSDAY, APRIL 19, 2007 *No. 63*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania.

The PRESIDING OFFICER. Today's opening prayer will be offered by our guest Chaplain, Dr. Tim Smith, Valley Presbyterian Church, Paradise Valley, AZ.

PRAYER

The guest Chaplain offered the following prayer:

Shall we pray.

O Lord Most High and so near, before whom all the nations rise and fall, it is not mere custom that we begin with prayer, but our deep sense of need for You. On this April morning we cherish the memory of another April morning and the Minutemen of Lexington and Concord who answered the midnight cry of Paul Revere, and they took their stand and fired the shot heard round the world. We remember them and how bitterly our freedom has been won, and pray that same spirit for us today.

Spirit of the living God, breathe on this assembled body of free men and women, servants of the people. As You guided its sons and daughters of liberty in the past, so guide these here today for the sake of liberty everywhere, for America's sake, for conscience sake, for God's sake. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY, Jr., led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 19, 2007.

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CASEY thereupon assumed the chair as Acting President pro tempore.

THE GUEST CHAPLAIN

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I yield to the distinguished junior Senator from the State of Arizona, Mr. KYL.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I appreciate the majority leader yielding for the purpose of commenting for a moment about the guest Chaplain who just delivered the prayer, who happens to be the chaplain of my church in Paradise Valley. Let me speak a few words about Tim Smith and his service to our congregation.

He is the associate director of Congressional Ministries at Valley Church, and his expertise is ministries throughout the community. He has been a pastoral minister for over 25 years, serving as a hospice chaplain, a prison chaplain, and a bereavement counselor. In addition, he is a certified spiritual director and mentor and teacher to those who study spiritual direction. Tim and his wife Rita are members of Valley Presbyterian Church. They are parents of two sons, one of whom, incidentally, interned in my office in Phoenix, AZ.

It is also a special privilege for a guest Chaplain to be here, and I express my appreciation also to our Chaplain, Dr. Barry Black, for his willingness and kindness in inviting Tim Smith to be with us today.

Mr. President, I welcome Tim Smith, Minister of Valley Presbyterian Church, to Washington and to the Senate.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

REMEMBERING THE WARSAW UPRISING

Mr. REID. Mr. President, the distinguished visiting Chaplain mentioned the Revolutionary War event, and that is memorable. Also, on this day I think it is important, to reflect on the Holocaust, that this day in 1943 was the beginning of the Warsaw Uprising at the Warsaw ghetto. As I recall, the Germans invaded Poland in 1939. They were, to say the least, brutal, especially against the Jews. In about 1941, as I recall, they cordoned off an area that was about 20 blocks by 6 blocks and ordered everyone out who was not Jewish and ordered all Jews from the whole large metropolitan area of Warsaw into that ghetto.

Word got out that the Jews had gathered some weapons, as they had done, minimal in number, and the German tanks came in on this day in 1943. Of course they were to wipe out the ghetto in 1 day, but these gallant Polish patriots, these Jews, held out for more than a month.

In the annals of history, it is one of the greatest acts of defiance against terrorism that exists. They did it with heroism and gallantry, and it is a day that we should recognize as being a day in the history of mankind where people stood up for what was right and against what was wrong.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

SCHEDULE

Mr. REID. Mr. President, this morning there will be a period of morning business for 60 minutes, Republicans controlling the first half and the majority controlling the last portion of the time. Following the period of morning business, the Senate will resume consideration of S. 378, the court security legislation. Cloture was filed on the bill. Members have until 1 p.m. today to file any first-degree amendments to the matter.

I am confident and I am hopeful that we will finish that bill today and be able to move, either this evening or tomorrow, to the matter dealing with competitiveness. Everyone should be made aware of the fact that we have at least 50 cosponsors of that legislation, so there will be no cloture filed to move to it or after we are on it. This is a bill that we should be able to complete without any procedural blocks of any kind from either side. But we are going to finish the court security bill before we leave this week. That may take a little extra time, but I think it is something we all need to do.

Coincidentally, yesterday, as I indicated on the Senate floor, the head of the Marshals Service, Mr. Clark, came to see me. The meeting had been long since scheduled. It was not scheduled as a result of this matter being on the floor of the Senate. He indicated that violence against Federal judges was up 17 percent last year; that there were more than 1,000 open threats against members of the Federal judiciary last year. This does not take into consideration the many instances of threats and actual violence in the State courts. This legislation will not only make safer the people who work in the Federal courts, including the judges, but also has the ability to make our State courts safer.

We need not be reminded too often of what has happened in recent years. In Illinois, a crazed litigant waited in a judge's home. When the family came home—not the judge, just the family members—they were killed. In Nevada, a man who was dissatisfied with what a judge was doing shot the judge. We know what happened in Georgia, where violence took place and people were killed.

This is something we really need to do. Time is of the essence. I understand there are some amendments today, and that is fine. We will dispose of those just as quickly as we can. I hope we do not have to file cloture on the bill.

That is the next thing. I appreciate very much the Republican leader doing what was necessary so we could move to the bill immediately after cloture was invoked on the motion to proceed. This is important legislation, and we should finish it as quickly as we can.

I also want to acknowledge that all Judiciary Committee members are tied up in the Judiciary Committee today, Democrats and Republicans, because Attorney General Gonzales is appearing before them in his much anticipated hearing. As a result of that, we didn't have a manager of the bill. SHERROD BROWN, a longtime Member of the House and new Member of the Senate, has agreed to manage this bill, and that will be done on this side. There are no excuses. We need to move forward. We have a manager. We will make sure everything is done in an appropriate manner.

We hope anyone who has amendments to offer will do so. There is nothing pending at this time, as I understand it. I say to the Chair, is that true, that this bill is open to amendment at the present time?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. The bill is open to amendment. We hope if people, Democrats or Republicans, think this bill can be improved, they will offer amendments.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

FINISHING LEGISLATION

Mr. MCCONNELL. Let me say to my good friend, the majority leader, I think there is an excellent chance of finishing the court security bill fairly soon. He is, indeed, correct that the competitiveness bill which he is calling up after that enjoys broad bipartisan support, so I think these are two pieces of legislation the Senate has a good chance of enacting in the very near future.

NATIONAL COMMEMORATION OF THE DAYS OF REMEMBRANCE

Mr. MCCONNELL. With regard to today's remembrance of the Holocaust, at today's 2007 National Commemoration of the Days of Remembrance ceremony, I will have the honor of lighting a candle alongside Holocaust survivor Eva Cooper. Eva was 10 years old when Nazis invaded her hometown of Budapest. She survived in hiding until Soviet forces liberated her and her family in 1945.

Hearing stories like Eva's reminds us that the Holocaust was not one act of evil, but millions, an evil that slaughtered little children and horrified nations. Today, we remember evil and the strength and courage of those who lived under its dark reign.

As time marches ever forward, fewer survivors like Eva Cooper will still live to tell us firsthand of the horrors they saw. That is why the mission of the U.S. Holocaust Memorial Museum, the host of today's event, is so very important. History must never forget the horror committed against the Jewish people, so that horror of such magnitude can never, never happen again.

Today's ceremony will also serve to remind us of the strength of the Jewish people in the face of atrocity. The resilience of those who survived, and the determination of those who remember, is proof that the dignity of the human soul will never be trampled by oppression, injustice, or terror.

I yield the floor.

ORDER OF BUSINESS

Mr. REID. Mr. President, we have had a number of inquiries already in the cloakroom whether there will be votes tomorrow. I will be in consultation with the distinguished Republican leader during the day, and that decision will be made later.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the first 30 minutes controlled by the Republican leader or his designee, and the last 30 minutes controlled by the majority leader, or his designee.

The Senator from Florida is recognized.

EMERGENCY APPROPRIATIONS

Mr. MARTINEZ. Mr. President, I want to use some of the minority time in morning business this morning to discuss H.R. 1591, the Emergency Supplemental Appropriations Act of 2007. We are here now, some 73 days after the President sent us the emergency wartime spending request, and 73 days later we are still waiting to send to our troops the resources they desperately need while they are in harm's way.

On March 23 the House passed their version of the bill, and on March 29 the Senate did as well. We are now in the middle of April and the two bodies have yet to meet to work out their differences. More distressing still, the House has yet to even name conferees.

I know yesterday the leaders of the Congress had a meeting with the President to discuss the progress, or maybe the lack of progress, on this bill. In the 10 weeks since the Congress began consideration, we have turned a bill intended to fund troops into a bill that seeks to put a hasty and misguided withdrawal deadline from Iraq. In addition to that, not only does it not prioritize the war funding and leave it at that, but it also contains about $20 billion in projects that are neither emergencies and, most of all, are not related to the war effort.

In addition to that, it is clear from the conversations that leaders have had with the President that in this current form this bill will be vetoed. So

where are we today then? We clearly have a bill that is going to be unacceptable to the Executive. We still have not even conferenced on the bill. And worse yet, the Democratic leadership shows no signs of changing the path on which they are set, which is one that attempts to put an artificial deadline on the commanders on the ground and attempts to put other restrictions on their ability to fight the war from the ground as they best see fit.

So at the end of the day, we should not be using a war supplemental, at a time of war, when our troops are in harm's way, to do things such as put $25 million for spinach farmers—that is not an emergency, that does not relate to the war effort, $75 million for peanut storage. Again, I am sure peanuts being stored is an important thing, but is it a wartime supplemental issue? Is it an emergency? No. And $250 million for a dairy subsidy. We all enjoy ice cream, but do we need to have an emergency appropriation in order to subsidize diary farmers? Do we need to have an emergency appropriation for the war with bin Ladin now with this kind of special interest pork?

There is $3.5 million in this bill for Capitol tours. They are important, too. They are not an emergency. They certainly do not relate to the war. And $2 million for the University of Vermont.

The President has said:

The longer Congress delays, the worse the impact on the men and women of the armed forces [will be]. Our troops, [the President said] should not be trapped in the middle.

I think that is true. I think it is very important that we move this process forward and that we allow for the troops on the ground to receive the kind of funding they desperately need to continue the fight forward.

There is something here we must recognize. Whenever the Congress does not timely fund an agency or department of the Federal Government, then we need to find ways in which to get the job done. I can remember, during my days in the Cabinet, that as Secretary of Housing and Urban Development, it is very disruptive for a stream of funding for a given project to be disrupted, because then you have to make amends in order to continue to pay your bills, bills you are obligated to pay, while at the same time having to rob Peter to pay Paul.

It is the most inefficient way to run Government. It is more costly than any other way of doing it and, most of all, when you are dealing with our Armed Forces, it has dire consequences.

Here are a couple of things that are wrong with the situation we are in today: We are delaying for no good reason. Secondly, we are attempting to impose a political deadline on a bill that is intended to provide the troops the resources they need to continue to fight the war.

The Iraq Study Group has been cited as having some good guidance on the way forward. The experts in that group, the Iraq Study Group—I know they are quoted frequently by my friends on the other side of the aisle, but we can't be too selective about what we choose to like from the Iraq Study Group and what we don't.

The Iraq Study Group says that: Near-term results—and this is referring to an untimely or an early withdrawal—would result in a significant power vacuum.

Unquestionably, if we withdraw untimely, there will be a power vacuum in Iraq. There will be greater human suffering, and the region will be destabilized, and a threat to the global economy would also be a part of what the Iraq Study Group found would be the result of a hasty withdrawal.

Al Qaeda would depict our withdrawal as a historic victory.

Make no mistake about that. The Iraq Study Group said: Our premature departure from Iraq, leaving a power vacuum, will provide al-Qaida with a victory of historic proportions.

If we leave and Iraq descends into chaos, the long-range consequences could eventually require the United States to return.

This is the Iraq Study Group. This is what they are saying about an untimely and hasty withdrawal from Iraq. There is no question there would be a power vacuum left, not only within Iraq but also in the region. And as a result of that, only those who do not wish us well and who are, frankly, the enemies of our country today would find this vacuum a great opportunity as a way that they could then descend. So there would be a power vacuum within the country, which would surely be filled by the radical elements of the society, who are not the ones who were elected by the people but are the ones who will have the ability, through their own thuggery and armed intervention, by their own militias, to take over the country.

The factional killings would rise even higher than they are today, and then the region will be destabilized, because there is no question that Iran would move into this power vacuum created by the hasty departure of the United States, the only stabilizing force in that area at the moment.

In addition, we would find the other countries in the region, the Sunni states, the moderate Sunni states that are friendly to us, would find this situation untenable. They would then have to act. I think the whole region would be in greater chaos than it is today. This would then necessitate a return of the United States into Iraq in a way that would be, frankly, undesirable.

So what are we doing today? Well, I am not one of those who believes we owe a commitment for the end of time and to all time. But I do not think we are at the point in time when retreat is the only option. Retreat will be followed by defeat, and all of those consequences are not what we want to see.

At this point in time we have two top-rated commanding officers in the field. General Petraeus has been on site a scant couple of months. His plan for this surge, his plan to try to pacify Baghdad, is underway, and while there are daily setbacks, and last night, this morning, we received the news of yet more fighting and more killing and more bombs, the fact is there are some overall trends that seem to be moving in a more positive direction.

Lieutenant General Odierno, who is the commanding general of the Multinational Corps in Iraq, reported on a number of aspects of military progress. He said: ''We are seeing a drop in sectarian murders in Baghdad and some displaced families are returning to the city.''

Again, these are modest signs of something going in the right direction.

The number of caches we are finding per week has doubled since February.

All of the troops of this reinforcement action that many choose to call a surge have yet to be on the ground. The capacity of the Iraq security forces continues to grow. There are currently 10 Iraqi divisions, 8 of which have transitioned to Iraqi control. I believe yesterday another province was turned over to Iraqi control, the Iraqi forces. Security across Al Anbar has dramatically improved. The people of Al Anbar are fighting back and winning against al-Qaida. And I think that is true. We are receiving unparalleled and unprecedented cooperation from the locals in that area to help us defeat al-Qaida.

This, make no mistake about it, is a fight with al-Qaida. There may be sectarian and factional fighting in Iraq, and certainly in Baghdad, but in Al Anbar we are fighting al-Qaida.

Last week in Ramadi, there were nine attacks in total. During this same week a year ago there were 84 attacks. In the north, petroleum products from the Baiji oil refinery have increased 20 percent in the last 6 weeks alone, due to the Iraq security force's effort to protect the distribution tankers.

The bottom line is, there is a drop in murders, there is an increase in finding arms caches, there is an increase in the Iraqi forces continuing to take control of their own country, there is a decrease in attacks, and there is an increase in oil production. It is a perfect picture but certainly something that seems to be moving in a direction that is more desirable.

The emergency supplemental is vital to the troops and vital to our national security. The operations in Iraq over the next several months will determine our future efforts in Iraq and in that part of the world. We do not have the luxury of delaying these funds. You see, it would be a self-fulfilling prophecy not to properly fund the troops, to require that the rotations that are planned not take place; that the National Guard—we value so much the training. And I keep hearing in the Armed Services Committee repeated questions: Are our troops properly trained before they are sent into battle?

Well, we find that right now home State training of National Guard units had to be suspended because of the supplemental not being funded, and deployment of all military units is going to have to be slowed.

In other words, there are people who are part of our Armed Forces who have been in Iraq, who have served their time, who are expecting to come home. Their time of coming home is going to be delayed because their replacement will not have the resources to get back into the fight.

The administration's position on the bill is that the war supplemental should remain focused on the needs of the troops and should not be used as a vehicle for adding on emergency spending, and also for policy proposals that I find are more destined to make a difference in the political fight than they are in the fight against the enemies of our country.

Mr. President, I conclude by reading a letter that was written by Army LTC Charles P. Ferry, regarding the death of his comrade, his follow soldier, Army Ranger SSG Joshua Hager, a young man who died in the service of his country.

The lieutenant colonel wrote:

On February 22, 2007, the Scout Platoon and I were conducting a vehicle movement at night along a route we had traveled many times before. Joshua and the rest of the Scouts had every inch of this road memorized. About halfway to our destination, Joshua's vehicle was struck by a large, deeply buried improvised explosive device (IED). Joshua was instantly killed by the blast, and the two other Scouts in the vehicle were wounded.

The lieutenant colonel continues to write:

I have been in the Army for about 23 years and served in numerous Infantry, Special Forces, and Ranger Battalions. I have served about three years collectively in combat in Somalia, Afghanistan, and Iraq, and Staff Sergeant Joshua Hager is one of the best Sergeants I have ever served with and I trusted my life with him. He was the consummate professional and the absolute standard bearer for his platoon. He died doing what he loved and what he was very good at and I was proud to serve with him. I hope and pray that our Nation will always appreciate the ultimate sacrifice he and his family have made. I will never forget Joshua and I carry his memory burned into my heart as we continue to fight in the city of Ramadi.

I have spoken with the father of Sergeant Hager. We talked a number of times about his son and his son's beliefs. I cannot imagine the pain Mr. Hager feels, but I can tell you what he did say to me. The message from Joshua's father that he wanted me to relay here was Joshua understood his mission. He understood what he was over there fighting for. He knew this was a war worth fighting, and worth winning.

Young Joshua Hager told his dad these things and added:

I'll stay in Iraq for another year or however long it takes to defeat the enemy—so that my son won't have to fight this battle when he grows up.

That statement, I believe, embodies the spirit of our soldiers in the field. They get it. They know their mission. We should know ours as well. We ought to get to work. We ought to strip out of this bill the timelines that would constrain and tie the hands of our military commanders. We should strip the pork, the unnecessary, nonemergency, nonwar-related pork that is in the bill, and send a clean bill to the President that he might sign it and get the resources to the troops they so desperately need, not only in Iraq but just as well as back here at home as we continue to attempt to keep our National Guard properly trained and properly prepared.

This is a difficult issue. I know very much how much this issue can divide our country. But I also know how very important it is to those of us who I believe clearly understand the threat our country faces in the global war on terror, the issues that relate to the security of this Nation, and the very difficult situation we find ourselves in. We should not make this situation more difficult by injecting domestic politics into the atmosphere.

I do believe it is very important that we continue to fund the troops, that we give the troops our support and our backing, and we do so in a timely manner.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. LINCOLN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. LINCOLN. Mr. President, I know the Republican side has additional time remaining. That will be reserved for them. I wish to speak under the Democratic time.

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

TRAGEDY AT VIRGINIA TECH

Mrs. LINCOLN. Mr. President, I would like to take a few moments to extend my heartfelt condolences to the Virginia Tech community and the families comforting them. The entire Nation obviously is grieving with them over their tremendous loss. We want them to know that all of our States, particularly the great State of Arkansas, stand with them as they cope with this senseless tragedy. We will continue to be with them, keep them in our thoughts and prayers in the coming weeks and months.

I attended Randolph-Macon Woman's College just down the road from Blacksburg in Lynchburg, VA. I remember when I was in college, Virginia Tech was well known for its strong and passionate student body. They had tremendous strength. They had a strong will, a strong determination, and a strong and bright spirit. I certainly know that all of those strengths remain in today's student body at Virginia Tech. I also know that their alumni will be there to comfort them and stead them well in the coming months. We hope they know we have them in our thoughts and prayers.

WAR IN IRAQ

Mrs. LINCOLN. Mr. President, news from the Pentagon last week hit so many families throughout our great State of Arkansas particularly hard. Four years into the conflict in Iraq, the Army National Guard put 13,000 reservists, including nearly 2,000 from the largest National Guard unit in Arkansas, the 39th Infantry Brigade, on notice that they should be prepared for a second deployment at the end of this year. The Pentagon's decision to potentially deploy these troops marks the first time during Operation Iraqi Freedom that full Guard units would be called up for a second tour of duty. Our Arkansas troops already have performed bravely in Iraq, and we know they will do so again.

Today, along with many Arkansans honorably serving in the Active-Duty military, over 1,600 of our citizen soldiers have been activated for service in the Middle East and along our southern border with Mexico. The 142nd Fire Brigade based in Fayetteville, AR, mobilized last week and is expected in Iraq this summer. Eighty members of the 213th Area Support Medical Company are preparing for their mobilization orders in June. Many of these members served in Iraq before with the 296th Ambulance Company. The headquarters company, the 871st Troop Command, is also expected to be mobilized in June.

Since the war began, our troops have performed their mission with incredible bravery and skill in some of the harshest conditions imaginable. Their families have supported them and kept them in their prayers, have been there with them each step of the way, both in the harsh conditions and when they have returned. Their communities have supported them, many of which are rural communities. They are communities that, when these soldiers have been deployed, have to find someone else to fill positions while they are gone, positions such as mayor or principal of the school, fire chief or police chief, small businesses that keep the economies in those small rural communities thriving.

Because of the sacrifice of these brave men and women, their families, and these communities, we have seen a popularly elected government replace a ruthless dictator.

We have seen a democratic constitution approved by the Iraqi people replace the authoritarian rule they had known. Tragically, we also have seen civilian mismanagement of this war which is not reflective of the tremendous sacrifice put forth by our men and women in uniform. Today, more than

3,300 servicemembers, 56 with Arkansas ties, have given their lives—the ultimate sacrifice in this undertaking—and more than 24,000 have been wounded.

Now, as our troops contemplate the thought of returning to Iraq to continue an undefined mission, President Bush has chosen to question the resolve of Congress to provide our troops with the resources they need to finish the job. He has questioned us. I take great exception to the President's comments. I find them disingenuous, and I wish to make clear to the American people that Congress is committed to providing our troops with everything they need to safely and effectively complete their mission. I believe that we have worked diligently to bring about a bill which would provide just that.

Last month, I voted with the majority of my Senate colleagues for an emergency spending bill that was above the President's request for our troops and would provide nearly $100 billion for operations in Iraq and Afghanistan. We met each of his requests and provided every nickel he asked for and more. The additional dollars we approved provide for their combat equipment, housing, and much needed health care, particularly addressing mental health issues for those suffering from traumatic brain injuries and post-traumatic stress disorder. Our soldiers in the field deserve no less. Our returning veterans deserve no less. We should be doing everything we possibly can to provide what the President has asked and more. We do just that in the supplemental bill we will send him.

Our legislation also sets measurable benchmarks for the Iraqi Government such as assuming control of their own security operations, containing the sectarian violence, and making the tough decisions toward political reconciliation that desperately need to be made—the very same benchmarks the President himself has continually called for.

The Senate did this in record time. In the past 2 years, it took well over 100 days to get to a supplemental. This Senate, recognizing the urgency of the issue, moved quicker than we have in the last 2 years. We have been more expeditious, and we acted in less than 50 days to get it passed in the Senate. We now anticipate sending him a bill next week. Despite our best efforts to find common ground, however, the President has threatened to veto this bill once it reaches his desk, although the final language still needs to be negotiated in a conference package. I hope it will be done in a way that does expedite getting the resources and needs to our soldiers.

What is so egregious about our approach that the President will not consider signing it and has been so adamant? The President points to two particular issues. First, he claims this bill would impose restrictions on our military commanders and set an arbitrary date for withdrawal from Iraq, giving our enemies the victory they desperately want. I argue that the constantly shifting objectives of this war make it difficult to imagine an end to the U.S. commitment, unless we present the benchmarks the President has spoken about and called for. The American people are exhausted with this war, and the President's justification for staying in Iraq becomes harder and harder to stomach each and every day if we do not call on the Iraqis to step up to the plate and seize their opportunity to create their own security.

As Iraq slides deeper into an increasingly violent civil war, the President's high-risk military strategy has increased our military's involvement. This strategy comes at a time when the U.S. intelligence community reports that al-Qaida has become an increased threat to our national security because we have devoted so much manpower, resources, and attention solely to Iraq. We have in a sense spread ourselves so thin in one place that how can we react in the multiple places where al-Qaida is strengthening itself? It also comes at a time when our own military reports that its readiness has dramatically eroded because it has been overextended and underequipped.

Listening to my military leaders in Arkansas, my guardsmen and reservists, who know full well what is going to be asked of them, one of the first things on their list of concerns is the lack of medical and dental readiness for their soldiers. They find that when some of their troops get called up, because they are citizen soldiers and they may not have regular health care—which is a whole other issue to be dealing with in this body—they are held back on medical hold because they don't meet medical readiness or, in some of the more horrific stories, they just simply pull that soldier's teeth and send them to Iraq because they don't have time to give adequate dental care to bring them to that medical-readiness status. It is unacceptable and inexcusable that we should be putting those many pressures on the brave men and women who fight for this country.

Our bill seeks to address these issues. In the Senate bill, we acknowledge that the conditions in Iraq have changed substantially since we originally authorized the war in 2002. We are no longer fighting an enemy that will one day show the white flag and surrender. Instead, we are now in a referee position of a brutal fight for dominance between two warring religious sects and countless militia who are all hungry for power. Oftentimes, soldiers come home and say they don't even know who the enemy is when they go into these communities and seize what they think are civilians and don't know whether it is a militia that will lash out and cause great harm.

While I agree with President Bush that we should not leave Iraq in chaos, we don't have to. That is the point we make in this bill. We don't have to if we make sure, as we do in this bill, that the Iraqis understand what our expectations are of them, the benchmarks we have laid down, and the expectations we have of the Iraqis to stand up so our American soldiers can step down, as President Bush has so frequently said.

U.S. troops should not be in the position of policing a civil war with an open-ended commitment. The American people realize that and are clamoring for us to move forward in a positive way to bring our troops home.

That is why U.S. policy must focus on policy that encourages Iraqi leaders to take responsibility for their country and attempt to find a political solution to this grave conflict.

America is no stranger to that. In looking for our own freedom hundreds of years ago, we realized there were commitments that had to be made. We knew there were steps that had to be taken, courageous steps that had to be taken. The Iraqi people know that, too. We must encourage them now to take those steps.

Our efforts are already having their intended effect. On Tuesday, the President's own Defense Secretary, Robert Gates, stated:

> [T]he debate in Congress has been helpful in demonstrating to the Iraqis that American patience is limited. The strong feelings expressed in the Congress about the timetable probably has had a positive impact in terms of communicating to the Iraqis that this is not an open-ended commitment.

The President has also chided Congress for providing much needed emergency funding. This is one of the other areas he brings complaint about our supplemental—for providing this much needed emergency funding for items such as Katrina recovery, agricultural disaster relief, the State Children's Health Insurance Program, known as SCHIP, and firefighting, just to name a few. He has attempted to paint this funding as porkbarrel funding when the reality is these are dollars which will be used to rebuild the gulf region; dollars which will be used for farmers to offset losses over the past several years from drought and hurricanes and other types of natural disasters; dollars which will be used for health care needs for our Nation's neediest children, our most precious blessing; and dollars for our first responders and on and on.

I am reminded of a conversation I had with my grandmother one time when she said to me: It is crazy, but some people will sometimes ask you, Which of your children do you love the most? How do you respond to something like that? As the mother of twins, it is impossible. President Bush is the father of twins. He knows how important it is that all of your children—all of your children—know they are loved. Yes, some, though, who are the neediest may need more attention. That is why—that is why—the soldiers, the brave men and women serving in uniform from this country, are the

first priority on our list here. But that does not mean we forget the rest of the members of our American family. That does not mean we forget the children who need health care or the farmers who are experiencing disaster or, Heaven forbid, we forget the members of our American family in the gulf region who have yet to get the resources and the help from their Federal Government they need to begin to rebuild their lives.

These are people who are a huge part of our American family and who strengthen the fabric of this great country. It is so critically important that they, too, be included as a part of strengthening this country to which our soldiers will one day return home. These are funds which are needed now. The supplemental offers the best opportunity to address these emergencies. It is the typical place where we address emergencies in the Congress.

Moving forward, I am pleased President Bush met with Majority Leader REID and Speaker PELOSI yesterday. I see that as a sign of progress. But I am also very disappointed that the President continues to put veto threats out there about a bill that is so vitally necessary to our soldiers and to our entire American family.

For the security of our country and for the sake of our troops, it is time for a new direction. It must be a direction that better reflects the ability, the reality, and the real progress that ultimately lies with the Iraqis taking responsibility for their own future. We know—we know—it can happen if the Iraqis understand what is expected of them.

This new direction must also acknowledge we must do more for our troops when they are in harm's way particularly but also when they come home. The love and care—particularly health care—they and their families need is essential to keeping our American family whole. They not only deserve our appreciation and support, they deserve the very best equipment, armor, and other battlefield amenities necessary to complete their mission and to bring them home, as well as the proper care, benefits, and attention once their military service is complete.

Our troops are worthy of this commitment from us. We should come together as a Congress and an executive branch to make that expression, to show our troops and to show our entire American family that at this time, at this difficult time in our Nation's history, we come together in a bipartisan way, in an American way, to recognize the needs of this great country and to move us forward.

I strongly believe this bill offers the necessary guidelines to bring our soldiers home safely, and as soon as possible, to care for this incredible country—these communities they will return home to, to keep them whole and to keep this incredible fabric of our American family strong.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, how much time remains to this side of the aisle under the order?

The PRESIDING OFFICER. Twelve and a half minutes.

SUPPLEMENTAL APPROPRIATIONS

Mr. COCHRAN. Mr. President, I am pleased to be able to come to the floor and urge the Senate to expedite the consideration of the supplemental appropriations bill that is now in conference between House and Senate members on the Appropriations Committee. This supplemental request for funding for our troops in Iraq and Afghanistan has been pending now for way too long, without action to send this bill to the President for his signature.

Over 2 weeks ago, I received a letter from the Joint Chiefs of Staff outlining the urgency of this appropriations bill. I am going to read a couple of excerpts from that letter now:

> With the increasing pace of operations and material needs in Iraq and Afghanistan, we ask that the Congress expeditiously complete its work on the Fiscal Year 2007 Emergency Supplemental. Timely receipt of this funding is critical to military readiness and force generation as we prosecute the war on terror. Given the current status of this legislation, we are particularly concerned that funding could be significantly delayed.

It is very clear that delay is occurring, and it is a serious matter. We are talking about life-and-death situations, the ability to furnish the equipment, the weaponry, the training that is necessary for our Armed Forces to carry out their mission.

This is not a time to play politics with the well-being of troops in the field. I am afraid that is what we are witnessing. I do not have any particular problem with the Senate and House members of our conference committee seriously engaging in a discussion of our differences and resolving those and submitting a final conference report as soon as possible. I urge that is what we do. But we are seeing more and more delay. That is just not justified under the circumstances in which we find ourselves.

In this letter I received the other day, here is another thing that is pointed out by the Joint Chiefs of Staff:

> Without approval of the supplemental funds in April, the Armed Services will be forced to take increasingly disruptive measures in order to sustain combat operations. The impacts on readiness and quality of life could be profound. We will have to implement spending restrictions and reprogram billions of dollars. Reprogramming is a short-term, cost-inefficient solution that wastes our limited resources. Spending restrictions will delay and disrupt our follow-on forces as they prepare for war, possibly compromising future readiness and strategic agility. Furthermore, these restrictions increase the burden on servicemembers and their families during this time of war.

I do not know how the Chairman of the Joint Chiefs of Staff and those who are working closely with him in this very difficult period could be more clear about the importance of action now on this supplemental appropriations bill.

I am not going to belabor the point, but I think for us to continue to engage in who is going to win this political struggle about deadlines, forced redeployments from Iraq and Afghanistan, suspension of activities of this kind or the other, and who is in charge, it makes the world wonder whether our Nation is competent to deal with an emergency that threatens the very security of our country.

I know when I came to Congress, you would hear it said that partisan politics should stop at the water's edge, that whatever is going on in other parts of the world that affects our security, our economic well-being, threatens us all as a nation, Democrats, Republicans, young and old, the military, and the civilian leaders of our country—we are all in this together.

We need to work out our differences and resolve them somehow. Let's look to compromise that is fair, that carries out the intent as expressed in these bills by those who have supported and passed an appropriations bill in the Senate and one in the House. Let's resolve the differences. That is what we are waiting on. And do you know what. The conference committee has not even met. There has been no meeting of the conferees on the part of the House or the Senate to discuss the differences. Now, that is inexcusable, and I lay that at the feet of the leadership of the Senate and the House. We are all in this together. I am not saying just the Democratic leadership or the Republican leadership, but we as Members ought to call on our leaders now.

Let's end this logjam. Let's end this confrontation and the political grandstanding that is going on on the part of some. I think we need to immediately move to conference. Let's work on these bills. Let's get them resolved in a conference report that the President can sign.

We are talking about a supplemental appropriations bill for our military forces. There have been other things added in both the Senate and the House. Well, that is not unusual. That happens. What we can agree on, let's agree on and send it to the President. But let's stop the delay, the procrastination, the finger-pointing, the political accusations that the President does not have the interests of the country at heart—whatever is being said in so many words. It is a political attack against the President. This is not the time for partisan politics. This is the time for the Senate and the House to get together, resolve our differences, and move on, support our troops, and protect our national security interests. That is what this bill does.

Mr. President, I ask unanimous consent that a copy of the letter signed by Peter J. Schoomaker, General, U.S. Army, Chief of Staff; Michael G.

Mullen, Admiral, U.S. Navy, Chief of Naval Operations; T. Michael Moseley, General, U.S. Air Force, Chief of Staff; James T. Conway, General, U.S. Marine Corps, Commandant of the Marine Corps, be printed in the RECORD.

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

THE JOINT CHIEFS OF STAFF,
Washington, DC, April 2, 2007.

Hon. THAD COCHRAN,
Ranking Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN: On behalf of the Soldiers, Marines, Sailors and Airmen of our Armed Forces and their families, please accept our thanks and appreciation for continuing to provide the necessary resources and legislation to fight the Long War.

With the increasing pace of operations and materiel needs in Iraq and Afghanistan, we ask that the Congress expeditiously complete its work on the Fiscal Year 2007 Emergency Supplemental. Timely receipt of this funding is critical to military readiness and force generation as we prosecute the war on terror. Given the current status of this legislation, we are particularly concerned that funding could be significantly delayed.

Without approval of the supplemental funds in April, the Armed Services will be forced to take increasingly disruptive measures in order to sustain combat operations. The impacts on readiness and quality of life could be profound. We will have to implement spending restrictions and reprogram billions of dollars. Reprogramming is a short-term, cost-inefficient solution that wastes our limited resources. Spending restrictions will delay and disrupt our follow-on forces as they prepare for war, possibly compromising future readiness and strategic agility. Furthermore, these restrictions increase the burden on service members and their families during this time of war.

Thank you again for your unwavering support of our service members and their families. We are grateful for your steadfast interest in providing them the best equipment, the best training and a quality of life equal to the quality of their service. We look forward to working with you on measures to enhance our Nation's security.

Sincerely,

PETER J. SCHOOMAKER,
General, U.S. Army, Chief of Staff.
MICHAEL G. MULLEN,
Admiral, U.S. Navy, Chief of Naval Operations.
T. MICHAEL MOSELEY,
General, U.S. Air Force, Chief of Staff.
JAMES T. CONWAY,
General, U.S. Marine Corps, Commandant of the Marine Corps.

Mr. COCHRAN. Mr. President, I yield back the remainder of the time available on this side.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COURT SECURITY IMPROVEMENT ACT OF 2007

The PRESIDING OFFICER. The Senate will resume consideration of S. 378, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 378) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members and for other purposes.

Mr. LEAHY. Mr. President, today we continue to debate and consider the Court Security Improvement Act of 2007. It should not be a struggle to enact this broadly supported consensus legislation. We made some progress yesterday but failed to get to final passage of this important legislation. I hope we can get there later today.

I would like to thank the majority leader for his support and leadership on this bill. Senator REID knows all too well about the need for greater court security since the last courthouse tragedy occurred in Nevada. Nobody has been a stronger supporter of this legislation. He helped us pass similar protections twice last year. It is no surprise to me that yesterday he met with the head of the U.S. Marshals Service. Sadly, they reported a 17 percent increase in attacks this year. We cannot delay our response any further in the face of this trend.

Senator DURBIN, our assistant majority leader, has been consistently dedicated to getting this legislation passed. The tragic murder of Judge Lefkow's husband and mother in her home State of Illinois serves as a terrible reminder of why we need this legislation. Senator DURBIN has worked tirelessly to prevent any further tragedies from befalling our Federal judges.

As I have noted before, this legislation has broad bipartisan support. Yesterday Senator CORNYN gave a powerful statement in support of this legislation. Senator CORNYN is a former member of his State's judiciary. I urge Members to consider his views and support for these important provisions providing for increased security. Even the White House has issued a supportive Statement of Administration Policy.

Yesterday a number of amendments were filed, but none of them was relevant to the important purpose of court security. There will be other opportunities to consider worthwhile amendments. I look forward to working with Senator COBURN on Department of Justice reauthorization later this year.

We made some progress yesterday. The Senate adopted the Kyl-Feinstein amendment that was adopted in committee. I thank Senator SPECTER for working with me on an important managers' amendment. That amendment made several technical fixes and clarified our treatment and protection of magistrate judges and the Tax Court judges.

Last night after significant debate we had a vote on an amendment offered by Senator COBURN. Regretfully, it took from 10:30 a.m. to 5:30 p.m. for the Senator from Oklahoma to be ready to offer his amendment. Once offered we dealt with it promptly.

I would like to thank Senator WHITEHOUSE for helping me manage this bill yesterday. His eloquent words in support of this legislation were much appreciated.

I thank Senators KLOBUCHAR and BROWN for helping me manage this legislation today during the Judiciary Committee's oversight hearing with Attorney General Alberto Gonzales.

I hope that today we can finish our work on this important legislation.

Mr. BROWN. Mr. President, I understand the Senator from Nevada has an amendment he wishes to offer.

AMENDMENT NO. 897.

Mr. ENSIGN. Mr. President, I call up amendment No. 897.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 897.

Mr. ENSIGN. 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 as follows:

(Purpose: To amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes)

At the end of the bill, add the following:

TITLE VI: NINTH CIRCUIT SPLIT

SEC. 601. SHORT TITLE.

This title may be cited as the ''The Circuit Court of Appeals Restructuring and Modernization Act of 2007''.

SEC. 602. DEFINITIONS.

In this title:

(1) FORMER NINTH CIRCUIT.—The term ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this title.

(2) NEW NINTH CIRCUIT.—The term ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by section 603(2)(A).

(3) TWELFTH CIRCUIT.—The term ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by section 603(2)(B).

SEC. 603. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking ''thirteen'' and inserting ''fourteen''; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

''Ninth	California, Guam, Hawaii, Northern Mariana Islands.''

and

(B) by inserting after the item relating to the eleventh circuit the following:

''Twelfth	Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.''.

SEC. 604. JUDGESHIPS.

(a) NEW JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 5 additional circuit judges for the new ninth circuit court of appeals, whose official duty station shall be in California.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENT OF JUDGES.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the former ninth circuit court of appeals, whose official duty stations shall be in California.

(2) EFFECT OF VACANCIES.—The first 2 vacancies occurring on the new ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 605. NUMBER OF CIRCUIT JUDGES.

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... 20''

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth ..... 14''.

SEC. 606. PLACES OF CIRCUIT COURT.

The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth	Honolulu, Pasadena, San Francisco.''

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth	Las Vegas, Phoenix, Portland, Seattle.''.

SEC. 607. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.

The offices of the Circuit Executive of the Twelfth Circuit and the Clerk of the Court of the Twelfth Circuit shall be located in Phoenix, Arizona.

SEC. 608. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this title—

(1) is in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

(2) is in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington shall be a circuit judge of the twelfth circuit as of such effective date.

SEC. 609. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this title may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 610. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 608, or

(2) who elects to be assigned under section 609,

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 611. APPLICATION TO CASES.

The following apply to any case in which, on the day before the effective date of this title, an appeal or other proceeding has been filed with the former ninth circuit:

(1) Except as provided in paragraph (3), if the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this title had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this title been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) If a petition for rehearing en banc is pending on or after the effective date of this title, the petition shall be considered by the court of appeals to which it would have been submitted had this title been in full force and effect at the time that the appeal or other proceeding was filed with the court of appeals.

SEC. 612. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.

Section 291 of title 28, United States Code, is amended by adding at the end the following:

''(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit.

''(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit.''.

SEC. 613. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.

Section 292 of title 28, United States Code, is amended by adding at the end the following:

''(f) The chief judge of the United States Court of Appeals for the Ninth Circuit may in the public interest—

''(1) upon request by the chief judge of the Twelfth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit, or a division thereof, whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit.

''(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

''(1) upon request by the chief judge of the Ninth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit, or a division thereof, whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit.

''(h) Any designations or assignments under subsection (f) or (g) shall be in conformity with the rules or orders of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.''.

SEC. 614. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this title may take such administrative action as may be required to carry out this title and the amendments made by this title. Such court shall cease to exist for administrative purposes 2 years after the date of enactment of this Act.

SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title, including funds for additional court facilities.

SEC. 616. EFFECTIVE DATE.

Except as provided in section 604(c), this title and the amendments made by this title shall take effect 12 months after the date of enactment of this Act.

Mr. ENSIGN. Mr. President, we are debating a bill about court security. The court security bill is about the administration of justice. Some would argue that the amendment I have offered, while relating to the courts, does not deal with court security. Both the underlying bill and my amendment deal with the administration of justice. There are provisions in the bill that are not strictly dealing with court security, and I believe this is an appropriate place to talk about this amendment and an appropriate time for the Senate to vote on my amendment. It is something we have been working on for a few years.

My amendment recognizes that the ninth circuit, by far being the largest circuit in the United States, is too large, the administration of justice is too slow, and that the ninth circuit needs to be broken up at this point. It needs to be split up so the people, such as the people who live in the State of Nevada, can receive justice in a way that is fair and that is also expeditious.

In the past, the United States has gotten to a point with other circuits where we have decided that they are too large and need to be split. Some have argued that splitting up the ninth circuit is for ideological reasons, but that is not why I have offered this amendment. Many who used to be opposed to splitting up the ninth circuit 5 or 10 years ago now understand that for the sake of the administration of justice, the ninth circuit needs to be split up. It is by far and away the largest circuit in the United States.

We have had testimony in front of the Judiciary Committee, and many articles have been written, on why so many of the ninth circuit decisions are overturned by the U.S. Supreme Court.

The Ninth Circuit, far and away, has more of its decisions overturned by the Supreme Court than any other circuit. Well, Mr. President, we had testimony that one of the reasons a lot of people believe that to be the case is not that the jurists on the Ninth Circuit may be less competent than those in other circuits, but that is because of the overwhelming caseload, the circuit doesn't have the time to consider the cases that other circuits do but the use of the en-banc panel, instead of the full circuit, contributes to this problem.

Mr. President, 20 percent of the country is in the Ninth Circuit. It is laden with immigration cases. It has too many cases per judge and, because of that, too many of the cases that need to be heard in a timely fashion are delayed. What our bill simply would do is to divide the Ninth Circuit up in a very fair manner. We have put this through judges and through studies and over the years we have modified it on exactly how to break it up. If people disagree with how we are deciding to break it up, we can talk about that. But the bottom line is that it is too large of a circuit, and the Ninth Circuit needs to be split up.

I think all but one of the judges in the State of Nevada—by the way, almost all these same judges used to be against splitting up the Ninth Circuit. Today, nearly all of them have come out in favor of splitting up the Ninth Circuit. The reason for that is we live in the fastest growing area in the country. Nevada, in 18 out of the last 19 years, is the fastest growing State. The other States in the Ninth Circuit, including Arizona, California, Washington, Oregon, Idaho, all of these States have booming populations. While we are the largest circuit in the United States, it is going to get increasingly worse in the future, as far as the size of the population, the number of cases per judge, while overwhelming now, it is only going to get worse in the future.

I believe this is an amendment that should be discussed as a separate bill on the floor. But we all know most bills cannot get time on the Senate floor. So you have to take the opportunity to offer amendments wherever you can. We have been trying to get this bill acted on for years and years and years. We now have a vehicle, dealing with the courts, where it is appropriate to offer this amendment. So that is why I am offering this amendment today.

Mr. President, again, amendment No. 897 would split the Ninth Circuit Court of Appeals. Because my home State of Nevada is under the jurisdiction of the Ninth Circuit, I have taken particular interest in how the Ninth Circuit functions. As a Senator from Nevada, I represent people who are on both sides of this issue. I have heard arguments for, and against, splitting the Ninth Circuit but, having listened to the debate, have concluded that it is time for Congress to split the Ninth Circuit.

The Ninth Circuit really has become too large to function as efficiently as it should. The population of the States in the Ninth Circuit is growing too fast for the circuit to manage its caseload. Cases working their way through the Ninth Circuit take far too long to come to resolution. The circuit is becoming increasingly dependent on visiting judges, who are not as familiar with circuit precedent, to manage its caseload. The reversal rate of cases heard by the Supreme Court which on appeal from the Ninth Circuit is much higher than the average of all Federal circuits. These problems require some form of action by Congress and, having studied the issue, simply adding more judges is not the solution.

Last year, the Judiciary Committee held a hearing on the issue of splitting the Ninth Circuit. As several Federal judges who were witnesses testified, adding more judges, in a circuit so geographically large, is not going to adequately address the need for collegiality among judges.

Mr. President, my primary motivation is to ensure that my constituents, the people of Nevada, have equal access to justice. Equal access to justice requires not only fair, but also prompt, resolution of a case. From my perspective, the current backlog in cases and the fact that the resolution of appeals takes far longer in the Ninth Circuit than any other circuit demonstrates that Nevadans are not guaranteed the promise that their claims will be heard with the same timeliness as persons living in other circuits. The adage of ''justice delayed is justice denied'' is appropriate with respect to the Ninth Circuit delays.

I believe we should consider the cost that unreasonable delay causes to the parties in a case. The lawyers and the judges live in this system. To these people, delays are not only reasonable but they are expected. A delay to someone who is part of the legal community is just the way things are done. But that is not the case for litigants. Ask any litigant whose case is waiting for a hearing on appeal. They take being sued personally and would tell you that their lives are on hold. They may fear they will lose their business, or their job, or their livelihood. It really does not matter whether the case involves business litigation, an immigration appeal, or a criminal matter.

If you talk to the parties to a case, they will tell you stories of the economic, social, and psychological toll extended litigation has on them and their families. That is why I am concerned about delays in the process.

That is also why I believe that some groups have endorsed my bill. For example, the Western States Sheriff's Association, which includes Nevada, has endorsed splitting the Ninth Circuit. I believe that the Association understands that America's law enforcement agencies have been devoting scarce budget resources to monitoring and dealing with criminal appeals that would otherwise be better devoted to protecting America's families if only appeals cases were resolved sooner rather than later.

I believe that it is not only the duty of Congress but also our obligation to ensure that the Judicial branch is operating efficiently. That is why we are considering the current legislation, the court security bill, because we want to ensure that judicial branch operates efficiently. And we know that it cannot, if those who work in the system—our judges and our court officers—do not feel safe. That is also why my amendment is so important.

I do not believe that splitting the Ninth Circuit would infringe on the ''independence of the judiciary'' as some might suggest. The Constitution provides Congress with the power to ''constitute'' or establish ''tribunals inferior to the Supreme Court,'' and also gives Congress the power to ''ordain and establish'' the lower Federal courts. Acting in accordance with the Constitution, Congress has used its authority to establish the Federal appeals courts and the Federal district courts, as well as other Federal courts. Congress has the ability to create courts of special jurisdiction, such as military courts, bankruptcy courts, and tax courts, and to limit the appeals jurisdiction of all Federal courts, including the Supreme Court of the United States. The Constitution clearly provides that the people, acting through their respective Congressional representatives, can enact legislation to split the Ninth Circuit. The prerogative of Congress to enact legislation to split the Ninth Circuit is consistent with the role of Congress established by the Constitution. The idea of splitting the Ninth Circuit is a proper action for Congress to take.

Finally, Mr. President, I would hope that Members of the Senate could agree that, regardless of where each of us may be on this issue, we could engage in an honest discussion and avoid attacking each other's motives. I have read with great interest the statements of people on the other side of this issue suggesting that split supporters, like myself, are only ''politically motivated'' or that supporters of a split are ''trying to punish'' the Ninth Circuit because of the perception of the circuit's ideology. Nothing could be further from the truth. I am sure the people who do not favor a split have likewise had similar attacks directed at them. We should not condone that rhetoric or impugn each others motives. I do not believe that it is in the Senate's, or the Nation's, best interest to attack someone else's motives. I have met with people on both sides of this issue and respect their views.

Let me conclude by saying this. The saying is that justice delayed is justice denied. In the Ninth Circuit that is what happens ever single day. Nevadans experience justice delayed too often. We are putting more and more of a burden on our Federal courts by the actions of the Senate. We need to now take the responsibility to make sure our various circuits around the country are not even more overburdened simply because of population growth. That is what has happened, and will continue to happen, in the Ninth Circuit. We have added a judge here and there. But the overall size of the Ninth Circuit, even if you add more judges, would not take care of the problems we are now experiencing. Some have argued that adding more judges would fix the problem, but it still would not

allow the full Ninth Circuit to hear many of the most difficult, challenging cases. The judges of the ninth are not able to work together as a full circuit and collaborate on some of the most difficult, challenging judicial cases.

That is why it is better to split up this circuit, so that more thoughtful decisions can be made in the administration of justice.

With that, I will yield the floor and ask my colleagues to support this very important amendment.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, April 22 marks the beginning of National Crime Victims' Rights Week, an annual commemoration that has been observed since the early 1980s to honor crime victims and call attention to their plight.

We have an opportunity to provide full justice to many victims of federal crime by passing legislation that will help federal criminal justice officials more fully recover court-order restitution that is owed to innocent crime victims. By ensuring victims receive the restitution they are entitled to, our proposal truly reflects the theme of this year's Crime Victims' Rights Week—Victim's Rights: Every Victim, Every Time.

I intend to offer an amendment with Senator GRASSLEY today that would improve the collection of federal criminal debt. Our amendment is being sent over to the floor at this point. I will describe it and the reason for offering it.

The amendment will be one in the form of a bill, S. 973, which I authored with my colleague, Senator GRASSLEY. We introduced it with Senators DURBIN and COLLINS. It is called the Restitution for Victims Of Crime Act. This piece of legislation will give Justice Department officials the tools they say are needed to help them do a better job of collecting court-ordered Federal restitution and fines.

In our court system in this country, there are, in many cases, fines that are levied against defendants who are found guilty of a crime. They are adjudged to be guilty and, therefore, are levied a fine by the court. In many cases, they are required to make restitution through orders of the court system. For some long while, I have been working on this issue because I have discovered that in the Federal court system, Justice Department data shows that the amount of uncollected criminal debt—that is, fines and restitution—is growing out of control. Believe it or not, the uncollected Federal criminal debt is nearly $46 billion. Think of that. It is almost $46 billion. These are fines that have been levied in our Federal court system against defendants adjudged to have been guilty. Restitution orders have been made that require someone to make financial restitution; yet some $46 billion is the amount of criminal debt that is unpaid. It is spiraling upward. It was $41 billion just a year ago. When I first called attention to this problem, it was well less than half of that. Yet very little has been done.

In my State of North Dakota, the Federal courts have about $18.7 million of uncollected criminal debt. That is up some $4 million from the preceding year. In my judgment, crime victims should not have to worry if those in charge of collecting the restitution on their behalf are making every effort to do so. We would expect that to be happening. Yet it is not. In some cases, it is because the tools don't exist. In some cases, it is because collecting the criminal debt has become kind of the backwater of the U.S. Attorney's Office.

At my request, GAO reviewed five white-collar financial fraud cases. What they have found is that certain offenders, those judged guilty, had taken expensive trips abroad, traveled overseas; had fraudulently obtained millions of dollars in assets and converted those assets to personal use. GAO also found offenders who had established businesses for their children; held homes and lived in homes worth millions of dollars that were located in upscale neighborhoods. So here we have a circumstance where we have people who have been judged guilty of certain things by the Federal court system. They have been told you have to pay a fine or you have to pay restitution. Yet despite the fact that they have not made restitution or paid their fine, according to the GAO evaluation at my request, some of them have decided we are not going to pay those things, we are going to take a trip overseas, live in multimillion dollar houses, we are going to transfer a business to the children so federal justice officials cannot get at it.

All of this is going on at a time when victims are waiting for restitution that has been ordered by the court. The proposal that Senator GRASSLEY and I have authored is a proposal based on a set of recommendations, some from the Justice Department, some from the task force on improving the collection of criminal debt. Justice Department officials believe the changes we suggest will remove many of the current impediments to better debt collection.

Our legislation offers the tools that we think are necessary, having worked with Justice officials and others and victims' rights organizations, to deal with these issues. Justice Department officials describe, for example, a circumstance where they were prevented by a court from accessing $400,000 in a criminal offender's 401(k) plan to pay a $4 million restitution debt to a victim. Let me say that again. This is an offender who was judged to be guilty and who had $400,000 in a 401(k) plan. He has been ordered to pay a $4 million restitution debt to a victim. The court said: No, you cannot take the $400,000 in the 401(k) plan because the defendant was complying with a $250 minimum monthly payment plan, and that precluded any other enforcement actions. So he is sitting there with nearly half a million dollars in liquid assets, and the victim is sitting over here having been defrauded. The court said you must pay restitution, and this person with nearly half a million dollars in assets is paying $250 a month, and the court says that is it, you cannot get the 401(k) funds from the victim. That is not fair. Our proposal would remove impediments like this in the future.

This legislation will address another major problem identified by the GAO for officials in charge of criminal debt collection. Many years can pass between the date a crime occurs and the date that a court will order restitution. That gives criminal defendants an ample opportunity to hide their ill-gotten gains. This bill sets up preconviction procedures for preserving assets for victims' restitution. We set up those preconviction circumstances—no, not to take the assets but at least be sure they are going to be preserved in the event they are needed for restitution.

These tools will ensure financial assets that are traceable to a crime are going to be available when a court imposes a final restitution order on behalf of a victim. These tools are similar to those already used in some states and by Federal officials in certain asset forfeiture cases. The Restitution for Victims Of Crime Act that I have introduced in the Senate as S. 973, with Senator GRASSLEY and others, has been endorsed by a number of organizations that are concerned about the well-being of crime victims and the rights of victims to receive the restitution ordered by federal courts: National Center for Victims of Crime, Mothers Against Drunk Driving, Parents of Murdered Children, Justice Solutions, and many others.

The U.S. attorney in North Dakota has said this legislation ''represents important progress toward ensuring that victims of crime are one step closer to being made whole.''

I have mentioned S. 973, and that is what I intend to offer as an amendment to the court security bill. I recognize the legislation itself doesn't deal with the narrower issue of the security of the courts, but it certainly deals with the functioning of the courts and the ability of a court to decide they are going to levy a fine or impose a restitution order on a person judged guilty of a crime and then be able to feel, at some point, they are going to be able to make that happen.

I mentioned earlier U.S. Attorney's Offices, as most of us know, are about investigating and prosecuting. They are involved when given investigation capability or given the results of investigations. If they believe a criminal act has occurred, they are involved in preparing to go to court to prosecute criminal actions.

They have also been given the responsibility to collect fines and restitutions. But the fact is, many U.S.

attorneys will admit they have a U.S. Attorney's Office that, by and large, in the front of that office is engaged in prosecuting wrongdoing, and in the back of that office, the collection of fines and restitutions is not a high priority and, frankly, is difficult for many of them.

I don't come here with harsh criticism in those circumstances. But I do say we should not stand for it, the Justice Department should not stand for it, and certainly victims should not stand for a circumstance where some $46 billion in court-ordered fines and restitution remains uncollected, while at least some are taking trips to London and have $400,000 in 401(k) accounts, are hiding their assets by transferring businesses to children, living in multimillion-dollar homes and deciding they won't pay the fines, they won't pay the restitution, and nothing much is going to happen to them because we are not very aggressive on behalf of victims or on behalf of this country in getting those fines and restitutions paid.

That is not the right course for this country. I plan offer the amendment shortly to address this problem. I am checking with Senator GRASSLEY for his cosponsorship. As I indicated, he was the primary cosponsor when we introduced the legislation earlier this year.

I hope that perhaps we can consider this legislation as an amendment that would be added to the court security bill.

Regarding the court security bill, I am pleased this bill is before the Senate. It is rather strange we had to have a recorded vote on whether we would have a motion to proceed to go to a court security bill, but I guess that is the strange, Byzantine circumstances of legislative activities these days in the Senate.

Now that it is before the Senate, this is important business, and we should proceed to consider amendments and then pass this legislation and move to the other issues that are before us.

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

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from North Dakota is recognized.

CONTRACTING ABUSES

Mr. DORGAN. Mr. President, we are considering the court security bill. At the moment, there is no one who wishes to speak on that legislation. I wish to speak about the Senate Armed Services Committee, which is now holding a hearing. I just finished testifying before the Senate Armed Services Committee. I wish to talk about that testimony.

The Armed Services Committee, under the chairmanship of Senator CARL LEVIN, is holding a hearing this morning on contracting abuses; that is, contracting abuses in Iraq especially under what is called the LOGCAP contract.

I testified that I chaired in the Democratic Policy Committee, over the last 3 years, 10 hearings on these issues of contract abuses. I suggested to the Armed Services Committee that they look into what is not only called the LOGCAP, which is a logistic contract which, in this case, Halliburton, or their subsidiary, KBR, provided certain logistics assistance to the Department of the Army under a contract worth billions of dollars, I suggested they also look into the RIO contract, which is Restore Iraqi Oil contract.

I pointed out to them that the woman who rose to become the highest contract official in the U.S. Corps of Engineers—she rose to become the highest civilian contract official in the Army Corps of Engineers—she said the awarding of the RIO contract, the Restore Iraqi Oil contract—Restore Iraqi Oil is what RIO stands for—to Halliburton and KBR was ''the most blatant contracting abuse I have seen in my entire career.'' This is from the top civilian contracting officer.

What happened to her? She paid for that with her job. For that she was demoted. Before she said that publicly, she was given outstanding evaluations every year. Once she said publicly what she had told them privately, and they ignored, they began the process of giving her performance evaluations that were inferior for demotion.

A couple of nights ago, I called the general, now retired, who brought this contracting officer in as the top civilian contracting officer. I said: What's the story?

He said: She has been dealt an awful hand, and it has been very unfair to her. She is a straight-shooter, she is competent, she speaks the truth. The fact is, she is paying for telling the truth.

I suggested to the Armed Services Committee that this woman, named Bunnatine Greenhouse, who had the courage to speak out against contracting abuse, should be called to testify.

We ought to put a stop to this stuff that when someone in the Federal Government speaks out and says there is abuse occurring, the taxpayers are being abused, the soldiers are being disserved, that somehow they injure their career by telling the truth. But let me go on.

I suggested the committee look into the RIO contract. I sent the issues raised by Bunnatine Greenhouse, who paid for her honesty with her job: she was demoted. I sent all that material to the inspector general. Seventeen months ago, I got a letter from the inspector general saying they received it, they looked into all those allegations, it has now been referred to the Justice Department, it is for their action, and because it is a criminal matter, they would not comment further.

Obviously, they believed there was something that was serious. That is the RIO, the Restore Iraq Oil contract.

There is another contract, and that is the purpose of the hearing this morning, the LOGCAP contract, once again, given to Halliburton and their subsidiary, Kellogg, Brown and Root. What I told them this morning is what I found in 10 hearings. I held up a white towel, a white hand towel that most would recognize. It hangs in the bathrooms in most homes.

A man named Henry Bunting came to us. Henry Bunting was in Kuwait. He was actually buying supplies for the troops in Iraq. Henry Bunting was a purchaser for KBR in Kuwait. They said to Henry Bunting: Buy some towels for the troops. So Henry goes about buying towels for the troops. But then the supervisor said: No, you can't buy those towels. You have to buy towels that have the embroidered name of KBR on the towel, triple the cost. Henry said it would cost a lot of money. It doesn't matter, the taxpayers are paying for this, cost plus. Triple the price of the towels so you can put the embroidered initials of the company on the towels.

How about $45 for a case of Coca-Cola? How about $7,500 a month to lease an SUV? Henry Bunting told us about that as well.

I described the other issues. Rory Mayberry—Rory showed up at a hearing. He was a food service supervisor for KBR in Iraq at a cafeteria. He said he was told by his supervisor: Don't you dare talk to Government auditors when they show up. If you do, you will get fired or you will get sent to an active combat zone. Don't you dare talk to a Government auditor.

He said: We routinely provided food to the soldiers that had expired date stamps on it.

The supervisor said: It doesn't matter—the expired date stamps—feed the expired food to the troops.

We know from previous press accounts that at one point that company was charging for 42,000 meals a day to soldiers when they were actually only feeding 14,000 soldiers. Rory said the same thing. Rory Mayberry, a supervisor in one of the KBR food service situations in Iraq said they were charging for meals for soldiers who weren't there, and the supervisor said: We are doing that because we had lost money previously, so now we are charging for meals that aren't being served to soldiers.

How about an eyewitness to an $85,000 brand new truck left beside the road in a noncombat zone in Iraq to be torched because they didn't have the proper wrench to fix the tire? It doesn't matter, the American taxpayer is going to buy the new truck, cost plus.

The list is almost endless. It is unbelievable the stories we have heard from people who wish to come forward.

One company, the same company under the LOGCAP contract, was to provide water to the military bases in Iraq—all of the bases. A whistleblower came to me and said: I have something you should see. It is a 21-page internal report, and it is written by a man named Will Granger who is in charge of all water going to the bases in Iraq. He is the KBR employee, Halliburton employee in charge of all water that goes to the bases in Iraq.

He said instead of treating the water, nonpotable water which soldiers use to shower, shave, sometimes brush their teeth, and so on, instead of treating the water as it was supposed to have been treated under the contract, the water was more contaminated with E coli and bacteria than raw water from the Euphrates River.

He said: Here is the internal report. The internal report said this was a near miss. It could have caused mass sickness or death.

That was from the internal report I had in my hand. The company said it never happened. This is the internal report made by the man in the company whose name is Will Granger, who said: Here is what we discovered.

Just after I held the hearing and described this situation, I received an e-mail from a young woman in Iraq who was an Army physician. She said: I read about this hearing about the water issue, the nonpotable water which was more contaminated than raw water from the Euphrates River that was being used for nonpotable water for soldiers. She said: It has happened on my base as well. She said: I started seeing these illnesses, conditions with the soldiers, and I had a lieutenant follow the waterline back. It is exactly the same circumstance—untreated water. We were paying for it, and the company wasn't doing what the contract requires, putting at risk those soldiers. The company denied it happened, but it is in black and white. The evidence exists.

I described these issues and other issues this morning to the Armed Services Committee. I am pleased they are holding hearings. It is long past the time for them to hold these oversight hearings finding out what is happening and what we can do about it.

Mr. President, these are important issues. I commend Senator LEVIN, Senator WARNER, and all members of the Armed Services Committee for taking a serious look at these issues. My interest is not in tarnishing any company or anything like that. My interest is in making sure the American taxpayers are not disserved, and they have been. And my interest is the American soldiers are treated properly, and they have not been. What I saw with the waste, fraud, and abuse with these contracts, in my judgment, is a disservice to the American taxpayer and a disservice to the country's soldiers, and the fact is, we can fix this.

I will describe at a later time the legislation I have introduced that deals with these contracting abuses so we can prevent them from ever happening again.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. KLOBUCHAR. Mr. President, I am speaking in favor of S. 378, the Court Security Improvement Act of 2007. I have had a personal experience with court security issues when I was a prosecutor, the chief prosecutor in Hennepin County.

We had a very tragic incident, where a woman who had emotional difficulties came into our courthouse with a gun and gunned down a woman—an innocent woman—who was the guardian of her father's estate and was simply there to help. This had been a long-standing litigation battle. She tracked her down at the courthouse and shot her to death, and shot her own lawyer. Fortunately, he did not die. He survived. But this happened only a few floors below my office. We went on to prosecute this woman, and she was convicted and sentenced to life in prison for the murder and an additional 15 years for the attempted murder.

That is why I am such a strong proponent of this bill. The Court Security Improvement Act will significantly improve our ability to protect judicial officials and all those who help to protect the fair and impartial justice system in America.

The bill is going to improve court security by, first, enhancing measures that protect judicial personnel, witnesses, and family members of judicial personnel. I should note there is a provision in the bill that allows for State courthouses to apply for grants for things such as witness protection.

I will say, coming from running an office of nearly 400 people, but operating in a local court system as opposed to the Federal system, there are increasing problems for local prosecutors with witness protection. I can't even count the number of witnesses we had threatened during trials. We had a juror threatened who actually had to get off the case after a call was made to her home during a trial in a gang case. We are seeing an increasing number of cases where we have witnesses threatened. Obviously, we don't have the Federal Witness Protection Program in a local district attorney's office, so I am very pleased there are some provisions for this and some realization that this is a growing issue.

This bill would also increase funding for judicial security at the Federal and State levels. It would strengthen the relevant criminal penalties. It would authorize funds for the U.S. Marshals Service for judicial security. This is a good bill, and I stand in support of it.

Mr. President, I yield the floor, and 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. SANDERS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SANDERS. I ask consent to speak as in morning business.

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

THE ECONOMY

Mr. SANDERS. Mr. President, we hear much from the Bush administration and our Republican friends, almost on a daily basis, about how wonderfully our economy is doing. I recall not so long ago being at a Budget Committee hearing when we heard the Secretary of the Treasury, Mr. Paulson, indicating in fact that the economy is doing ''just marvelous.''

Yet, for obvious reasons, the American people do not seem to agree with the Bush administration or with our Republican friends as to how well the economy is doing. I ask unanimous consent to have printed in the RECORD segments of two polls that were recently released, one by CBS News and one by Gallup.

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

CBS NEWS POLL

[Conducted 4/9–12/07; surveyed 994 adults; margin of error ±3% (release, 4/15). A response of * indicates less than 0.5 percent.]

How about the economy? Do you approve or disapprove of the way George W. Bush is handling the economy?

	Percent			
	All	Rep	Dem	Ind
Approve	36	66	13	33
Disapprove	57	27	79	60
Don't know/NA	7	7	8	7

How would you rate the condition of the national economy these days? It is very good, fairly good, fairly bad or very bad?

	Percent			
	All	Rep	Dem	Ind
Very good	8	19	1	5
Fairly good	51	61	44	48
Fairly bad	28	15	38	30
Very bad	11	4	15	15
Don't know/NA	2	1	2	2

Do you think the economy is getting better, getting worse or staying about the same?

	Percent			
	All	Rep	Dem	Ind
Better	11	24	4	7
Worse	44	23	59	47
Same	44	52	36	45
Don't know/NA	1	1	1	1

Over the past 10 years, do you think life for middle class Americans has gotten better or worse? (Percentage)

Better, 30
Worse, 59
Same (vol.), 7
Don't know/Refused, 4

In the past couple of years, would you say you have been getting ahead financially, just staying even financially or falling behind financially? (Percentage)

Getting ahead, 21
Staying even, 50
Falling behind, 27
Don't know/NA, 2

How much difficulty would you have if you had to pay an unexpected bill of one thousand dollars right away—a lot, a little, not much or none at all? (Percentage)

A lot, 43
A little, 24
Not much, 15
None at all, 17
Don't know/NA, 1

How concerned are you that you will have enough money to pay for major expenses, for example, healthcare, tuition, buying a home, and retirement? Are you very concerned, somewhat concerned, not very concerned or not at all concerned? (Percentage)

Very concerned, 46
Somewhat concerned, 33
Not very concerned, 14
Not at all concerned, 7

These last few questions are for background only. A person's social class is determined by a number of things including education, income, occupation and wealth. If you were asked to use one of these five names for your social class, which would you say you belong in—upper class, upper-middle class, middle class, working class or lower class? (Percentage)

Upper, 2
Upper middle, 13
Middle, 42
Working, 36
Lower, 7
Don't know/NA, 0

[From the Gallup Poll®, Apr. 16, 2007]

AMERICANS MORE IN FAVOR OF HEAVILY TAXING RICH NOW THAN IN 1939

(By Frank Newport)

PRINCETON, NJ.—About half of Americans advocate heavy taxation of the rich in order to redistribute wealth, a higher percentage than was the case in 1939. More generally, a large majority of Americans support the principle that wealth should be more evenly distributed in America, and an increasing number—although still a minority—say there are too many rich people in the country. Attitudes toward heavy taxes on the rich are strongly related to one's own income, and Democrats are much more likely to be in favor of income redistribution than are Republicans.

Basic Trends

A poll commissioned by Fortune Magazine in 1939 and conducted by famous pollster Elmo Roper included a question phrased as follows:

''People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?''

At that time, near the end of the Depression, only a minority of Americans, 35%, said the government should impose heavy taxes on the rich in order to redistribute wealth. A slight majority—54%—said the government should not. (Eleven percent did not have an opinion.)

Gallup asked this question again in 1998 and found the percentage willing to say that the government should redistribute wealth had gone up by 10 points (while the ''no opinion'' responses had dropped to 4% and the negative stayed slightly above 50%).

Now, the attitudes have shifted slightly again, to the point where Americans' sentiment in response to this question is roughly split, with 49% saying the government should redistribute wealth by heavy taxes on the rich, and 47% disagreeing.

People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?

	Percent		
	Yes, should	No, should not	No opinion
April 2 to 5, 2007	49	47	4
April 23 to May 31, 1998	45	51	4
March 1939 [1]	35	54	11

[1] Roper for Fortune Magazine.

One must be cautious in interpreting changes between the 1939 poll, which was conducted using different sampling and methods than is the case today, and the current poll. It does appear safe to say, however, that based on this one question, the American public has become at least somewhat more ''redistributionist'' over the almost seven decades since the end of the Depression.

The current results of this question are in line with a separate Gallup question that asks whether various groups in American society are paying their fair share of taxes, or too much or too little. Two-thirds of Americans say ''upper-income people'' are paying too little in taxes.

As I read off some different groups, please tell me if you think they are paying their FAIR share in federal taxes, paying too much or paying too little?

Upper-income people:

	Percent			
	Fair share	Too much	Too little	No opinion
April 2 to 5, 2007	21	9	66	4
April 10 to 13, 2006	21	8	67	4
April 4 to 7, 2005	22	7	68	3
April 5 to 8, 2004	24	9	63	4
April 7 to 9, 2003	24	10	63	3
April 6 to 7, 1999	19	10	66	5
April 9 to 10, 1996	19	9	68	4
April 16 to 18, 1994	20	10	68	2
March 29 to 31, 1993	16	5	77	2
March 26 to 29, 1992	16	4	77	3

There is no trend on this question going back to the 1930s, but the supermajority agreement that upper-income people pay too little in taxes has been evident for the last 15 years.

More on attitudes toward wealth and the rich:

The most recent Gallup Poll included two other questions measuring attitudes toward wealth and the rich.

Do you feel that the distribution of money and wealth in this country today is fair, or do you feel that the money and wealth in this country should be more evenly distributed among a larger percentage of the people?

	Percent		
	Distribution is fair	Should be more evenly distributed	No opinion
April 2 to 5, 2007	29	66	5
January 10 to 12, 2003	31	63	6
September 11 to 13, 2000	38	56	6
April 23 to May 31, 1998	31	63	6
April 25 to 28, 1996	33	62	5
May 17 to 20, 1990	28	66	6
December 7 to 10, 1984D31	60	9	

The results of this question, asked seven times over the past 23 years, have consistently shown that Americans are strongly in favor of the principle that money and wealth in this country should be more evenly distributed. The current 66% who feel that way is tied for the highest reading on this measure across this time period in which the question has been asked.

A separate question asked:

As far as you are concerned, do we have too many rich people in this country, too few, or about the right amount?

	Percent			
	Too many	Too few	Right amount	No opinion
April 2 to 5, 2007	37	17	40	6
April 23 to May 31, 1998	25	20	50	5
May 17 to 20, 1990	21	15	55	9

Here we have evidence of a growing resentment toward the rich. The percentage of Americans who say there are too many rich people in the United States—although still a minority—is up significantly from the two times in the 1990s when this question was asked.

In summary, the data show that:

A significant majority of Americans feel that money and wealth should be distributed more equally across a larger percentage of the population.

A significant majority of Americans feel that the rich pay too little in taxes.

About half of Americans support the idea of ''heavy'' taxes on the rich to help redistribute wealth.

Almost 4 out of 10 Americans flat-out say there are ''too many'' rich people in the country

IMPLICATIONS

Most societies experience tensions revolving around inequalities of wealth among those societies' members. This seemingly inevitable fact of life has been at the core of revolutions throughout history. American society has been immune from massive revolts of those at the bottom end of the spectrum in part because the public perceives that the United States is an open society with upward social mobility. A recent Gallup Poll found a majority of Americans believing that people who make a lot of money deserve it, and that almost anyone can get rich if they put their mind to it. And a 2003 Gallup Poll found that about a third of Americans, including a significantly higher percentage of younger Americans, believed that they themselves would one day be rich.

The findings reviewed in this report most likely reflect at least in part the fact that it is easy to advocate greater taxation of the rich, since most Americans do not consider themselves rich.

In fact, a 2003 Gallup Poll found that the median annual income that Americans considered ''rich'' was $122,000. Since the average income in America is markedly below that, it follows that most Americans do not consider themselves rich. (Eighty percent of Americans put themselves in the middle class, working class, or lower class. Only 1 % identify themselves as being in the upper class, while 19% are willing to say the upper middle class.)

The data show that as one gets closer to being what Americans consider rich, one is also less interested in the rich being taxed heavily. This relationship is fairly linear; the more money one makes in general, the more likely one is to say that the government should not be imposing heavy taxes on the rich.

People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?

Income	Percent	
	Yes, should	No, should not
$75,000+	35	62
$50,000 to $75,000	46	51
$30,000 to $50,000	58	41
$20,000 to $30,000	55	42
$20,000	64	26

There are also political differences in views on heavy taxes on the rich. Democrats are more than twice as likely as Republicans to agree that the government should redistribute wealth by heavy taxes on the rich.

People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our government should or should not redistribute wealth by heavy taxes on the rich?

Party	Percent	
	Yes, should	No, should not
Republican	30	68
Independent	51	43
Democrat	63	32

BOTTOM LINE

Americans in general agree with the concept that money and wealth should be distributed more equally in society today, and that the upper-income class of Americans do not pay their fair share in taxes. About half of Americans are willing to go so far as advocate ''heavy taxes'' on the rich in order to redistribute wealth. These findings are despite the belief of many Americans that the rich deserve their money and the hopes Americans themselves harbor that they will be rich some day.

From a political viewpoint, these data suggest that a political platform focused on addressing the problems of the lower and middle classes contrasted with the rich, including heavier taxes on the upper class, could meet with significant approval, particularly among Democrats and those with lower incomes.

SURVEY METHODS

These results are based on telephone interviews with a randomly selected national sample of 1,008 adults, aged 18 and older, conducted April 2–5, 2007. For results based on this sample, one can say with 95% confidence that the maximum error attributable to sampling and other random effects is ±3 percentage points. In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

Mr. SANDERS. When the American people were asked by CBS News the question, ''Do you think the economy is getting better, getting worse or staying about the same?'' 11 percent of the American people said the economy is getting better, 44 percent thought it was getting worse, and 44 percent thought it was about the same.

Then, interestingly, in that same poll, when the American people were asked by CBS the question, ''Over the past 10 years, do you think life for middle class Americans has gotten better or worse?'' 30 percent said life has gotten better, 59 percent, almost a 2-to-1 margin, said life is getting worse, and 7 percent said the same.

Technology has exploded in recent years. Our workers are far more productive than used to be the case. Yet by a 2-to-1 margin the American people have said that life for the middle class is getting worse, not better.

In terms of the Gallup Poll, the Gallup people, from April 2 to April 5, asked some very interesting questions that we very often do not speak about here on the floor of the Senate. In my view, what we have seen since President Bush has been in office, in a general sense, is the shrinking of the middle class, an increase in poverty, and a growing gap between the rich and the poor—not something we talk about terribly often on the floor of the Senate, not something that is talked about terribly often in the corporate media. But here is the question, very interestingly, that Gallup asked the American people, between April 2 and April 5: ''Do you feel that the distribution of money and wealth in this country today is fair, or do you feel that the money and wealth in this country should be more evenly distributed among a larger percentage of the people?'' Answer: Distribution is fair, 29 percent; should be more evenly distributed, 66 percent.

Then the next question they asked, which was rather a clumsy question, I thought, and I was surprised by the answer, but this was the question. Question: ''People feel differently about how far a government should go. Here is a phrase which some people believe in and some don't. Do you think our Government should or should not redistribute wealth by heavy taxes on the rich?''

That is a pretty clumsy question. Do you know what the answer was to that rather clumsy question? Yes, should redistribute wealth, 49 percent; no, should not, 47 percent.

I mention this poll because it is important to understand that despite a lot of the rhetoric we hear from the White House and on the floor of the Senate, the American people understand that in terms of our economy, something is fundamentally wrong. They understand it because they are living the experience of working longer hours for lower wages; of working day after day, trying to pay the bills for their family, trying to send their kids to college, trying to take care of health care, trying to provide childcare for their kids. They know the reality of the economy because they are the economy.

Every single day the people of our country are seeing an economy which is forcing them in many instances to work longer hours for lower wages, an economy in which they wonder how their kids are going to be able to go to college, able to afford college; an economy in which they worry that for the first time in the modern history of our country, their children will see a lower standard of living than they do. That is the reality of the economy, in the eyes, I believe, of millions of American workers.

That perception that the American worker has of the economy is, in my view, the correct perception of what is going on. Since George W. Bush has been President, more than 5 million Americans have slipped into poverty, including 1 million children. This country now has the very dubious distinction of having by far the highest rate of childhood poverty of any major industrialized country on Earth. How do you have a great economy, a booming economy, when 5 million more Americans have slipped into poverty? Median income has declined in our country for 5 years in a row. Americans understand that the economy is not doing well when the personal savings rate is below zero, which has not happened since the Great Depression. How do we talk about a strong economy when 7 million Americans have lost their health insurance since President Bush has been in office, and when we now have, unbelievably, 47 million Americans who have no health insurance at all?

How can anybody come to the floor of the Senate, or anybody in the Bush administration talk about a strong economy, when we have 47 million Americans who have no health insurance at all; when 35 million Americans in our country, the richest country in the history of the world, struggled to put food on the table last year; and the number of the poorest, most hungry Americans keeps getting larger? The American people understand this is not an economy that is working for ordinary people. In this economy today, more and more of our brothers and sisters, our fellow Americans, are going hungry. Let's not talk about a booming economy when we have children in America who are hungry.

Mr. President, you and I have heard, over and over again, people talking about the importance of education for this country. Yet millions of working families do not know how they are going to be able to send their kids to college when the cost of college education is soaring, when the average person graduating a 4-year college leaves that school $20,000 in debt, when hundreds of thousands of young people are now giving up the dream of going to college because they don't want to come out deeply in debt? How do we talk about a booming economy when so many of our young people, some of the brightest, most able of our young people, are giving up the dream of going to college? How do you compete on the international and global economy if so many of our young people are not able to get the kind of education they need?

When we talk about a booming economy, how does that correlate with the fact that our manufacturing infrastructure is falling apart, that since President Bush has been in office we have lost over 3 million good manufacturing jobs, and when people go out to the store to shop, when they look at the product, they know where that product is manufactured today? It is not manufactured in the United States. Over and over again they see it is manufactured in China.

We have a trade deficit now of over $700 billion. In my small State of Vermont, not a manufacturing center, we lost 20 percent of our manufacturing jobs in the last 5 years and that phenomenon is going on all over this country. How do you have a booming economy when we are losing huge numbers of good-paying manufacturing jobs and we are on the cusp of losing millions of good-paying, white-collar information technology jobs?

Three million fewer American workers today have pension coverage than when President Bush took office. Half of private sector American workers have no pension coverage whatsoever. How does that speak to a strong economy? It was not so many years ago that workers understood that when they left their job, there would be a defined pension available to them. They knew what they were getting. Today, those days seem like ancient history. Fewer and fewer workers have solid pensions on which to depend.

What is important to understand is, while poverty is increasing, while the middle class is shrinking, while more and more people are losing their health insurance, while hunger is growing in America, while good-paying jobs are going to China, the truth is not all is bad in the American economy. We have to acknowledge that. Are there some people who in fact are doing well? The answer is yes. Today, the simple truth is the top 1 percent of the families in our country have not had it so good since the 1920s. When that poll I mentioned from Gallup talks about the American people wanting to seek an understanding of the unfair distribution of wealth, this is precisely what they are referring to.

Today in the United States we have by far the most unequal distribution of income and wealth of any major country on Earth. Let me highlight very briefly a recent study done by Professor Emmanuel Saez from the University of California-Berkeley and Professor Thomas Piketty from the Paris School of Economics. This is what they found. In 2005, while average incomes for the bottom 90 percent of Americans declined by $172, the wealthiest one one-hundredth of 1 percent reported an average income of $25.7 million, a 1-year increase of $4.4 million.

In other words, for the people at the very top, a huge increase in their income, while 90 percent of the American people saw a decline. The gap between the rich and the poor, the rich and the middle class, continues to grow wider.

The top 1 percent of Americans received, in 2005, the largest share of national income since 1928. And some people may remember what happened in 1929. The top 300,000 Americans now earn nearly as much income as the bottom 150 million Americans combined.

You and I have heard many of our friends here on the other side of the aisle talk about how much the wealthy are paying in taxes. My, my, my. Yet the reason for that is what we are seeing is, with the decline of the middle class, a huge increase in the percentage of the income being made by the people on top. Let me repeat it. The top 300,000 Americans now earn nearly as much income as the bottom 150 million Americans. Is that the kind of country we really want to become, with so few having so much and so many having so little? I do not think that is the America most people want to see us evolve into, an oligarchic form of society. That is wrong.

According to Forbes magazine, the collective net worth of the wealthiest 400 Americans increased by $120 billion last year to $1.25 trillion—$1.25 trillion for the wealthiest 400 Americans. That is an astounding number. The reality is that in America today, we have the people on the top who have more income, in some cases, than they are going to be able to spend in a thousand lifetimes, while people in Vermont, people in Ohio, people in Minnesota, people all over our country are struggling so hard to provide basic needs for their families.

One of the reasons the gap between the rich and the poor is growing wider and why we now have by far the most unequal distribution of income and wealth of any major country is due to the passage of massive tax breaks for millionaires and billionaires since President Bush has been in office.

Now, you stop and you take a look at the needs of the people of our country in the most basic sense.

Hunger is increasing. Well, what do we think? Should we eliminate hunger in America or do you give tax breaks to billionaires? I don't think too many people would disagree with what we should be doing.

We have a crisis in affordable childcare in America. We have single moms, working families, both parents going to work, trying to provide well for their 2-year-old, 3-year-old. They cannot provide affordable childcare. The Federal Government provides totally inadequate childcare. Do we increase funding for childcare or do we give tax breaks to millionaires?

We are all aware of the scandal at Walter Reed Hospital. We are all aware of the outrageously inadequate way we treat our veterans, men and women who put their lives on the line defending this country. Yet when they come home from Iraq, there is inadequate care at the hospital at Walter Reed and inadequate care and waiting lines at VA hospitals all over America. What is our priority? Do we take care of our veterans or do we give tax breaks to millionaires and billionaires?

In America, millions of children do not have any health insurance. What are our priorities?

People are paying 50 percent of their limited income for housing because we are not building affordable housing. What are our priorities?

We have a major crisis in global warming. We should be investing in sustainable energy, energy efficiency, not giving tax breaks to billionaires. What are our priorities?

Let me conclude by saying that I think the American people, on issue after issue, are far ahead of where we are in Congress. So we are going to have to work very hard to catch up to where the American people are. I think we should begin the process of doing that.

We need to fundamentally change our national priorities. We have to have the courage now to stand up to the wealthiest people and the largest corporations and say to those people: The free ride is over.

Our job is to represent the middle class, working families, the lower income people who are not getting justice from the Congress. When we stand and do the right thing for the middle class and working families of this country, I believe we are going to see a significant increase in the respect this body receives.

Mr. President, I yield the floor.

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

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

Mr. BROWN. Mr. President, I rise in support of this crucial legislation. I want to read into the record a statement from the Bush administration in support of the bill. It is from the Executive Office of the President, Statement of Administration Policy:

> The Administration supports Senate passage of S. 378 to strengthen judicial security. The legislation would enhance the ability of the Federal government to prosecute individuals who attack or threaten participants in the Nation's judicial system, including judges, lawyers, witnesses, and law enforcement officers. A Nation founded on the rule of law must protect the integrity of its judicial system, which must apply the law without fear or favor. The Administration also supports the provision to prohibit the filing of false liens against judges, prosecutors, and other government officials to retaliate against them for the performance of their official duties.

Another of the most important provisions of this bill was brought to our attention by Judge Carr of the Northern District Court in Toledo, OH. Judge Carr pointed out the importance of section 101 that ''enhances the ability of the Judicial Conference of the United States to participate in determining the security needs of the judicial branch by requiring the Director of the U.S. Marshals Service . . . to consult with the Judicial Conference on an ongoing basis regarding the security requirements of the judicial branch.''

This legislation makes sense for a variety of reasons. Not only must our judges be protected, but they must have a seat at the table in determining

the safety of our Federal courthouses and the personal safety of the employees of the Federal judiciary and the participants who come in front of the Federal bench.

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.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I rise in strong opposition to the amendment before us that will split the Ninth Circuit. We will be voting on a point of order at 2 o'clock.

I think it is very unfortunate that the pending bill, to make much-needed improvements in the security of our judges, is being threatened by a rehashing of an old and bad idea to split the circuit. There is a raft of reasons why the Senate should defeat this effort to divide the Ninth Circuit. First, it would be a serious blow to judicial independence if the circuit were to be split because of disagreement with its decisions. It would also result in an unfair distribution of the Ninth Circuit caseload. Judges in the new Ninth Circuit would be much more busy than their counterparts on the Twelfth Circuit. The proposal that is being made by Senator ENSIGN essentially takes California, Hawaii, Guam, and the Mariana Islands and puts them into their own Ninth Circuit, and takes all the big continental States that are now part of the Ninth Circuit and creates a Twelfth Circuit. That is the proposal that is before the body now.

This proposal would also destroy the current uniformity of the law in the West. It would have significant costs that the judiciary cannot afford to bear, given its already tight budgets, and it is opposed by the vast majority of the people who know the circuit best: its judges. Virtually overwhelmingly I think all but three or four of the judges in the Ninth Circuit oppose its splitting.

I agree with many of the Ninth Circuit's decisions. I disagree with some of them. However, the Framers of the Constitution intended the judiciary to be independent and free from congressional or Presidential pressure or reprisal. I am concerned that recent attempts to split the Ninth Circuit are part of an assault on the independence of the judiciary by those who disagree with some of the court's rulings.

As former Gov. Pete Wilson has stated:

> These attempts are judicial ''gerrymandering,'' designed to isolate and punish judges whose decisions some disagree with. They are antithetical to the Constitution.

That is not me saying that; that is the former Republican Governor of California.

Attempting to coerce or punish judges or rig the system is not an appropriate response to disagreements with a court's decisions. Rather, it is essential that we preserve our system of checks and balances and make it clear that politicians will not meddle in the work of judges. The configuration of the Ninth Circuit is not set in stone; however, any change to the Ninth Circuit should be guided by concerns of efficiency and administration, not ideology.

After a substantial review of the statistics, decisions, and reports from those who know the circuit best, it is clear that splitting the Ninth Circuit would hinder its mission of providing justice for the people of the West.

The split proposal before us would unfairly distribute judicial resources to the West. This is the key. The Ninth Circuit would keep 71 percent of the caseload of the current circuit but only 58 percent of its permanent judges. Any split we look at, because California is so big, tilts the circuit and, of course, all of the proponents of the circuit split take the judges with them. So it leaves a disproportionate share of a heavy caseload in the Ninth Circuit—unless you split California, and to split California creates a host of technical and legal problems.

Last year, the Ninth Circuit had a caseload of 570 cases per judge, as opposed to a national average of 381 cases per judge. So under the proposed split, the Ensign plan, the average caseload in the new Ninth Circuit would actually increase to 600 cases per judge, while the new Twelfth Circuit would have half that, 326 cases per judge. There is no effort to give the Ninth the new judges they would need to keep the caseload even. This inequitable division of resources would leave residents of California and Hawaii facing greater delays and with court services inferior to their Twelfth Circuit neighbors.

The uniformity of law in the West is a key advantage of the Ninth Circuit, offering consistency to States that share many common concerns. The size of the Ninth Circuit is an asset, offering a unified legal approach to issues from immigration to the environment. Dividing the circuit would make solving these problems even more difficult. For example, splitting the circuit could result in different interpretations in California and Arizona of laws that govern immigration, different applications of environmental regulations on the California and Nevada sides of Lake Tahoe, and different intellectual property law in Silicon Valley and the Seattle technology corridor. These differences would have real economic costs. These are border States, and trade and commerce in the Pacific is a huge part of what they do. Therefore, the legal consistency between them is an asset, not a disadvantage.

In a time of tight judicial budgets, splitting the circuit would add significant and unnecessary expense. The split actually would require additional Federal funds to duplicate the current staff of the Ninth Circuit and a new or expanded courthouse and an administrative building since existing judicial facilities for a Twelfth Circuit are inadequate. The Administrative Office of the U.S. Courts estimated that creating a Twelfth Circuit would have a startup cost of $96 million, with another $16 million in annual recurring cost.

If we are going to do anything, what we need is more judges on the Ninth Circuit. That is the key. With budget pressures already forcing our Federal courts to cut staff and curtail services, this is no time to impose new, unnecessary costs on the judiciary.

My colleague, Senator BARBARA BOXER, joins me in these remarks. She will have a separate statement.

Those who know the Ninth Circuit best overwhelming oppose the split. Of the active Ninth Circuit Court of Appeals judges, 18 oppose the split, to be exact, and only 3 support it. The district court and bankruptcy judges of the Ninth Circuit also oppose the split. Every State bar association that has weighed in on the split—Alaska, Arizona, Hawaii, Montana, Nevada, Oregon, and Washington—opposes breaking up the Ninth Circuit, and more than 100 different national, regional, and local organizations have written to urge that the Ninth Circuit be kept intact.

I believe splitting the Ninth Circuit would create more problems right now than it would solve. It will not solve the caseload problem of the circuit, and that is the critical issue. Those who propose the split do so to unfairly benefit themselves because they also take the judges from the Ninth Circuit and they add them to the Twelfth Circuit. They would end up having a caseload per judge of one-half of what the caseload would be in a new Ninth Circuit. So it is not a fair plan because it does not fairly distribute the resources based on caseload. I believe there is only one criterion for resources, and that is caseload. The judges must be where the cases are, and that should be an inescapable truth that we follow.

I urge the Senate to vote to sustain the point of order on the Ensign amendment to split the Ninth Circuit, and instead let's focus our attention on securing the courts and then, secondly, providing the judges who are necessary to equalize caseloads throughout the Nation.

Mr. President, I raise a point of order that the pending amendment violates section 505(a) of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004; that at 2 p.m. today, a vote occur on Senator ENSIGN's motion to waive the point of order, considered made by this agreement, with the time until 2 p.m. equally divided and controlled between Senators FEINSTEIN and ENSIGN or their designees; that if the motion to waive the Budget Act is not successful, then without further intervening action or debate, the bill be read a third time and the Senate vote

on passage of the bill; that if the motion to waive the Budget Act is successful, the provision on third reading and passage be vitiated.

I ask that the preceding be done by unanimous consent.

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

Mrs. FEINSTEIN. Mr. President, I yield the floor, and 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. SPECTER. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SPECTER. Mr. President, I urge my colleagues to sustain the budget point of order because the underlying amendment, which would split the Court of Appeals for the Ninth Circuit, is not yet ripe for consideration by this body. The issue is a very complicated one as to what will happen with the Ninth Circuit. It is admittedly too large at the present time, but we have a lot of analysis to do as to which States ought to be in which divisions. It is an issue which the Judiciary Committee has wrestled with for some time. We took it up in the 109th Congress. The two confirmations of Chief Justice Roberts and Justice Alito took a great deal of time, as did the PATRIOT Act, and our bankruptcy legislation and class action reform, the confirmation process generally. I know Senator LEAHY, as chairman, plans to take up this issue as soon as we can do so. We are not ripe for action.

When we finish the next vote, we will be taking up final passage on the Court Security Act. I urge my colleagues to pass this important legislation. There is no doubt that there is a real threat to judges. We have seen violence right in the courtroom. We have seen violence against family members of Federal judges. We have seen the extraordinary situation that in April of 2005, cookies with rat poison were mailed to each of the nine Supreme Court Justices, also to FBI Director Robert Mueller, and others in the Federal establishment.

The core legislation was introduced during the 109th Congress in November 7, 2005. It passed unanimously. We need to pass it now to make some very important changes to provide for the security of our Federal judges.

I see the arrival of the Senator from California who has raised a budget point of order. I know we plan to vote imminently.

Mr. BAUCUS. Mr. President, I rise to express my opposition to the Ensign amendment. Splitting the circuit would have detrimental effects on the West—in particular, in my home State of Montana. Splitting the Ninth Circuit would eliminate uniformity of law in the West. States sharing common concerns such as the environment and Native American rights could end up with different rules of law. This would create confusion and cause serious problems between States.

And splitting the Ninth Circuit would impose huge new costs. A split would require new Federal funds for courthouses and administrative buildings. Existing judicial facilities are just not equipped for a new circuit. The Administrative Office estimates these start-up costs to be $96 million, and then $16 million in annual recurring costs under the proposed split. The judiciary budget is already stretched thin. The creation of a new and costly bureaucracy to administer the new circuit would just add to our growing deficit. And this proposal does not have the support of the people whom it will most directly affect.

Judges on the circuit oppose the split. Members of the State bars affected by the split oppose it. And almost 100 Federal, State, and local organizations oppose splitting the Ninth Circuit. Only 3 of the 26 active judges on the Ninth Circuit favor splitting the circuit. Many State bars oppose this proposal including Alaska, Washington, Nevada, Hawaii, and Arizona. Even the Federal Bar Association and the appellate section of the Oregon bar feel strongly that we should not split the Ninth Circuit. The State Bar of Montana does not support this proposal. The Montana bar unanimously passed a resolution opposing division of the Ninth Circuit.

We ought to be listening to the people on the ground who deal with this issue every day, not creating hardship from our offices in DC. Let's be frank here. The motivation behind splitting the circuit is political. It is an attempt to control the decisions of the judiciary by rearranging the bench. The judiciary is supposed to be an independent branch of government. It must remain so. Splitting the circuit is not the right thing to do for Montana. It is not the right thing to do for the country.

Mrs. BOXER. Mr. President, once again we are faced with a proposal to split the Ninth Circuit Court of Appeals, which includes my home State of California.

The amendment before us today would create a ''new'' Ninth Circuit, with California, Hawaii, and Guam, and a new 12th Circuit, consisting of other Western States.

I oppose this amendment for three reasons: First, splitting the Ninth Circuit would place a greater burden on California Federal appellate judges. Under the new plan, California judges would constitute only 58 percent of the former circuit's judicial staff, but required to handle more than 70 percent of former circuit's total caseload. Second, splitting the Ninth Circuit is unnecessary. The Ninth Circuit has performed well according to most performance measures, despite having one of the highest caseloads per judge in the country. Third, splitting the Ninth Circuit is opposed by the majority of people who would be most affected—the judges and attorneys of the Ninth Circuit.

I urge my colleagues to reject this unnecessary amendment that has nothing to do with court security, and creates new problems and costs for the parties, lawyers and judges that practice in the Ninth Circuit.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is expected to make a motion to waive the Budget Act.

Mr. ENSIGN. Mr. President, I ask the Chair to rule on the point of order.

The PRESIDING OFFICER. The point of order is sustained.

The amendment falls.

Mr. KYL. Mr. President, I wish to comment on section 207 of the pending matter, the Court Security Improvement Act of 2007. Section 207 increases the statutory maximum penalties for the Federal offense of manslaughter. Pursuant to this legislation, the maximum penalty for involuntary manslaughter will be increased from 6 to 10 years, and the penalty for voluntary manslaughter will be increased from 10 to 20 years. This is a change that I sought to have included in last year's various court security bills. I am pleased to see that it will be included in this year's final Senate bill.

The need for an increase in the manslaughter statutory maximum penalty is made clear in testimony that was presented before the U.S. Sentencing Commission by Paul Charlton, the U.S. Attorney for the District of Arizona, on March 25, 2003. Despite recent changes to the guidelines for manslaughter offenses, the typical DUI involuntary manslaughter crime still is subject to a sentencing range of only 30 to 37 months. Yet, as Mr. Charlton noted in his testimony, under Arizona State law, the presumptive sentence for a typical DUI involuntary manslaughter offense is 10½ years. In other words, despite recent guidelines adjustments, the Federal criminal justice system still imposes a sentence for involuntary manslaughter in drunk driving cases that is only a third of the sentence that would be imposed for the exact same conduct under State law.

Mr. Charlton concluded that there is a ''dire need for immediate improvements to the manslaughter statutory penalty and sentencing guidelines.'' As he noted, ''the respect and confidence of surviving victims in the federal criminal justice system is severely undermined and will continue to be unless the statutory maximum penalties are increased to reflect the seriousness of the crime and the sentencing guidelines are comparably changed to reflect that increase.''

With this bill, the Congress finally acts on Mr. Charlton's recommendation to increase the statutory maximum. I would like to emphasize, however, that enactment of section 207 does not alone finish the job. As Mr.

Charlton noted in his testimony, even after Congress increased statutory penalties for these offenses in 1998, the sentences imposed by Federal courts ''remain[ed] inadequate to deter and punish offenders [as of March 2003] because the federal manslaughter sentencing guideline was never changed to reflect the increased penalty.''

The Sentencing Commission did eventually adjust the guidelines in response to the 1998 amendments, albeit 5 years after those changes were enacted. In case a staffer for the Sentencing Commission reads this speech in the CONGRESSIONAL RECORD, let me be clear: yes, we do expect the Commission to adjust the guidelines for voluntary and involuntary manslaughter in order to reflect the statutory changes made by section 207. And please persuade the Commissioners to act expeditiously. If this matter is not addressed during the next appropriate period for submitting proposed changes to the guidelines, I will contact the Commission to inquire why no adjustment has been made.

I ask unanimous consent that Mr. Charlton's 2003 testimony before the Sentencing Commission be printed in the RECORD.

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

TESTIMONY BEFORE THE U.S. SENTENCING COMMISSION

(By Paul Charlton)

Members of the U.S. Sentencing Commission, thank you for giving me the opportunity to appear before you to discuss sentencing in federal manslaughter cases. This topic is particularly important to the District of Arizona because my district routinely handles the highest number of prosecutions under the Major Crimes Act arising out of violations in Indian country, including federal manslaughter cases, in the United States. The low statutory and guideline sentences for these offenses are a topic of frustration routinely discussed among my counterparts with similar criminal jurisdiction responsibilities and who serve on the United States Attorney General's Native American Issues Advisory Subcommittee.

The District of Arizona encompasses the entire state of Arizona. We have exclusive authority to prosecute Major Crimes Act violations occurring within Arizona's 21 Indian Reservations. Two of the nation's largest Indian Reservations are located in Arizona—the Navajo Nation, with an approximate total population of 275,000 members and a land base of over 17 million acres spanning three states (Arizona, New Mexico and Utah), and the Tohono O'odham Nation, with an approximate total population of 24,000 members and a land base comparable to the state of Connecticut. Recent Department of Justice data revealed that the violent crime rate on the Navajo Reservation is six times the national average. In total, in calendar year 2002, my office handled a total of 64 manslaughter and 94 murder cases. In a two-year period ending September 2002, the Flagstaff division of the U.S. Attorney's Office (which responds to Northern Arizona federal crimes) handled 65 homicide prosecutions, including 27 manslaughter and 38 murder cases.

In the summer of 2001, this Commission held a hearing on the impact of the sentencing guidelines on Indians committing offenses in Indian country. The perception going into this hearing was that Indians sentenced under the federal sentencing guidelines are treated more harshly than those who are adjudicated in the State system. The experiences of federal prosecutors in my District as they relate to the crimes of voluntary and involuntary manslaughter are not consistent with this perception. Our perception, and that of many Indian and non-Indian victims, is that the federal criminal justice system is in many circumstances unjust. Consequently, the respect and confidence of surviving victims in the federal criminal justice system is severely undermined and will continue to be unless the statutory maximum penalties are increased to reflect the seriousness of the crime and the sentencing guidelines are comparably changed to reflect that increase.

In 1994, the United States Congress amended the penalty for involuntary manslaughter from three years to the current six year maximum term. [Footnote: See H.R. Conf. Rep. 103–711 (1994).] The primary purpose for the amendment was to correct the inadequacy of the three-year penalty as it applied to drunk driving homicides. In passing the amendment, one Senator noted ''Involuntary manslaughter most often occurs through reckless or drunken driving. A three-year maximum sentence is not adequate to vindicate the most egregious instances of this conduct, which takes an increasing toll of innocent victims' lives.'' [Footnote: 134 CONG. REC. S.7446–01 (statement of Sen. Byrd).] I applaud Congress' efforts in amending the law. However, it has become abundantly clear that the current statutory penalties remain inadequate to deter and punish offenders because the federal manslaughter sentencing guideline was never changed to reflect the increased penalty.

Today, the average range of sentence for a defendant for involuntary manslaughter is 16–24 months imprisonment followed by three years on Supervised Release. I would like to share with you some of the experiences faced by federal prosecutors assigned to DUI homicides in Indian country to illustrate the gravity of theses crimes, the comparable state sentences imposed, and to demonstrate the need for increased penalties and comparable sentencing guidelines:

Kyle Peterson, was charged with one count of involuntary manslaughter for the death of a 60-year-old man who was driving to work southbound on the Loop 101 Freeway in Phoenix. Peterson was driving north in the southbound lanes of the Loop 101. The two vehicles collided head-on as they entered a portion of the freeway located in Indian country. The victim was killed instantly. Peterson suffered serious head injuries but his recovery has been positive. At the time of impact Peterson's blood alcohol level was .158. He pled guilty to the charge of involuntary manslaughter with no agreements and was sentenced to 14 months in custody followed by three years on supervised release. In her victim impact statement, the decedent's widow stated ''[f]inally there is me rage at a system that allows a criminal to face almost no punishment because of Federal Sentencing Commission laws . . . DUI is a criminal offense. Why does the Federal system not treat it as such?''

Gaylen Lomatuwayma was charged with one count of involuntary manslaughter after he struck and killed the victim, who was walking along Navajo Route 2. The crash took place after a night of drinking in Flagstaff, Arizona. The defendant kept driving until his truck stopped working. He was indicted on one count of involuntary manslaughter and was sentenced to 21 months in custody followed by 3 years on supervised release.

In July, 2001, Zacharay Guerrero was driving intoxicated on the Salt River Pima-Maricopa Reservation near Phoenix when he failed to stop at a clearly posted stop sign. He collided with a vehicle occupied by two female tribal members. On impact, both females were ejected from the vehicle, which ignited in flames and burned at the scene. Guerrero fled the scene. Investigation revealed that the defendant's vehicle had an impact speed of between 64 and 70 mph (while the posted speed limit was 35 mph) and the victim vehicle had an impact speed of 9 mph. One victim died at the scene. The medical examiner attributed her death to multiple blunt force trauma due to the motor-vehicle impact. The second victim died two months later. While there were small amounts of alcohol detected in the victim/driver's blood, the accident reconstructionist did not believe it was a significant contributing factor to the crash. Guerrero was charged and plead guilty to two counts of involuntary manslaughter, with no sentencing agreement. The guideline calculation resulted in a total offense level 13, with acceptance of responsibility, or a sentencing range of only 12–18 months. Only because of Guerrero's prior criminal history did he receive a sentence of concurrent terms of 37 months, the high end of the applicable guideline range.

In November 2001, Ernest Zahony was driving eastbound on hwy 160 near the Old Red Lake Trading Post on the Navajo Indian Reservation. He crossed the center line and struck a family headed westbound on their way to a late Thanksgiving dinner. The driver was pinned behind the steering wheel and later died as a result of her injuries. Five other occupants, including children, received serious injuries. The defendant walked away from the scene and was found about a mile away. The defendant admitted to drinking all night and into the morning. At the time of the crash, he is estimated to have had a .252 blood alcohol level. The court, applying an upward departure, sentenced the defendant to 40 months in custody.

Victim families routinely hear or read about state drunk-driving homicide cases where long sentences are imposed by state court judges. Without exception, every Assistant U.S. Attorney and Victim Advocate assigned to federal drunk driving homicides must go through the painful process of explaining to victim families that the long sentences meted out in the state court system do not apply because the defendant will be sentenced under the federal sentencing guideline scheme. Victim families cannot comprehend that had the crime occurred in state jurisdiction, the defendant would be imprisoned for a substantially longer term.

To illustrate this, in Arizona state court, the crime of manslaughter is designated either ''dangerous'' or ''non-dangerous.'' [Footnote: Case illustrations were provided by the Arizona Chapter of MADD. Explanation of state sentencing categories were provided by the Maricopa County Attorney's Office.] In Maricopa County, DUI homicides are almost exclusively charged as ''dangerous'' felonies. [Footnote: According to the Maricopa County Attorney's Office, ''non-dangerous'' felonies are reserved for those DUI homicides with great evidentiary weaknesses and are rarely, if ever, charged.] The sentence for manslaughter ''dangerous'' ranges from seven to 21 years in custody and yields a presumptive 10½ year sentence.

For example, the Maricopa County Attorney's Office stated that generally, where an intoxicated defendant crosses a center line striking and killing someone, he/she will almost assuredly receive a sentence of 10½ years. If the individual has a prior drunk driving history, the range of sentence increases by 2 years. In cases where a passenger in a defendant's car is killed, the

range of sentence generally is 7–10½ years in custody.

Compare Arizona v. Bruguier with United States v. Lomatuwayma. In Bruguier, the defendant was sentenced to 11½ years for driving while intoxicated and striking and killing an individual who was jogging along a roadway.

Ironically, if any of the victims in the above-mentioned cases were injured, rather than killed, each defendant would have been sentenced under the assault statute, resulting in much harsher penalties. [Footnote: Similarly, the statutory maximum for Assault with a Dangerous Weapon and Assault Resulting in Serious Bodily Injury is no more than 10 years and a $250,000 fine. 18 U.S.C.§113. The Base Offense Level is 15 and allows for specific offense characteristics which may result in a substantially higher sentencing range.] To address the low statutory and guideline penalty for involuntary manslaughter cases, my office applies alternative or additional charges in appropriate cases such as assault or second degree murder. This approach enhances the penalties available to the court. Also, the added charges will hopefully deter the defendant from future conduct, and provide a means to advocate on behalf of the surviving victims.

For example, Sebastian Lopez plead guilty to Second Degree Murder for committing a DUI homicide and was sentenced to 11½ years in custody. At the time of this offense, Lopez was serving a sentence of federal probation for a prior DUI homicide. In total, this defendant had four prior DUI convictions, three involving accidents and one involving death, yet he remained undeterred by his first DUI homicide crime and federal sentence.

Additionally, federal prosecutors routinely seek upward departures to increase a drunk driving defendant's final adjusted sentence. However, courts are reluctant to impose upward departures in manslaughter cases. In United States v. Merrival, 176 F.3d 1079 (8th Cir. 1999), a case prosecuted by the District of South Dakota, the defendant was charged with one count of Involuntary Manslaughter for the DUI homicide of his two passengers, which included a 5-month-old infant. The defendant plead guilty to the indictment and the district court departed upward to sentence him to 70 months in custody. In imposing sentence, the court stated that the defendant's conduct was extremely dangerous and resulted in two deaths and severe bodily injury to the three surviving victims. In upholding the sentence, the Eighth Circuit stated ''[w]e make special note, however, that in imposing a departure of this magnitude, the district court acted at the outermost limits of its discretionary authority.'' Id. at 1082. Consequently, federal courts themselves appear to struggle with finding a just sentence for these crimes and remain reluctant to impose an upward departure even in the most egregious cases.

Additionally, if a defendant's tribal criminal history reflects repeated criminal conduct while they are under the influence of alcohol, a prosecutor may seek an enhanced sentence pursuant to U.S.S.G. §4A1.3, Adequacy of Criminal History. [Footnote: This section may only be applied where a defendant's prior sentence(s) are not factored into his sentencing guideline range. 4A1.3(a).] However, federal court judges are reluctant to apply an upward departure even where a defendant has prior multiple tribal court DUI convictions. Recently, Dale Haskan received a 14 month sentence for the DUI homicide of a 15-year-old girl. Haskan had multiple prior DUIs in tribal court dating back 20 years. The district court ruled that only one of his prior convictions was admissible because of inadequate documentation and his concern whether Haskan was represented in tribal court on those multiple convictions.

Depending on the extent and substance of a defendant's tribal criminal history, the facts, and the character of the victim, a court may make legal and factual findings that the defendant is entitled to an enhancement. See United States v. Betti Rowbal, 105 F.3d 667 (9th Cir. Nev.) (Unpublished Decision). In drunk driving homicides, however, it is hard for a prosecutor to argue that the Sentencing Commission did not take into account the loss of life or the degree of a defendant's intoxication. Id. Therefore, sentencing enhancements in these cases, although routinely sought, are difficult to substantiate and thus are rarely imposed. It is my hope that these examples will serve to illustrate the dire need for immediate improvements to the manslaughter statutory penalty and sentencing guidelines.

I would like to briefly address second degree murder. As you consider addressing manslaughter, I urge the Commission to reexamine the murder sentencing guidelines in relationship to the statutory maximum penalty, life imprisonment. The Commission must evaluate whether the 33 base offense level is appropriate given that second degree murder involves a high level of culpability on the part of the defendant. [Footnote: With a Criminal History of I and a 3-level adjustment for Acceptance of Responsibility, a defendant would face an adjusted offense level of 30 (97–121 months in custody).] For example, Douglas Tree plead guilty to Second Degree Murder for beating his girlfriend's 18 month old daughter. Her injuries included a fractured clavicle and fractured ribs. He waited until his girlfriend came home to take the child in for medical treatment. The infant was hospitalized, placed on life support and later died. Tree received a 142 month sentence. Leslie Vanwinkle was also charged with Second Degree Murder for the beating death of his 70-year-old father. Vanwinkle was sentenced to a term of 151 months in custody. These crimes are among the most malicious and often occur with weapons including knives, rocks and shovels. The use of a firearm gives prosecutors the leverage of charging a gun violation, which drastically enhances the second degree murder sentence.

Finally, should the Commission increase the manslaughter sentencing guideline, it must evaluate the impact that the existing second degree murder guideline will have relative to any increase. I therefore encourage the Commission to consider creating specific offense characteristics that reflect the more egregious and aggravated type of murder.

The frustration felt by the victim families, prosecutors, and often expressed by district court judges in imposing sentences is all to common in my district and experienced by every federal prosecutor with similar federal criminal jurisdictional responsibilities. So, I am thankful and encouraged that this Commission continues to have an interest in this area. I am also encouraged that the Commission developed the Native American Ad Hoc Advisory Committee to more thoroughly review the perceptions of Indian Country Crimes and Sentencing disparity. My colleagues and I on the Attorney General's Native American Issues Advisory Committee look forward to the Committee's findings. Thank you again for extending to me the invitation to speak to you today.

Mr. LEAHY. Mr. President, I appreciate the hard work of my colleagues in coming to agreement to proceed to final passage of this important legislation.

This bill has been a top priority of the Federal judiciary. I introduce it back in January, and it proceeded through regular order. We held a hearing, issued a committee report, considered floor amendments, and debated the measure.

Now it is time to vote for its passage. We can and we must provide for increased security for our Federal judges.

Physical attacks on our judges threaten not only the dedicated public servants who serve in these roles but also the institution. Our Nation's Founders knew that without an independent judiciary to protect individual rights from the political branches of Government, those rights and privileges would not be preserved. Our Federal courts are the ultimate check and balance in our system of government.

We owe it to our judges to better protect them and their families from violence to ensure that they have the peace of mind to do their vital and difficult jobs.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—97

Akaka	DeMint	Lott
Alexander	Dodd	Lugar
Allard	Dole	Martinez
Baucus	Domenici	McCaskill
Bayh	Dorgan	McConnell
Bennett	Durbin	Menendez
Biden	Ensign	Mikulski
Bingaman	Enzi	Murkowski
Bond	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Brown	Graham	Nelson (NE)
Brownback	Grassley	Obama
Bunning	Gregg	Pryor
Burr	Hagel	Reed
Byrd	Harkin	Reid
Cantwell	Hatch	Roberts
Cardin	Hutchison	Rockefeller
Carper	Inhofe	Salazar
Casey	Isakson	Sanders
Chambliss	Kennedy	Schumer
Clinton	Kerry	Sessions
Coburn	Klobuchar	Shelby
Cochran	Kohl	Smith
Coleman	Kyl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Stabenow
Corker	Leahy	Stevens
Cornyn	Levin	Sununu
Craig	Lieberman	Tester
Crapo	Lincoln	Thomas

Thune	Warner	Wyden
Vitter	Webb	
Voinovich	Whitehouse	

NOT VOTING—3

Inouye	Johnson	McCain

The bill (S. 378), as amended, was passed, as follows:

S. 378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Court Security Improvement Act of 2007''.

TITLE I—JUDICIAL SECURITY IMPROVEMENTS AND FUNDING

SEC. 101. JUDICIAL BRANCH SECURITY REQUIREMENTS.

(a) ENSURING CONSULTATION WITH THE JUDICIARY.—Section 566 of title 28, United States Code, is amended by adding at the end the following:

''(i) The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.''.

(b) CONFORMING AMENDMENT.—Section 331 of title 28, United States Code, is amended by adding at the end the following:

''The Judicial Conference shall consult with the Director of United States Marshals Service on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.''.

SEC. 102. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting ''or a family member of that individual'' after ''that individual''; and

(2) in subparagraph (B)(i), by inserting ''or a family member of that individual'' after ''the report''.

SEC. 103. FINANCIAL DISCLOSURE REPORTS.

(a) EXTENSION OF AUTHORITY.—Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking ''2005'' each place that term appears and inserting ''2009''.

(b) REPORT CONTENTS.—Section 105(b)(3)(C) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended—

(1) in clause (ii), by striking ''and'' at the end;

(2) in clause (iii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(iv) the nature or type of information redacted;

''(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

''(vi) principles used to guide implementation of redaction authority; and

''(vii) any public complaints received in regards to redaction.''.

SEC. 104. PROTECTION OF UNITED STATES TAX COURT.

(a) IN GENERAL.—Section 566(a) of title 28, United States Code, is amended by striking ''and the Court of International Trade'' and inserting '', the Court of International Trade, and the United States Tax Court, as provided by law''.

(b) INTERNAL REVENUE CODE.—Section 7456(c) of the Internal Revenue Code of 1986 (relating to incidental powers of the Tax Court) is amended in the matter following paragraph (3), by striking the period at the end, and inserting ''and may otherwise provide, when requested by the chief judge of the Tax Court, for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened persons in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding.''.

(c) REIMBURSEMENT.—The United States Tax Court shall reimburse the United States Marshals Service for protection provided under the amendments made by this section.

SEC. 105. ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY.

In addition to any other amounts authorized to be appropriated for the United States Marshals Service, there are authorized to be appropriated for the United States Marshals Service to protect the judiciary, $20,000,000 for each of fiscal years 2007 through 2011 for—

(1) hiring entry-level deputy marshals for providing judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and assistant United States attorneys; and

(3) for the Office of Protective Intelligence, for hiring senior-level deputy marshals, hiring program analysts, and providing secure computer systems.

TITLE II—CRIMINAL LAW ENHANCEMENTS TO PROTECT JUDGES, FAMILY MEMBERS, AND WITNESSES

SEC. 201. PROTECTIONS AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES AND FEDERAL LAW ENFORCEMENT OFFICERS.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''SEC. 1521. RETALIATING AGAINST A FEDERAL JUDGE OR FEDERAL LAW ENFORCEMENT OFFICER BY FALSE CLAIM OR SLANDER OF TITLE.

''Whoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

''1521. Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title.''.

SEC. 202. PROTECTION OF INDIVIDUALS PERFORMING CERTAIN OFFICIAL DUTIES.

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

''§ 119. Protection of individuals performing certain official duties

''(a) IN GENERAL.—Whoever knowingly makes restricted personal information about a covered official, or a member of the immediate family of that covered official, publicly available—

''(1) with the intent to threaten, intimidate, or incite the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official; or

''(2) with the intent and knowledge that the restricted personal information will be used to threaten, intimidate, or facilitate the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official, shall be fined under this title, imprisoned not more than 5 years, or both.

''(b) DEFINITIONS.—In this section—

''(1) the term 'restricted personal information' means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual;

''(2) the term 'covered official' means—

''(A) an individual designated in section 1114; or

''(B) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate;

''(3) the term 'crime of violence' has the meaning given the term in section 16; and

''(4) the term 'immediate family' has the meaning given the term in section 115(c)(2).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

''119. Protection of individuals performing certain official duties.''.

SEC. 203. PROHIBITION OF POSSESSION OF DANGEROUS WEAPONS IN FEDERAL COURT FACILITIES.

Section 930(e)(1) of title 18, United States Code, is amended by inserting ''or other dangerous weapon'' after ''firearm''.

SEC. 204. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.

Section 1513 of title 18, United States Code, is amended by adding at the end the following:

''(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.''.

SEC. 205. MODIFICATION OF TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT OFFENSE.

(a) CHANGES IN PENALTIES.—Section 1512 of title 18, United States Code, is amended—

(1) so that subparagraph (A) of subsection (a)(3) reads as follows:

''(A) in the case of a killing, the punishment provided in sections 1111 and 1112;'';

(2) in subsection (a)(3)—

(A) in the matter following clause (ii) of subparagraph (B) by striking ''20 years'' and inserting ''30 years''; and

(B) in subparagraph (C), by striking ''10 years'' and inserting ''20 years'';

(3) in subsection (b), by striking ''ten years'' and inserting ''20 years''; and

(4) in subsection (d), by striking ''one year'' and inserting ''3 years''.

SEC. 206. MODIFICATION OF RETALIATION OFFENSE.

Section 1513 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)—

(A) by inserting a comma after ''probation''; and

(B) by striking the comma which immediately follows another comma;

(2) in subsection (a)(2)(B), by striking ''20 years'' and inserting ''30 years'';

(3) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting a comma after ''probation''; and

(ii) by striking the comma which immediately follows another comma; and

(B) in the matter following paragraph (2), by striking ''ten years'' and inserting ''20 years''; and

(4) by redesignating the second subsection (e) as subsection (f).

SEC. 207. GENERAL MODIFICATIONS OF FEDERAL MURDER CRIME AND RELATED CRIMES.

Section 1112(b) of title 18, United States Code, is amended—

(1) by striking ''ten years'' and inserting ''20 years''; and

(2) by striking ''six years'' and inserting ''10 years''.

TITLE III—PROTECTING STATE AND LOCAL JUDGES AND RELATED GRANT PROGRAMS

SEC. 301. GRANTS TO STATES TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) in paragraph (4), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) by a State, unit of local government, or Indian tribe to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

''SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $20,000,000 for each of the fiscal years 2007 through 2011 to carry out this subtitle.''.

SEC. 302. ELIGIBILITY OF STATE COURTS FOR CERTAIN FEDERAL GRANTS.

(a) CORRECTIONAL OPTIONS GRANTS.—Section 515 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(4) grants to State courts to improve security for State and local court systems.''; and

(2) in subsection (b), by inserting after the period the following:

''Priority shall be given to State court applicants under subsection (a)(4) that have the greatest demonstrated need to provide security in order to administer justice.''.

(b) ALLOCATIONS.—Section 516(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended by—

(1) striking ''80'' and inserting ''70'';

(2) striking ''and 10'' and inserting ''10''; and

(3) inserting before the period the following: '', and 10 percent for section 515(a)(4)''.

(c) STATE AND LOCAL GOVERNMENTS TO CONSIDER COURTS.—The Attorney General may require, as appropriate, that whenever a State or unit of local government or Indian tribe applies for a grant from the Department of Justice, the State, unit, or tribe demonstrate that, in developing the application and distributing funds, the State, unit, or tribe—

(1) considered the needs of the judicial branch of the State, unit, or tribe, as the case may be;

(2) consulted with the chief judicial officer of the highest court of the State, unit, or tribe, as the case may be; and

(3) consulted with the chief law enforcement officer of the law enforcement agency responsible for the security needs of the judicial branch of the State, unit, or tribe, as the case may be.

(d) ARMOR VESTS.—Section 2501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ll) is amended—

(1) in subsection (a), by inserting ''and State and local court officers'' after ''tribal law enforcement officers''; and

(2) in subsection (b), by inserting ''State or local court,'' after ''government,''.

TITLE IV—LAW ENFORCEMENT OFFICERS

SEC. 401. REPORT ON SECURITY OF FEDERAL PROSECUTORS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the security of assistant United States attorneys and other Federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, those who commit fraud and other white-collar offenses, and other criminal cases.

(b) CONTENTS.—The report submitted under subsection (a) shall describe each of the following:

(1) The number and nature of threats and assaults against attorneys handling prosecutions described in subsection (a) and the reporting requirements and methods.

(2) The security measures that are in place to protect the attorneys who are handling prosecutions described in subsection (a), including threat assessments, response procedures, availability of security systems and other devices, firearms licensing (deputations), and other measures designed to protect the attorneys and their families.

(3) The firearms deputation policies of the Department of Justice, including the number of attorneys deputized and the time between receipt of threat and completion of the deputation and training process.

(4) For each requirement, measure, or policy described in paragraphs (1) through (3), when the requirement, measure, or policy was developed and who was responsible for developing and implementing the requirement, measure, or policy.

(5) The programs that are made available to the attorneys for personal security training, including training relating to limitations on public information disclosure, basic home security, firearms handling and safety, family safety, mail handling, counter-surveillance, and self-defense tactics.

(6) The measures that are taken to provide attorneys handling prosecutions described in subsection (a) with secure parking facilities, and how priorities for such facilities are established—

(A) among Federal employees within the facility;

(B) among Department of Justice employees within the facility; and

(C) among attorneys within the facility.

(7) The frequency attorneys handling prosecutions described in subsection (a) are called upon to work beyond standard work hours and the security measures provided to protect attorneys at such times during travel between office and available parking facilities.

(8) With respect to attorneys who are licensed under State laws to carry firearms, the policy of the Department of Justice as to—

(A) carrying the firearm between available parking and office buildings;

(B) securing the weapon at the office buildings; and

(C) equipment and training provided to facilitate safe storage at Department of Justice facilities.

(9) The offices in the Department of Justice that are responsible for ensuring the security of attorneys handling prosecutions described in subsection (a), the organization and staffing of the offices, and the manner in which the offices coordinate with offices in specific districts.

(10) The role, if any, that the United States Marshals Service or any other Department of Justice component plays in protecting, or providing security services or training for, attorneys handling prosecutions described in subsection (a).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXPANDED PROCUREMENT AUTHORITY FOR THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Section 995 of title 28, United States Code, is amended by adding at the end the following:

''(f) The Commission may—

''(1) use available funds to enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year, to the same extent as executive agencies may enter into such contracts under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l);

''(2) enter into multi-year contracts for the acquisition of property or services to the same extent as executive agencies may enter into such contracts under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c); and

''(3) make advance, partial, progress, or other payments under contracts for property or services to the same extent as executive agencies may make such payments under the authority of section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).''.

(b) SUNSET.—The amendment made by subsection (a) shall cease to have force and effect on September 30, 2010.

SEC. 502. BANKRUPTCY, MAGISTRATE, AND TERRITORIAL JUDGES LIFE INSURANCE.

(a) IN GENERAL.—Section 604(a)(5) of title 28, United States Code, is amended by inserting after ''hold office during good behavior,'' the following: ''bankruptcy judges appointed under section 152 of this title, magistrate judges appointed under section 631 of this title, and territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1877 (48 U.S.C. 1821), or

section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)),''.

(b) CONSTRUCTION.—For purposes of construing and applying chapter 87 of title 5, United States Code, including any adjustment of insurance rates by regulation or otherwise, the following categories of judicial officers shall be deemed to be judges of the United States as described under section 8701 of title 5, United States Code:

(1) Bankruptcy judges appointed under section 151 of title 28, United States Code.

(2) Magistrate judges appointed under section 631 of title 28, United States Code.

(3) Territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1877 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)).

(4) Judges retired under section 377 of title 28, United States Code.

(5) Judges retired under section 373 of title 28, United States Code.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

SEC. 503. ASSIGNMENT OF JUDGES.

Section 296 of title 28, United States Code, is amended by inserting at the end of the second undesignated paragraph the following new sentence: ''However, a judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, shall have all the powers of a judge of that court, including participation in appointment of court officers and magistrate judges, rulemaking, governance, and administrative matters.''.

SEC. 504. SENIOR JUDGE PARTICIPATION IN THE SELECTION OF MAGISTRATE JUDGES.

Section 631(a) of title 28, United States Code, is amended by striking ''Northern Mariana Islands'' the first place it appears and inserting ''Northern Mariana Islands (including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)''.

SEC. 505. FEDERAL JUDGES FOR COURTS OF APPEALS.

Section 44(a) of title 28, United States Code, is amended in the table—

(1) in the item relating to the District of Columbia Circuit, by striking ''12'' and inserting ''11''; and

(2) in the item relating to the Ninth Circuit, by striking ''28'' and inserting ''29''.

Ms. CANTWELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Ms. CANTWELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. REID. Madam President, the White House has been telling America that Democrats are doing the wrong thing by calling for a change of course in Iraq. They say holding the Iraqi Government accountable is wrong. They say finding a political solution in Iraq is wrong. They say redeploying troops out of a civil war is wrong. They have said even debating a strategy for changing course is dangerous, and many Senate Republicans have backed that up by blocking several of our attempts to debate this issue here on the Senate Floor.

The American people want us to debate the war, and they want us to change the course. Listen to what the President's own Secretary of Defense Robert Gates said in the last few hours, and I quote:

> The debate in Congress has been helpful in demonstrating to the Iraqis that American patience is limited. The strong feelings expressed in the Congress about the timetable probably has had a positive impact in terms of communicating to the Iraqis that this is not an open-ended commitment.

The President and some of my Republican colleagues have also attempted to create a false crisis by claiming that Democrats are putting the troops in danger by not sending the supplemental bill immediately. But today, the Pentagon acknowledged what Democrats have long known—that President Bush continues to misstate the reality on the ground and in Iraq to score political points.

Like the nonpartisan Congressional Research Service, the Pentagon now acknowledges that it can pay for the Iraq war at least through June with the funds that have already been provided.

I hope the President and our Republican colleagues in Congress will put these false claims aside so we can get back to working toward a bipartisan solution.

Yesterday I met with President Bush to express the will of the American people, senior military officials, and a bipartisan majority of Congress that we must change course in Iraq. I told President Bush that, going on to 5 years, more than 3,300 American soldiers lost, tens of thousands wounded, a third of them gravely wounded, and billions and billions of dollars depleted from our Treasury, we as a country must change course in Iraq.

Conditions in Iraq get worse by the day. Now we find ourselves policing another nation's civil war. We are less secure from the many threats to our national security than we were when the war began. As long as we follow the President's path in Iraq, the war is lost. But there is still a chance to change course and we must change course. No one wants us to succeed in the Middle East more than I do. But there must be a change of course. Our brave men and women overseas have passed every test with flying colors. They have earned our pride and our praise. More important, they deserve a strategy worthy of their sacrifice.

The supplemental bill we passed with bipartisan support offers that. It includes a reasonable and attainable timeline to reduce combat missions and refocus our efforts on the real threats to our country's security. It offers a new path, a new direction forward. If we put politics aside, I believe we can find a way to make America safer and stronger.

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. ALEXANDER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. ALEXANDER. Madam President, I ask unanimous consent that I may speak as in morning business for as much time as I may require.

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

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 1168 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ALEXANDER. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

GONZALES V. CARHART

Mr. HATCH. Madam President, yesterday was a good day for democracy. It was a great day for American constitutionalism. I have said it before. I will continue to say it. All too often, we see judicial decisions on America's most important social issues made without any constitutional warrant.

Too difficult to convince your community that it should not pray before football games? No problem. Just find a judge to say that the practice is unconstitutional.

Too discouraged by the slow pace of the march toward same-sex marriage? Find a judge to declare that the State constitution has allowed it all along. A constitutional right to same-sex marriage—''presto chango.''

Americans of all political stripes understand that this highjacking of social policy from the people's representatives is deeply misguided.

A good number of law professors, law students, judges, and politicians still continue to inject the judicial branch

into social controversies. Yet, in attempting to smooth out the rough edges of democracy, activist judges have time and again undermined democracy and increased bitterness in our political debates.

Yesterday's decision in Gonzales v. Carhart was a step toward righting that dangerous trend. It was a step toward restoring the people's liberties and the vitality of our democracy.

Let me explain.

In 2003, Congress passed, and the President signed, the Partial-Birth Abortion Ban Act. This was well-considered legislation. It was broadly supported by the public. Senators of both parties, including my colleague from Vermont, the chairman of the Judiciary Committee, supported the bill. And after years of trying, it finally became law.

It was a modest bill, born of an existential abhorrence of a procedure that callously snuffed out human life. Nonetheless, a coalition of the usual proponents of judicial legislating attempted to undo this law.

Fortunately, the Supreme Court disagreed and upheld this legislation. It was a reasonable decision. And it showed a proper deference to the people and their representatives—deference that one would expect in a democracy.

The public first became aware of partial-birth abortion in 1992, when Dr. Martin Haskell gave a presentation describing the procedure. A nurse who assisted him in a partial-birth abortion on a 26½ week fetus testified before the Senate Judiciary Committee of her experience with this procedure. It was shocking testimony. I am glad that Justice Kennedy included it in his majority opinion. I will not repeat it here. It was graphic. It was horrific. And it will stay with me forever.

A 6-month-old fetus was treated worse than any animal—and disposed of like garbage. The American people were rightly appalled.

It very well might be that there is some give in the seams of our Constitution. The meaning of every term and principle is not entirely clear. But if you are going to be making up constitutional rights without textual warrant, the American people understand what many law professors, radical—I mean, progressive—activists, and judges did not.

It perverts our constitutional traditions to argue that a document committed to life, liberty, and the dignity of the human person would prohibit public condemnation and legal regulation of such barbarity. And the Court agreed.

This was a reasonable and a limited decision. The Court rejected a facial challenge to the law. Relying on its precedent in Casey v. Planned Parenthood, the Court held that the law was not unconstitutionally vague and did not impose an undue burden on a woman's right to abortion.

This was a reasonable decision, one rooted in a deep respect for the role of the people's representatives in Congress. And what is the response of the hard left? Hysteria.

I know many of my colleagues in this body are familiar with the blog, Daily Kos. It is the online meeting room for the political left.

The complaints of its members recently led a number of Democratic candidates for President to withdraw from a Fox News-sponsored debate. They were intimately involved in the debate in the House over how best to cut off funding for our troops. This is what one of these citizen agitators posted about the decision:

> The 5 Catholics on the court have ruled!! Why don't we just outsource the Supreme Court to the Vatican. Save some money!!

There was a time when this anti-Catholic venom had no place in our political discourse. Unfortunately, liberal groups are becoming more and more radical, and less and less liberal in their thinking.

This is what Nancy Keenan, of the radical abortion-rights lobby NARAL, had to say:

> An anti-choice Congress and an anti-choice president pushed this ban all the way to the Supreme Court.

An anti-choice Congress? Is she kidding? Is the Democratic chairman of the Appropriations Committee anti-choice? Is the Democratic chairman of the Judiciary Committee anti-choice? Is the Democratic chairman of the Budget Committee anti-choice?

Give me a break.

The radicals criticizing this decision are seriously unmoored from the American people and our legal traditions. The radicals who support abortion on demand reject the choices of the American people. They reject the informed choice that the people's representatives made about this gruesome procedure. They are ''Johnny and Jane one-notes''—abortion now, abortion always, abortion forever.

The American people deserve better. We have been told by the new majority that America is done with partisanship. America needs results.

Well, we got results with the Partial-Birth Abortion Ban Act. This was a bipartisan achievement that brought together Republicans and Democrats, conservatives and liberals. It is unfortunate, then, to see certain Democratic candidates bemoaning this decision in the same old terms.

It is not too surprising to see the New York Times editorial page hyperventilating over this decision. But we deserve more from our party leaders and Presidential candidates. I understand their predicament. When you have to answer to uncompromising abortion-rights groups, logic sometimes gets tossed by the wayside.

When President Clinton was in the White House, he abandoned almost every liberal group imaginable in his quest for triangulation. But there was one group that he would never cross—the abortion-rights lobby.

And given the knee-jerk reactions about this decision from the leftwing blogosphere and Democratic candidates, I have no doubt that this commitment will not change. I think that is sad. But if they want to have a fight, the centerpiece of which is judicial administration of a judicially created right to abort your baby at any time during pregnancy, I am sure many will gladly meet them in the ring.

I think that these overheated comments are particularly interesting in light of the legislation that we considered earlier today. I was an original cosponsor of the court security bill.

Obviously, our judges need to be protected from violent criminals. They are public servants. And all too often they are threatened with, or subjected to, physical violence. This is unacceptable. And so I joined with many of my Judiciary Committee colleagues in supporting this bill.

But I want to distance myself from some of the remarks made by my Democratic colleagues yesterday. The suggestion that strong and vigorous criticism of judicial decisionmaking is somehow inappropriate or collaterally responsible for violence against judges is absurd. Violence against judges is unacceptable. But violence against judges is not caused by criticism of judicial activism. And it is not caused by overheated rhetoric.

I find it particularly ironic that on the same day that liberal pundits and interest groups are bemoaning a moderate and limited Supreme Court decision as the catalyst for making women second-class citizens, Democrats took to the floor to brand serious and vigorous criticism of judges as irresponsible.

In the end, I think Justice Scalia was right in his Casey concurrence. So long as the Court went about doing what lawyers and judges are supposed to do—interpret the law—nobody gave the Supreme Court a second thought. But when the Court decided that it should be a super legislature that second guesses the judgments of the American people and their representatives, the Court invited criticism.

You act like legislators, you get treated like legislators.

If my colleagues would like to see less criticism of judges, maybe they should stop advocating an undemocratic and constitutionally ungrounded judicial activism.

The people can criticize the courts. And their representatives can criticize the courts. If Lincoln did it, and FDR did it, I think we are on solid ground.

But I am not going to criticize yesterday's decision. I would like to close by again applauding it. It was not just a victory for the unborn child. It was a victory for moderation and the rule of law.

TRIBUTE TO BRIGADIER GENERAL DARRELL S. CRAMER

Mr. HATCH. Madam President, I wish to pay special tribute to an extraordinary man, a loving husband, father

and grandfather; a valiant soldier; and a true patriot in every sense of the word—BG Darrell S. Cramer.

Darrell recently passed away, leaving a tremendous void in the lives of all who knew him. Yet his legacy of service, courage, and dedication will serve as an example for many generations to come.

Darrell was born in Ogden, UT, to Olvie and Loretta Stuart Cramer and was the oldest in a family of five. He enjoyed his childhood immensely and excelled in athletics and academics. As a young child he developed a strong interest in aviation which would guide his future life. His dream of flying became a reality shortly after enrolling in a civilian pilot training course at Weber College.

On December 7, 1941, Darrell was listening to the radio at home when he heard the news bulletin that stunned the Nation—Pearl Harbor had been attacked, and the United States was now joining the war. The very next day, he drove to Salt Lake City and visited the recruiting offices of both the Army and the Navy to try to enlist in the Aviation Cadet programs. At that time a recruit was to be at least 20 years old and have 2 years of college, so he was turned away.

Just over a month later the rules were changed, and Darrell, eager to serve his country, immediately enlisted in the Army. He quickly became an excellent fighter pilot candidate and excelled in the training. Thus began a storied and exemplary military career.

The highlights of his military service included many tours of duty beginning in November 1942, when Darrell was sent to the South Pacific area as a P–38 pilot assigned to the 339th Fighter Squadron of the 13th Air Force. The young airman flew in the campaigns of Guadalcanal, New Guinea, and North Solomons and completed his tour of duty with credit for the destruction of a Japanese Zero fighter and Betty bomber aircraft.

In December 1943, he returned to the United States and was assigned to a P–47 combat training school in Abilene, TX. In June 1944, General Cramer was assigned to the European Theater of Operations and flew a P–51 aircraft with the 55th Fighter Group. He finished this tour of duty as a squadron commander with a total of 300 flying hours in 60 missions and credited for the destruction of 11 German aircraft. As such, he joined an exclusive fraternity of fighter ace.

At the end of World War II, Darrell returned home, and shortly after, he left active duty to go into business with his father forming the Cramer and Son Coal Company. He went on to pursue additional business opportunities but couldn't put his love of flying behind him and once again joined the Utah Air National Guard. When the Berlin Airlift began in 1948, he was again called to active duty for Operation Vittles.

When that operation ended, Darrell once again returned to the United States and began service as director of flying in the Advanced Flying School at Williams Air Force Base in Arizona. This was followed 2 years later with his return to Europe to assume command of the 53rd Fighter Squadron and later the 36th Fighter Bomber Wing in Germany.

This service was followed by assignments in Washington, DC, California, Turkey, Thailand, and Vietnam. In February 1971, General Cramer became the vice commander of the 17th Air Force, Ramstein Air Base in Germany. He was promoted to brigadier general in 1970 and retired from military service in June 1973.

During his many years of military service, Darrell was recognized and awarded many times for his courage and exemplary service to our Nation. His military awards and decorations included the Distinguished Service Medal, Legion of Merit with an oak leaf cluster, Distinguished Flying Cross with an oak leaf cluster, Air Medal with 21 oak leaf clusters, Joint Service Commendation Medal, Air Force Commendation Medal, Presidential Unit Citation emblem with two oak leaf clusters, and an Air Force Outstanding Unit Award Ribbon with an oak leaf cluster. In addition, he was also inducted into the Utah Aviation Hall of Fame and the Order of the Daedalians, a fraternity of pilots.

With all of these accomplishments, Darrell became a larger-than-life figure to all those who knew him. Yet his humble and unassuming spirit was demonstrated in all he did. His greatest accomplishments he always maintained was marrying the love of his life, Mildred ''Mick'' McPhie. They built a beautiful life together providing a loving, cherished home for friends, children, grandchildren, and great-grandchildren to enjoy.

In his later years, Darrell didn't just quietly sit and watch the days go idly by. He found happiness pursuing many hobbies and interests including golfing, skiing, and spending quality time with his brothers and sisters, grandchildren, and friends.

He also appreciated computer technology and used it to modernize his work in genealogy and family history. He spent many hours serving in the Church of Jesus Christ of Latter-day Saints' Family History Program. He shared his knowledge and helped many search for their own ancestors.

As the wonderful, strong military leader General George S. Patton once said, ''It is foolish and wrong to mourn the men who died. Rather we should thank God that such men lived.''

While I don't believe it is foolish for many to mourn the loss of this great man, I do believe that many do thank our Heavenly Father that BG Darrell S. Cramer lived and that he provided such a powerful example of courage, service, and love for generations to follow.

COURT SECURITY IMPROVEMENT ACT

Mr. LEAHY. Madam President, earlier today the Senate passed S. 378, the Court Security Improvement Act, with overwhelming, bipartisan support. With this legislation, we in the Senate acted for the third time in a year to better protect our Federal judges from institutional and physical threats.

For the past several years, I have introduced and sponsored legislation to extend the authority for Federal judges to redact relevant portions of their financial disclosure statements if they have been threatened. The authority to redact portions of judges' financial disclosure statements expired last year.

The redaction authority bill passed by the Senate last year would have extended the redaction authority without interruption and expanded it to judges' families. It struck the right balance by preserving congressional oversight to prevent the misuse of this redaction authority, which has been a matter of some concern.

I was disappointed that the House of Representatives failed to act on this legislation that passed the Senate last November but I am pleased that the new House of Representatives was able to pass it earlier this year. I continue to support an extension of redaction authority for threatened judges and am glad that the Senate is passing that measure, H.R. 1130 today. I trust that the President will sign it into law without delay.

U.S.-RUSSIAN ECONOMIC RELATIONSHIP

Mr. LUGAR. Madam President, I wish to congratulate Secretary of Commerce Carlos M. Gutierrez on his recent trip to Moscow, Russia. The Secretary delivered an important message to the Russian Government and Russian people: ''While political issues between our nations tend to garner the most headlines, economic interests should not be ignored. U.S.-Russia commercial ties are stronger and more dynamic than ever before, providing stability to our overall relationship.'' I couldn't agree more with this assessment.

The United States and Russia business relationship is expanding significantly. Last year, U.S. exports to Russia increased by 20 percent to $4.7 billion in a broad range of merchandise and service markets. The American Chamber of Commerce in Russia recently conducted a survey of American business in Russia. They made some interesting findings:

Half of the American companies surveyed report sales increases of 200 percent in Russia from 2001 to 2005.

Ninety-seven percent of U.S. companies in Russia project continued growth in sales during the next three years.

Ninety-two percent of U.S. companies in Russia believe that continued

commercial engagement with Russia is positive for American business, and 86 percent believe that Russia's membership in the WTO will bring new opportunities for them.

Profitability of two-thirds of American companies in Russia is on or above target.

Seventy-five percent of Russian employees of American companies in Russia view the United States positively, compared to 47 percent of employees in Russian-owned companies.

The people of Russia and the United States stand to benefit a great deal from this expanded relationship. The Secretary also focused on those areas where improvement is needed, including, stronger accountability, enforcement of intellectual property rights and and anticorruption efforts.

The U.S.-Russia relationship is critical to the security and prosperity of both countries and the international community. In recent months the bilateral relationship has been dominated by disagreements and confrontation on a number of important issues. American and Russian leaders must reverse this trend. I congratulate Secretary Gutierrez in making a strong step forward in the right direction.

I ask unanimous consent that the text of a speech he delivered at the American Chamber of Commerce's Annual Investment Conference in Moscow on April 4, be printed in the RECORD at this point.

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

Thank you for inviting me to this Conference.

Minister Gref, Ambassador Burns, it is an honor to join you in opening this conference. This is my second trip to Moscow as Secretary of Commerce. It has been nearly two years since my first visit and I'm pleased to be here today to discuss economic growth and opportunity between Russia and the United States.

As you know, this year marks the 200th anniversary of diplomatic relations between the U.S. and Russia. Though there have been times of great challenge during that history, we are now poised to enter a new era of commercial engagement which will strengthen our ties, grow our economies and create prosperity for our citizens.

My visit this week reflects the considerable and growing value the U.S. places on our business ties with Russia, and our desire to find new ways to bring greater economic opportunity to the people of our countries.

While political issues between our nations tend to garner the most headlines, the economic relationship is a great untold story.

U.S.-Russia commercial ties are stronger and more dynamic than ever before. This creates great opportunity for our future.

In the past two decades, Russia has begun to reap the benefits of engagement in the global economy and take a place as one of the world's great economic powers.

Today, Russia's nearly $1 trillion economy is in its 9th straight year of growth, and the Economic Development Ministry reported 8.4 percent growth in the first two months of this year. That is impressive.

With inflation below 10 percent, an 11 percent increase in real disposable income within the past year, early debt repayments and budget surpluses, Russia's economy is indeed on the rise.

As the economy continues to grow, so does U.S. business. I know later today you will hear from executives of companies such as Alcoa, Boeing, Coca-Cola and Motorola. Their presence at this conference speaks to the growing environment for business and investment here.

According to some recent surveys, 84 percent of foreign companies active in Russia report being successful in meeting their goals; 95 percent plan to expand.

Consistent with these figures, current bilateral trade and future prospects for U.S. businesses in Russia are expanding significantly.

In 2006, U.S. exports to Russia grew 20 percent to $4.7 billion. This growth is occurring in a wide range of merchandise and service categories, suggesting that Russia's growth is having a positive impact in purchasing power.

Importantly, the growth in our trade is a two-way street:

In 2006, Russian exports to the U.S. were more than $19 billion, 30 percent more than in 2005.

Russia is, for the first time, beginning to take on a notable direct investment profile in the United States, with investments in mining, steel-manufacturing, and retail-petroleum, helping support American jobs and supply American consumers. Russia's direct investment in the U.S. is $3 billion. The U.S. has $11 billion invested in Russia.

As big as these numbers sound, they are actually quite small for two countries our size. Indeed, we are just getting started.

The next step for Russia is World Trade Organization accession. Russia is the world's largest economy not yet in the WTO.

The United States has been working side-by-side with Russia to achieve WTO membership. Last November, Minister Gref and U.S. Trade Representative Susan Schwab signed a bilateral market access agreement.

Now Russia, working multilaterally with the U.S. and other WTO members, has the opportunity to take the necessary steps to bring this process to a close, and enable its economy, companies and people to fully participate in the world market.

Many U.S. multinationals regard Russia as a strategic market.

At the same time, their perception is colored by what they hear about political issues such as energy security and a challenging business climate.

Expansion of Russian commercial engagement with America and globally requires transparent markets that embrace foreign and domestic competition.

As the Organization for Economic Cooperation and Development noted in its 2006 economic survey of Russia, ''Greater openness is essential to monitoring, accountability and anti-corruption efforts.''

The U.S. and other economies have greatly benefited from openness, transparency, competition and adherence to the rule of law. Democratic institutions fostering economic freedom and rule of law offer the best mix of economic and social justice.

We believe that companies and economies benefit from the accountability provided by a vibrant media and independent courts. They serve to ensure government agencies responsible for upholding the rules of commerce carry out their duties properly and evenhandedly.

As Russia becomes more prominent on the global stage, creating and maintaining a level playing field that encourages competition will attract more investment and ensure that Russian companies can successfully thrive at home and abroad.

It is crucial for Russia, just as it is for the United States, to maintain an open business climate for capital, goods and services moving back and forth with its trade and investment partners.

Transparency and predictability in regulations and laws governing investment would send positive signals to potential partners in both our countries. Capital allocators look for secure, predictable markets, and they watch with concern where uncertainty exists.

In every country with an aspiration of attracting capital, business law should be applied consistently across companies and never selectively.

Building in predictability, transparency and reliability for investors will give Russia a competitive advantage.

While we are mindful of countries' interests in protecting so-called ''strategic'' aspects of their economies, policies which seek to cordon off broad segments of an economy are policies that carry risks of their own to a nation's economic strength. Russia's challenge will be to pursue ''strategic sectors'' while welcoming and encouraging foreign capital and avoiding protectionist policies.

Protectionism often has the unintended consequence of limiting access to capital, technology and know-how, and sheltering companies and entire industries from competition that sparks innovation and drives efficiency.

Protectionism doesn't protect jobs—the only thing that does is to compete, innovate and grow.

The United States and Russia should have a stronger partnership in areas such as energy, aerospace, transportation infrastructure, and high technology, to name some examples.

There have been tremendous technological advancements from which Russian companies could greatly benefit.

Russians and Americans, like the rest of the world's people, stand to benefit from stronger enforcement of intellectual property.

Around the globe we have seen that stolen intellectual property is not only an economic hazard, stifling innovation technological innovation, and discouraging works of culture in music and the arts, but also a health hazard.

The World Health Organization estimates that 10 percent of global medicine is counterfeit. Tough IP enforcement will protect Russian businesses and their ideas, like this country's resurgent film industry, and it will also protect Russian people.

Russia is doing better from an economic standpoint than it has ever done before. However, from my discussions with American business leaders, it is clear to me that there remains much unrealized opportunity.

This foregone potential is an opportunity cost upon Russia's consumers, entrepreneurs, producers and workers, even as it also represents unmet potential for Russia's suppliers, clients and customers.

With the maturity of our bilateral relations, we can afford to be frank and honest with one another about issues on which we disagree, in the economic realm as well as other areas.

It is important that we speak up when we find ways to unlock untapped potential for expanding and building upon our commercial and political relationships in ways that would serve the mutual interests of our two nations.

We have come too far in building a new foundation based on cooperation and mutual interests to turn back the clock. There is much work to be done, but the foundation has been laid for the future of U.S.-Russia relations to include economic growth, prosperity and opportunity for both our peoples.

I believe we are entering a new era of collaboration and prosperity for our two great

nations, and I thank AmCham Russia for your leadership and commitment to that future.

EARTH DAY

Mr. CARDIN. Madam President, I commemorate April 22—Earth Day 2007, a day set aside to celebrate gains we have made in improving the environment and to renew our commitment to protect our planet.

Earth Day was established by Senator Gaylord Nelson of Wisconsin and was first celebrated in 1970. Senator Nelson firmly believed that education was the key to changing people's attitude about the environment. Since then, the Earth Day celebration has spread throughout the nation and to the rest of the world, with more and more people getting involved in efforts to clean and nurture the environment.

Despite Earth Day's popularity and the many programs that were created to improve the health of the planet, our world is still wrought with environmental problems. We still face many pressing issues such as global warming, protecting our coastal waters from over-fishing, and preserving America's most precious resource lands from the Alaskan Tongass Rainforest to the Redrock lands in Utah, to our own Chesapeake Bay.

Today, we face a serious and growing threat from global warming. Recently I told the Senate Environment and Public Works Committee about the immediate threats that global warming poses to Maryland. A significant part of Maryland is in low-lying areas that would be inundated if global temperatures keep rising. The National Flood Insurance Program has designated more than 12 percent of Maryland as a special flood hazard area, and an estimated 68,000 Maryland homes and buildings are located within a flood plain.

We are already seeing the effects. About a third of Blackwater National Wildlife Refuge on the Eastern Shore has been lost to sea level rise in the past 70 years. Smith Island, situated in the Chesapeake Bay, has lost 30 percent of its land to rising sea levels since 1850.

I have long supported a comprehensive, environmentally friendly energy policy that emphasizes increasing the availability and use of renewable energy, as well as promoting greater energy efficiency. Energy efficiency and renewable energy will reduce America's dangerous dependency on foreign oil while also dramatically reducing greenhouse gases.

Closer to home, we must continue to focus our efforts on restoring the Chesapeake Bay. The Bush administration's budget proposes drastic cuts to vital initiatives, including environmental education, funds to upgrade wastewater treatment plants, and several farm bill conservation programs that help farmers reduce nutrient runoff from entering the Bay. The budget resolution that I helped draft and the Senate passed last month restores many of those dangerous cuts, but we still have much work ahead of us to assure that these critical Federal programs are fully funded.

Earth Day celebrations serve as important reminders that we cannot take our natural resources for granted. I urge all Americans to join together to protect, preserve, and restore the planet's natural treasures.

RURAL VETERANS HEALTH CARE IMPROVEMENT ACT

Ms. SNOWE. Madam President, I am a proud cosponsor of the Rural Veterans Health Care Improvement Act. Increasing access to veterans' health care facilities is essential to recognizing the realities that exist on the ground today, not only for veterans living in rural areas of my home State of Maine, but for the millions of veterans living in remote areas across our broad land. I applaud Senator SALAZAR for introducing this legislation at a time when so many of our veterans receive their health care through the VA and nearly half of today's active duty military servicemembers and tomorrow's veteran population list rural communities as their homes of record. Once again, I commend Senator SALAZAR for his continuing resoluteness and advocacy for our veterans.

Our legislation will work to expand upon the Veterans Benefits, Health Care, and Information Technology Act of 2006, which passed the Senate with my support at the end of the 109th Congress. Under that legislation, the Veterans Affairs Office of Rural Health was created in order to enhance access to VA medical facilities for veterans living in geographically remote areas.

First off, our newly proposed legislation tasks the Office of Rural Health with developing demonstration projects that would broaden the access to health care in rural areas by way of partnership between the Department of Veterans Affairs, Centers for Medicare and Medicaid Services, and the Department of Health and Human Services at access hospitals and community health centers. Second, this bill calls on the Office of Rural Health to establish between one and five Centers for Excellence to be based at VA medical centers to research ways to improve health care for rural veterans.

While increased outpatient care services in Maine and other underserved areas is a good step forward, it is only half of the equation. Veterans must also be able to get to the facilities, and while programs such as the Disabled American Veterans Transportation Network are to be commended, they simply cannot take care of all the transportation needs of all the patients who require VA health care.

Therefore, our legislation would task the Director of the Office of Rural Health to create a program that would provide grants of up to $50,000 to veterans' service organizations and State veterans' service officers to assist veterans with innovative travel options to VA medical centers. Additionally, this legislation directly addresses the inequitable travel reimbursements currently provided to veterans for their travel expenses to VA medical facilities, an issue which I have brought up to the VA Secretary Jim Nicholson in the past. Under current law, veterans with a disability of 30 percent or more are entitled to 11 cents per mile, a rate that has not changed since 1977. In order to put an end to this unjust practice, our legislation would provide critical assistance to veterans traveling long distances to VA health care facilities by reimbursing them at the Federal rate of 48.5 cents per mile.

Establishing new facilities and transportation networks in Maine, as enumerated within the provisions of our legislation, would give rural veterans better access to the veteran health care system and deliver on the promise America has made to our men and women in uniform. But as rural veterans will tell you, there is a long way to go, and we must redouble our efforts to ensure that the VA secures the necessary resources for all rural regions across Maine and throughout the Nation.

Furthermore, I have nothing but the utmost respect for those brave Americans who served in uniform with honor, courage, and distinction. The obligation our Nation holds for its veterans is enormous, and it is an obligation that must be fulfilled every day, by invoking the indelible words of President John F. Kennedy, who stated:

> As we express our gratitude, we must never forget that the highest appreciation is not to utter words, but to live by them.

Undoubtedly, these words still speak truth today, at a time when over 600,000 courageous men and women have returned from combat in both Iraq and Afghanistan. It is now up to Congress to do everything in its power to answer our veterans' call, to ensure that they receive the benefits that they rightly earned and rightly deserve. I strongly urge my colleagues to support this legislation. Our veterans deserve nothing less.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

ADDITIONAL STATEMENTS

CONGRATULATING THE SOUTH DAKOTA STATE UNIVERSITY WOMEN'S BASKETBALL TEAM

● Mr. THUNE. Madam President, today I honor the South Dakota State University women's basketball team. In only their third season as Division I competitors, the Jackrabbits made it to the quarterfinals of the Women's

National Invitational Tournament. This impressive accomplishment capped off an extremely successful season in which the Jacks finished with a record of 25–6.

The SDSU women's basketball team has a long tradition of postseason success. During the 1970s and early 1980s, the Jacks qualified for 10 AIAW regional tournaments. As NCAA Division II competitors, they made nine postseason appearances and won the national title in 2003. Additionally, the Jackrabbits reached the Elite Eight in each of their last three seasons as a Division II team.

In 2004, SDSU transitioned its athletic program to compete in NCAA Division I, becoming the first school in South Dakota to do so. Since this transition, the Jackrabbits women's basketball team has successfully risen to meet the challenge that comes with this new level of competition. By defeating well-known teams with much bigger budgets, this year's team once again proved that SDSU can compete with the top programs in the Nation.

The Jackrabbits were led by Aaron Johnston, who has served as head coach of the SDSU women's basketball team for the past seven seasons. Coach Johnston was responsible for taking the Jacks to the top of NCAA Division II and has shown his strong leadership skills in successfully transitioning the team to Division I. He was the 2006 South Dakota Sportswriters Women's College Basketball Coach of the Year and has been named the Division I Independent Coach of the Year for the past two seasons. Johnston was supported by Assistant Coaches Laurie Melum, Jina Johansen, and Matt Stamerjohn.

Of course, this historic season would be impossible without the players themselves. The athletes of the 2006–2007 South Dakota State University women's basketball team, in alphabetical order, are as follows: Alison Anderson, Maria Boever, Ketty Cornemann, Courtney Grimsrud, Nicole Helsper, Abby Kratovil, Morgan Meier, Ashlea Muckenhirn, Laura Nielsen, Stacie Oistad, Andrea Verdegan, Megan Vogel, and Jennifer Warkenthien.

While all of these women should be commended for their efforts, I would like to especially recognize the team's only senior, Megan Vogel. A 4-year starter, Vogel ended her career as the second leading scorer in SDSU school history with 1,850 career points. During this past season, she led the Jacks in scoring with 17.5 points per game and was chosen as a first-team all-Division I Independent selection for the second time. After participating in the WNBA Pre-Draft Camp, Vogel was chosen as a second round draft pick by the Washington Mystics. Selected as the 19th overall pick, Vogel became the first Jackrabbit and first player from a South Dakota college to be taken in the WNBA draft.

These are just a few of the many firsts that the Jacks accomplished this season. These student-athletes should be very proud of all of their remarkable achievements. On behalf of the State of South Dakota, I am pleased to say congratulations Jackrabbits on this impressive accomplishment and keep up the great work.●

ROBERT WINGET: IN MEMORIAM

● Mrs. BOXER. Madam President, I ask my colleagues to join me in honoring the memory of a respected law enforcement officer, Officer Robert Winget of the Ripon Police Department.

For the past 3 years, Officer Winget worked tirelessly to provide the residents of Ripon with safety and service. On the morning of April 10, 2007, Officer Winget's life was tragically cut short in the line of duty as a result of a vehicle accident while patrolling the heavily wooded banks of the Stanislaus River.

Officer Winget began his law enforcement career at the Los Angeles Police Department in the early 1970s. In a career that would span 37 years, Officer Winget also worked for the Stanislaus County Sheriff's Department before lending his considerable talents to the Ripon Police Department. Throughout his career, Officer Winget demonstrated a passion for law enforcement and commitment to helping others, qualities that enabled him to become a beloved member of the Ripon Police Department. Officer Wignet's colleagues and the people whom he protected shall always remember him for his devotion to serving the community.

Officer Winget is survived by his wife and four children. Officer Winget served the people of Ripon with honor and dignity and fulfilled his oath as a peace officer. His contributions to law enforcement and the many lives he touched will serve as a shining example of his legacy.

We shall always be grateful for Officer Wignet's service and the dedication that he displayed while serving the people of Ripon.●

MESSAGES FROM THE HOUSE

At 12:42 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1361. An act to improve the disaster relief programs of the Small Business Administration, and for other purposes.

ENROLLED BILL SIGNED

At 4:36 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1132. An act to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. CASEY).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1571. A communication from the Secretary of Agriculture, transmitting, pursuant to law, an annual report relative to the assessment of the cattle and hog industries; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1572. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report of the Department's intent to close the Defense commissary stores at Bad Nauheim, Germany, on or about June 30, 2007, and at Giessen, Germany, on or about September 1, 2007; to the Committee on Armed Services.

EC–1573. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, the determination that the Joint Cargo Aircraft is subject to realistic survivability testing; to the Committee on Armed Services.

EC–1574. A communication from the Senior Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Federal Home Loan Bank Appointive Directors'' (RIN3069–AB33) received on April 17, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–1575. A communication from the Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''HOME Investment Partnerships Program; American Dream Downpayment Initiative and Amendments to Homeownership Affordability'' ((RIN2501–AC93)(FR–4832–F–02)) received on April 17, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–1576. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Approval of Condominiums in Puerto Rice on Evidence of Presentment of Legal Documents'' ((RIN2502–AI36)(FR–5009–F–02)) received on April 17, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–1577. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (ID No. 031507D) received on April 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–1578. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska'' (ID No. 032607F) received on April 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–1579. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska'' (ID No. 031507D) received on April 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–1580. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Continuation of the Current Prohibition on the Harvest of Certain Shellfish from Areas Contaminated by the Toxin that Causes Paralytic Shellfish Poisoning'' (RIN0648–AT48) received on April 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–1581. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Test Procedures and Labeling Standards for Recycled Oil'' (RIN3084–AB06) received on April 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–1582. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the implementation of the Clean Coal Power Initiative; to the Committee on Energy and Natural Resources.

EC–1583. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Temporary Extension of Attorney Fee Payment System to Title XVI; 5–Year Demonstration Project Extending Fee Withholding and Payment Procedures to Eligible Non–Attorney Representatives; Definition of Past–due Benefits; and Assessment for Fee Payment Services'' (RIN0960–AG35) received on April 17, 2007; to the Committee on Finance.

EC–1584. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Finalizing Medicare Regulations under Section 902 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 for Calendar Year 2006''; to the Committee on Finance.

EC–1585. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report providing descriptions of all programs or projects of the International Atomic Energy Agency in each country described in Section 307(a) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

EC–1586. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, United States Agency for International Development, transmitting, pursuant to law, a report relative to Multilateral Development bank loans likely to have substantial adverse impacts on environment, natural resources, public health, and indigenous peoples; to the Committee on Foreign Relations.

EC–1587. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Letter Report: Sufficiency Review of the Water and Sewer Authority's Fiscal Year 2007 Revenue Estimate in Support of $50,000,000 in Commercial Paper Notes''; to the Committee on Homeland Security and Governmental Affairs.

EC–1588. A communication from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Suicide Prevention Program Final Rule'' ((RIN1120–AB06)(72 FR 12085)) received on April 17, 2007; to the Committee on the Judiciary.

EC–1589. A communication from the Secretary, Judicial Conference of the United States, transmitting, pursuant to law, a report regarding the federal courts' compliance with the requirements of the E–Government Act of 2002; to the Committee on the Judiciary.

EC–1590. A communication from the Chief, Regulatory Management Division, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Petitioning Requirements for the O and P Nonimmigrant Classifications'' (RIN1615–AB17) received on April 17, 2007; to the Committee on the Judiciary.

EC–1591. A communication from the Chief Executive Officer, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the Bureau's Annual Report for fiscal year 2006; to the Committee on the Judiciary.

EC–1592. A communication from the Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Correspondence with the Madrid Processing Unit of the United States Patent and Trademark Office'' (RIN0651–AC11) received on April 16, 2007; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HARKIN:

S. 1157. A bill to amend the Tariff Act of 1930 to eliminate the consumptive demand exception relating to the importation of goods made with forced labor; to the Committee on Finance.

By Mr. INHOFE:

S. 1158. A bill to amend the Clean Air Act to increase the use of renewable and alternative fuel, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HAGEL (for himself, Mr. HARKIN, Ms. SNOWE, Mr. ROBERTS, Mr. COLEMAN, Mr. WARNER, Ms. COLLINS, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. SCHUMER, Mr. LIEBERMAN, and Mrs. MURRAY):

S. 1159. A bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW (for herself, Mr. CRAIG, Mr. CRAPO, Mrs. CLINTON, Mr. CASEY, Mr. LEVIN, Mrs. BOXER, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. CANTWELL, Mr. WYDEN, Mr. SMITH, Mr. ISAKSON, Mr. BROWN, Mr. MENENDEZ, Mr. BURR, and Ms. SNOWE):

S. 1160. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. CONRAD, Mr. SCHUMER, and Ms. CANTWELL):

S. 1161. A bill to amend title XVIII of the Social Security Act to authorize the expansion of medicare coverage of medical nutrition therapy services; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 1162. A bill to amend the Federal Cigarette Labeling and Advertising Act with respect to the labeling of cigarette packages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. BROWN, Mr. FEINGOLD, Mr. HAGEL, Mr. ISAKSON, and Mr. WEBB):

S. 1163. A bill to amend title 38, United States Code, to improve compensation and specially adapted housing for veterans in certain cases of impairment of vision involving both eyes, and to provide for the use of the National Directory of New Hires for income verification purposes; to the Committee on Veterans' Affairs.

By Mr. CARDIN (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. NELSON of Nebraska):

S. 1164. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; to the Committee on Finance.

By Mr. CARDIN:

S. 1165. A bill to require Federal buildings to be designed, constructed, and certified to meet, at a minimum, the Leadership in Energy and Environmental Design green building rating standard identified as silver by the United States Green Building Council, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WARNER:

S. 1166. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain zone compensation of civilian employees of the United States; to the Committee on Finance.

By Mr. HARKIN:

S. 1167. A bill to amend the Higher Education Act of 1965 in order to provide funding for student loan repayment for civil legal assistance attorneys; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER:

S. 1168. A bill to amend the Clean Air Act to establish a regulatory program for sulfur dioxide, nitrogen oxides, mercury, and carbon dioxide emissions from the electric generating sector; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. GRAHAM):

S. 1169. A bill to ensure the provision of high quality health care coverage for uninsured individuals through State health care coverage pilot projects that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. KERRY, Mr. FEINGOLD, Ms. CANTWELL, Mr. MENENDEZ, Mr. CARDIN, Mr. REED, Mr. HARKIN, Mr. KENNEDY, Mr. BAYH, Mr. LIEBERMAN, Ms. STABENOW, Mr. SCHUMER, Mr. LAUTENBERG, Mrs. BOXER, Mr. WHITEHOUSE, Mr. BROWN, Mrs. CLINTON, and Mr. LEAHY):

S. 1170. A bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Basin and Range Deserts in the State of Utah for the benefit of present and future generations of people in the United States; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1171. A bill to amend the Colorado River Storage Project Act and Public Law 87-483 to authorize the construction and rehabilitation of water infrastructure in Northwestern New Mexico, to authorize the use of the reclamation fund to fund the Reclamation Water Settlements Fund, to authorize the conveyance of certain Reclamation land and infrastructure, to authorize the Commissioner of Reclamation to provide for the delivery of water, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself, Mr. LUGAR, Mrs. LINCOLN, Mr. SMITH, Mr. OBAMA, Mr. REED, Mr. WYDEN, Mr. NELSON of Florida, Mr. FEINGOLD, Mr.

DOMENICI, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. AKAKA):

S. 1172. A bill to reduce hunger in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. BOXER (for herself, Mrs. MURRAY, Ms. STABENOW, Mr. BINGAMAN, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. CARDIN, Mr. SCHUMER, Mrs. CLINTON, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. BAUCUS, and Ms. CANTWELL):

S. 1173. A bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes; to the Committee on the Judiciary.

By Mr. CARDIN (for himself and Ms. MIKULSKI):

S. 1174. A bill to amend the Natural Gas Act to modify a provision relating to the siting, construction, expansion, and operation of liquefied natural gas terminals; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. BROWNBACK):

S. 1175. A bill to end the use of child soldiers in hostilities around the world, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 231

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 231, a bill to authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012.

S. 254

At the request of Mr. ENZI, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 254, a bill to award posthumously a Congressional gold medal to Constantino Brumidi.

S. 378

At the request of Mr. LEAHY, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 378, a bill to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

S. 430

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 430, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 479

At the request of Mr. HARKIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 479, a bill to reduce the incidence of suicide among veterans.

S. 502

At the request of Mr. CRAPO, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 502, a bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gains rates.

S. 506

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 506, a bill to improve efficiency in the Federal Government through the use of high-performance green buildings, and for other purposes.

S. 543

At the request of Mr. NELSON of Nebraska, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 543, a bill to improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.

S. 558

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 558, a bill to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

S. 573

At the request of Ms. STABENOW, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 573, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 604

At the request of Mr. LAUTENBERG, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 604, a bill to amend title 10, United States Code, to limit increases in the certain costs of health care services under the health care programs of the Department of Defense, and for other purposes.

S. 609

At the request of Mr. ROCKEFELLER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 609, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 648

At the request of Mr. CHAMBLISS, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 648, a bill to amend title 10, United States Code, to reduce the eligibility age for receipt of nonregular military service retired pay for members of the Ready Reserve in active federal status or on active duty for significant periods.

S. 659

At the request of Mr. HAGEL, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 659, a bill to amend section 1477 of title 10, United States Code, to provide for the payment of the death gratuity with respect to members of the Armed Forces without a surviving spouse who are survived by a minor child.

S. 713

At the request of Mr. OBAMA, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 713, a bill to ensure dignity in care for members of the Armed Forces recovering from injuries.

S. 721

At the request of Mr. ENZI, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 721, a bill to allow travel between the United States and Cuba.

S. 761

At the request of Mr. REID, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Utah (Mr. BENNETT), the Senator from Michigan (Mr. LEVIN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 761, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

S. 796

At the request of Ms. STABENOW, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 796, a bill to amend title VII of the Tariff Act of 1930 to provide that exchange-rate misalignment by any foreign nation is a countervailable export subsidy, to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 815

At the request of Mr. CRAIG, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 815, a bill to provide health care benefits to veterans with a service-connected disability at non-Department of Veterans Affairs medical facilities that receive payments under

the Medicare program or the TRICARE program.

S. 871

At the request of Mr. LIEBERMAN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 871, a bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes.

S. 875

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 875, a bill to improve energy security of the United States through a 50 percent reduction in the oil intensity of the economy of the United States by 2030 and the prudent expansion of secure oil supplies, to be achieved by raising the fuel efficiency of the vehicular transportation fleet, increasing the availability of alternative fuel sources, fostering responsible oil exploration and production, and improving international arrangements to secure the global oil supply, and for other purposes.

S. 897

At the request of Ms. MIKULSKI, the names of the Senator from Connecticut (Mr. DODD), the Senator from Delaware (Mr. CARPER) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 897, a bill to amend the Internal Revenue Code of 1986 to provide more help to Alzheimer's disease caregivers.

S. 898

At the request of Ms. MIKULSKI, the names of the Senator from Indiana (Mr. BAYH), the Senator from Ohio (Mr. BROWN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Illinois (Mr. DURBIN), the Senator from Rhode Island (Mr. REED), the Senator from Delaware (Mr. CARPER), the Senator from Indiana (Mr. LUGAR) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 898, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 901

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 901, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act.

S. 961

At the request of Mr. NELSON of Nebraska, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 961, a bill to amend title 46, United States Code, to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II, and for other purposes.

S. 972

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 972, a bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes.

S. 999

At the request of Mr. COCHRAN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 999, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1018

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1018, a bill to address security risks posed by global climate change and for other purposes.

S. 1060

At the request of Mr. BIDEN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1060, a bill to reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation, and for other purposes.

S. 1115

At the request of Mr. BINGAMAN, the names of the Senator from Maine (Ms. SNOWE), the Senator from Massachusetts (Mr. KERRY) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 1115, a bill to promote the efficient use of oil, natural gas, and electricity, reduce oil consumption, and heighten energy efficiency standards for consumer products and industrial equipment, and for other purposes.

S. 1125

At the request of Mr. LOTT, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1125, a bill to amend the Internal Revenue Code of 1986 to provide incentives to encourage investment in the expansion of freight rail infrastructure capacity and to enhance modal tax equity.

S. CON. RES. 22

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. Con. Res. 22, a concurrent resolution expressing the sense of the Congress that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that a commemorative postage stamp be issued to promote public awareness of Down syndrome.

S. RES. 106

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 106, a resolution calling on the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

AMENDMENT NO. 897

At the request of Mr. ENSIGN, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of amendment No. 897 proposed to S. 378, a bill to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN:

S. 1157. A bill to amend the Tariff Act of 1930 to eliminate the consumptive demand exception relating to the importation of goods made with forced labor; to the Committee on Finance.

Mr. HARKIN. Mr. President, today, I rise to introduce legislation that will strike the consumptive demand clause from Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307). Section 307 prohibits the importation of any product or good produced with forced or indentured labor including forced or indentured child labor.

The consumptive demand clause creates an exception to this prohibition. Under the exception, if a product is not made in the United States, and there is a demand for it, then a product made with forced or indentured child labor may be imported into this country.

Let us be clear: forced or indentured labor means work which is extracted from any person under the menace of penalty for nonperformance and for which the worker does not offer himself voluntarily. Let us be really clear: this means slave labor. In the case of children, it means child slavery.

Some examples of goods that are made with child slave labor include cocoa beans, hand-knotted carpets, beedis, which are small Indian cigarettes, and cotton.

Throughout my Senate career, I have worked to reduce the use of forced child labor worldwide. It was in 1992 that I first introduced a bill to ban all products made by abusive and exploitative child labor from entering the United States.

Over the years we have been making some progress. I was heartened last year when the International Labor Organization's (ILO) global report, The End of Child Labor Within Reach, detailed the progress being made on reducing the worst forms of child labor. The ILO projects that if the current pace of decline in child labor were to be maintained, child labor could be eliminated, in most of its worst forms, in 10 years—by 2016. Although there has been a tremendous amount of progress in ending child labor, there are still

some obstacles to ending these abusive practices. One of those impediments is the consumptive demand clause.

Today, hundreds of millions of children are still forced to work illegally for little or no pay, making goods that enter our country everyday. For this reason, the consumptive demand clause is outdated. Since this exception was enacted in the 1930s, the U.S. has taken numerous steps to stop the scourge of child slave labor. Most notably, the United States has ratified International Labor Organization's Convention 182 to Prohibit the Worst Forms of Child Labor. Currently, 162 other countries have also ratified this ILO Convention.

Additionally, in 2003, my staff was invited by Customs to meet with field agents on Section 307 to discuss what appropriations were needed to enforce the statute. At the meeting, the field agents reported that the consumptive demand clause was an obstacle to their ability to enforce the law that is supposed to prevent goods made with slave labor from being imported into the United States. Yet there has been no action from the Bush Administration to support efforts to remove the clause.

Retaining the consumptive demand clause contradicts our moral beliefs and our international commitments to eliminate abusive child labor. Maintaining the consumptive demand clause says to the world that the United States justifies the use of slave labor, if U.S. consumers need an item not produced in this country. Last year, Harvard University conducted a pilot study on the effects on sales of labeling towels, candles, and dolls as made under ''fair labor conditions.'' The study found that labeling the products and raising their prices slightly to cover the costs of ensuring fair labor conditions resulted in an increased demand for these products among certain consumers in New York City.

There should be no exception to a fundamental stand against the use of slave labor. I urge my colleagues to support this measure.

By Mr. INHOFE:

S. 1158. A bill to amend the Clean Air Act to increase the use of renewable and alternative fuel, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I rise today to introduce the Alternative Fuel Standard Act. The bill that I am introducing today reflects the President's draft legislation to which he referred in his State of the Union.

Although I may have some questions with the particulars of the President's plan, he and I share the common goal of increasing domestic energy security without compromising environmental quality.

As the committee of principal jurisdiction, the Committee on Environment and Public Works has a long history of moving fuels legislation. While chairman, I successfully discharged legislation that served as the historic fuels title to the comprehensive energy bill. That renewable fuels plan was the product of years of hearings, negotiation, and debate. The President's initiative deserves the same amount of attention.

According to a Labor Department report this month, most of the country's inflation can be directly attributed to higher gas prices. The USDA's Economic Research Service concluded that high gas prices will increase food costs in 2007; the Service noted that the food consumer price index increased at an annual rate of 2.3 percent in 2006 and will increase 2.5 percent to 3.5 percent.

The Energy Information Administration's April 2007 Outlook noted that the higher prices are due to continued international tensions, the conversion to summer blends, and unanticipated refinery problems.

AAA found that the average national price for gasoline is $2.87 up from $2.55 just a month earlier. Yet those national high prices seem low compared to California. AAA of Northern California noted that the average price for gasoline is $3.41 in Oakland, $3.53 in San Francisco, and averages $3.34 statewide.

The bottom line—supply source instability and inadequate domestic infrastructure have and will continue to contribute to high prices and inflation unless Congress does something about it. The President's ambitious proposal seeks to alleviate those concerns by sourcing new supply domestically.

The proposal that I am introducing would amend the Clean Air Act's existing renewable fuels standard by diversifying the types of qualifying fuels and increasing the volumes. Qualifying alternative fuels will be expanded to include fuels derived from gas and coal, and hydrogen, among others.

Cellulosic biomass ethanol is a promising technology that could significantly increase fuel supplies without compromising the food and feed prices. I am proud to say that some of the foremost research in the field is being done in my own State of Oklahoma, including a team at the Noble Foundation. Their work is engineering high energy and perennial crops that can be grown across the country.

Similarly, coal-to-liquids fuels could be the greatest domestic energy resource of all time. I have been promoting the technology for years, particularly for defense aircraft, but now is the time to expand this super clean fuel for use across America.

The plan would replace the current RFS by requiring 10 billion gallons of alternative fuel to be used in 2010 and increasing to 35 billion gallons by 2018. The bill similarly builds upon the current RFS by requiring EPA to incorporate the newer qualifying fuels into the credit trading system.

I have been seeking to increase U.S. energy security for years. I am glad that the President has stepped up and taken this issue head-on. The proposal deserves careful and proper consideration. The American people require as much. I look forward to working with my colleagues to improve U.S. domestic energy security while fully considering public health and welfare.

By Mr. HAGEL (for himself, Mr. HARKIN, Ms. SNOWE, Mr. ROBERTS, Mr. COLEMAN, Mr. WARNER, Ms. COLLINS, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. SCHUMER, Mr. LIEBERMAN, and Mrs. MURRAY):

S. 1159. A bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I am pleased to join my colleague from Nebraska, Senator HAGEL, in introducing the IDEA Full Funding Act. The aim of this legislation is to ensure, at long last, that Congress makes good on a commitment it made more than three decades ago when we passed what is now called the Individuals with Disabilities Education Act. At that time, in 1975, we told children with disabilities, their families, schools, and States that the Federal Government would pay 40 percent of the extra cost of special education. We have never lived up to that commitment. In fact, today, we are not even halfway there.

As we introduce this bill, we want to pay tribute to our former colleague, Senator Jim Jeffords of Vermont, who, in 2001, joined with me to introduce the first amendment to make full funding of IDEA mandatory. In 1975, as ranking member of the House subcommittee on special education, Jim Jeffords co-authored what would later be known as the Individuals with Disabilities Education Act, requiring equal access to public education for millions of students with disabilities. It was a matter of profound disappointment to Jim that, year after year, the Federal Government failed to make good on its funding promises under that law.

We tell our children all the time to keep their promises, to live up to their commitments, to do as they say they are going to do. We teach them that if they fail to do so, other people can be hurt. Well, that is what Congress has done by failing to appropriately fund IDEA: We have hurt school children all across America. We have pitted children with disabilities against other children for a limited pool of school funds. We have put parents in the position of not demanding services that their child with a disability truly needs, because they have been told that the services cost too much and other children would suffer. We have hurt school districts, which are forced, in effect, to rob Peter to pay Paul in order to provide services to students with disabilities. We have also hurt local taxpayers, who are obliged to pay higher property taxes and other local taxes

in order to pay for IDEA services because the Federal Government has reneged on its commitment.

I was pleased that, at the outset of this new Congress, we were able to increase funding for the IDEA grants to states program as part of the FY 2007 Continuing Resolution to $10.8 billion. But even that level of funding is woefully inadequate. That represents only 17.2 percent of the additional funding needed to support special education. So we have a long way to go to reach the 40 percent level. But it is time to do so. It is time for the Federal Government to make good on its promise to students with disabilities in this country.

The IDEA Full Funding Act is pretty straight forward. It authorizes increasing amounts of mandatory funding in 8-year increments that, in addition to the discretionary funding allocated through the Appropriations Committee, will finally meet the Federal Government's commitment to educating children with special needs.

This bill is a win-win-win for the American people. Students with disabilities will get the education services that they need in order to achieve and succeed. School districts will be able to provide these services without cutting into their general education budgets. And local property tax payers will get relief.

Full funding of IDEA is not a partisan issue. We all share an interest in ensuring that children with disabilities get an appropriate education, and that local school districts do not have to slash their general education budgets in order to pay for special education. We all share a sense of responsibility to make good on the promise Congress made to fully fund its promised share of special education costs.

So I urge my colleagues to join with Senator HAGEL and me in sponsoring this bill. In the 30-plus years since we passed IDEA, and in the 6 years since we passed the No Child Left Behind Act, the expectations for students with disabilities have grown immensely. Likewise, we are holding local school systems accountable in unprecedented ways. It is high time for us in Congress to also be held accountable. It is time for us to make good on our promise to fully fund IDEA.

By Ms. STABENOW (for herself, Mr. CRAIG, Mr. CRAPO, Mrs. CLINTON, Mr. CASEY, Mr. LEVIN, Mrs. BOXER, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. CANTWELL, Mr. WYDEN, Mr. SMITH, Mr. ISAKSON, Mr. BROWN, Mr. MENENDEZ, Mr. BURR, and Ms. SNOWE):

S. 1160. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, I rise today to introduce the ''Specialty Crop Competition Act of 2007.'' This bipartisan legislation co-sponsored by the distinguished Senator from Michigan, Senator STABENOW, increases the focus on the contribution that specialty crops add to the United States agricultural economy. This bill specifically provides the proper and necessary attention to many challenges faced throughout each segment of the industry.

Most do not realize the significance of specialty crops and their value to the U.S. economy and the health of U.S. citizens. According to the United States Department of Agriculture Economic Research Service, fruits and vegetables alone added $29.9 billion to the U.S. economy in 2002. This figure does not even include the contribution of nursery and other ornamental plant production, which our bill recognizes.

The specialty crop industry also accounts for more than $53 billion in cash receipts for U.S. producers, which is close to 54 percent of the total cash receipts for all crops. A surprising fact to some is that my State of Idaho is a top producer of specialty crops. Idaho proudly boasts production of cherries, table grapes, apples, onions, carrots, several varieties of seed crops and of course one of our most notable specialty crops, potatoes.

Maintaining a viable and sustainable specialty crop industry also benefits the health of America's citizens. Obesity continues to plague millions of people today and is a very serious and deepening threat not only to personal health and well-being, but to the resources of the economy as well. This issue is now receiving the necessary attention at the highest levels, and specialty crops will continue to play a prominent role in reversing the obesity trend.

The ''Specialty Crop Competition Act'' will also provide a stronger position for the U.S. industry in the global market arena. This legislation promotes initiatives that will combat diseases, both native and foreign, that continue to be used as non-tariff barriers to U.S. exports by foreign governments. Additionally, provisions in this bill seek improvements to federal regulations and resources that impede timely consideration of industry sanitary and phytosanitary petitions.

This bill does not provide direct subsidies to producers like other programs. This legislation takes a major step forward to highlight the significance of this industry to the agriculture economy, the benefits to the health of U.S. citizens, and the need for a stable, affordable, diverse, and secure supply of food.

Senator STABENOW, I, and our cosponsors fully intend to work with Chairman HARKIN, Ranking Member CHAMBLISS and the entire Senate Agriculture Committee to include this legislation in the new Farm Bill that Congress will soon be debating. Specialty crops have never sat at the head of the farm policy table, but their importance to our Nation's health, security, and economy cannot be avoided any longer.

I look forward to working with my colleagues and the Administration to consider this comprehensive and necessary legislation as we begin to discuss new initiatives for the 2007 Farm Bill.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. CONRAD, Mr. SCHUMER, and Ms. CANTWELL):

S. 1161. A bill to amend title XVIII of the Social Security Act to authorize the expansion of medicare coverage of medical nutrition therapy services; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am pleased today to join with my colleagues Senators CRAIG and CONRAD and others in introducing the Medicare Medical Nutrition Therapy Act of 2007. This marks the fourth consecutive Congress that Senator CRAIG and I have joined together in introducing a bill to expand the current Medicare Medical Nutrition Therapy (MNT) benefit.

In 2000, the Congress passed a bill authorizing Medicare payment for MNT services, but only for patients with diabetes and renal diseases. Recognizing that many other diseases also have a nutrition component to their treatment, Congress asked the Centers for Medicare and Medicaid services to report back to Congress their recommendations on MNT coverage. That report was submitted to Congress in 2004 and recommended that patients with conditions such as hypertension, dyslipidemia, and certain cancers be eligible to receive MNT therapy.

Medical Nutrition Therapy is not nutrition counseling, it is much more. It involves a specific diagnosis of a disease, condition, or disorder that can be treated with nutrition intervention. That is why Congress limited MNT provider status to Registered Dietitians; they have the specific training necessary to address nutritional interventions as part of a diseased related therapy.

As we all know, Medicare is under tremendous financial stress. It is therefore critically important that bills designed to expand Medicare's coverage be both necessary and cost effective. This is exactly why Senator CRAIG and I have been such consistent supporters of expanding the MNT benefit.

Under our current bill, there is no mandated expansion of the benefit. Instead, we simply give the Centers for Medicare and Medicaid Services the authority to expand coverage using the National Coverage Determination process. The Congress has mandated that the criteria used in that process is necessary and reasonable.

As a result, the MNT benefit will not be expanded beyond diabetes and renal diseases unless such expansion is proven to be cost effective. This is likely not a difficult test for MNT to meet.

There is considerable evidence that MNT is cost effective in the treatment of conditions such as pre-diabetes, which surprisingly is not eligible for MNT.

Five years ago, in March of 2002, then HHS Secretary Tommy G. Thompson warned Americans of the risks of ''pre-diabetes,'' a condition affecting nearly 16 million Americans that sharply raises the risk for developing type 2 diabetes and increases the risk of heart disease by 50 percent.

HHS-supported research that shows most people with pre-diabetes will likely develop diabetes within a decade unless they make modest changes in their diet and level of physical activity, which can help them reduce their risks and avoid the debilitating disease.

Secretary Thompson called for physicians to begin screening overweight people age 45 and older for pre-diabetes. When Congress passed the Medicare Modernization Act in December 2003, it included diabetes (and pre-diabetes) screening in the Welcome to Medicare physical. So Medicare now covers diabetes screening and will pay for MNT for beneficiaries diagnosed with diabetes, but it will not pay for nutrition counseling for beneficiaries diagnosed with pre-diabetes. This makes no sense.

The last Congress recognized the critical role that MNT can play in the treatment of HIV/AIDS by making MNT one of the Core Medical Services under the Ryan White CARE Act. According to the American Dietetic Association, ''The importance of nutrition and especially medical nutrition therapy to the treatment and management of HIV disease cannot be overstated. MNT has become a critical element of disease management for persons living with HIV/AIDS.'' Many HIV/AIDs patients are eligible for Medicare and these patients are in need of MNT to help them manage their disease.

Since the current MNT benefit is limited under statute to just beneficiaries with diabetes and renal diseases, CMS lacks the authority to expand the benefit regardless of how cost effective it is or how many lives it might save. This makes no sense.

The bill that Senator CRAIG and I are introducing today gives the experts at CMS the authority to make those decisions. Choosing to rely on the National Coverage Determination (NCD) process would allow CMS to make decisions based upon the science, and establish the extent to which Medicare will cover specific services, procedures or technologies on a national basis. This is what the NCD is designed to do. This approach also recognizes the importance of saving Medicare dollars.

I urge my colleagues to join with me today in supporting this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Medical Nutrition Therapy Act of 2007''.

SEC. 2. AUTHORIZING EXPANSION OF MEDICARE COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES.

(a) AUTHORIZING EXPANDED ELIGIBLE POPULATION.—Section 1861(s)(2)(V) of the Social Security Act (42 U.S.C. 1395x(s)(2)(V)) is amended—

(1) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting each such clause an additional 2 ems;

(2) by striking ''in the case of a beneficiary with diabetes or a renal disease who—'' and inserting ''in the case of a beneficiary—

''(i) with diabetes or a renal disease who—'';

(3) by adding ''or'' at the end of subclause (III) of clause (i), as so redesignated; and

(4) by adding at the end the following new clause:

''(ii) who is not described in clause (i) but who has another disease, condition, or disorder for which the Secretary has made a national coverage determination (as defined in section 1869(f)(1)(B)) for the coverage of such services;''.

(b) COVERAGE OF SERVICES FURNISHED BY PHYSICIANS.—Section 1861(vv)(1) of the Social Security Act (42 U.S.C. 1395x(vv)(1)) is amended by inserting ''or which are furnished by a physician'' before the period at the end.

(c) NATIONAL COVERAGE DETERMINATION PROCESS.—In making a national coverage determination described in section 1861(s)(2)(V)(ii) of the Social Security Act, as added by subsection (a)(4), the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall—

(1) consult with dietetic and nutrition professional organizations in determining appropriate protocols for coverage of medical nutrition therapy services for individuals with different diseases, conditions, and disorders; and

(2) consider the degree to which medical nutrition therapy interventions prevent or help prevent the onset or progression of more serious diseases, conditions, or disorders.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2008.

By Mr. AKAKA (for himself, Mr. BROWN, Mr. FEINGOLD, Mr. HAGEL, Mr. ISAKSON, and Mr. WEBB):

S. 1163. A bill to amend title 38, United States Code, to improve compensation and specially adapted housing for veterans in certain cases of impairment of vision involving both eyes, and to provide for the use of the National Directory of New Hires for income verification purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today I introduce the Blinded Veterans Paired Organ Act of 2007. This legislation would update the eligibility requirements for certain benefits provided to veterans with a service-connected disability due to blindness. It addresses two areas of veterans' law that heretofore excluded many veterans with severe vision impairment from accessing benefits that could significantly improve the quality of their lives. At a time when great changes are afoot in how this Nation prioritizes the care of its veterans, it is still important that we also remain attentive to the places where small changes can make a large impact. Several of my colleagues, including Senators BROWN, FEINGOLD, HAGEL, ISAKSON, and WEBB, join me in introducing this legislation.

This bill would relax the criteria for vision impairment in two separate areas of veterans' benefits law. The first governs eligibility for disability compensation under what is known as the ''paired organ law.'' The second relates to the criteria for blinded veterans seeking VA grants for specially adapted housing.

The paired organ law provides veterans who sustain a service-connected injury loss of function in one of their coupled organs, eyes, kidneys, ears, lungs, hands, and feet, with eligibility for additional compensation should they sustain a non-service-connected injury or loss of function in the companion organ.

With respect to vision, VA currently requires veterans to demonstrate a visual acuity of less than 5/200 in the non-service-connected eye in order to receive compensation for full service-connected blindness. However, this requires veterans to demonstrate more severe visual impairment to qualify for benefits than if the standard definition of blindness were used by VA. The standard definition, accepted by the American Medical Association, the Social Security Administration, and the motor vehicle license laws of all 50 States, is a visual acuity of 20/200 or less, or a peripheral field of vision of 20 degrees or less.

This difference in standards was initially brought to the attention of Representative TAMMY BALDWIN of Wisconsin several years ago by Dr. James Allen, a veteran of the Korean War and a long-time ophthalmologist at the Madison VA hospital. Representative BALDWIN subsequently engaged in a long fight on behalf of blinded veterans, ultimately securing passage of a bill this March which would change existing law. I would like to thank Representative BALDWIN and Dr. Allen for their hard work on behalf of veterans who are struggling with vision impairment as a result of their service and I am proud to join them in their efforts through introduction of this companion bill.

With respect to VA grants for specially adapted housing for blinded veterans, VA disburses grants of up to $10,000 to veterans with a service-connected disability due to blindness in both eyes for the purpose of adapting their homes to accommodate their disability. However, as with the paired organ statute, current law requires that veterans have a visual acuity of 5/200 or less in order to be eligible for these grants. This legislation would correct this standard as well, making

specially adapted housing grants available to veterans with a visual acuity of 20/200 or less, or a peripheral field of vison of 20 degrees or less.

This legislation is particularly important at this moment when so many of the men and women in our Armed Forces are deployed overseas in combat zones. Traumatic brain injury is frequently described as the ''signature wound'' of the conflict in Iraq and it is frequently accompanied by damage to the veteran's vision. Thus, there are numerous veterans recovering from battle wounds right now who can benefit from this legislation both in the immediate future and down the road. Some who have suffered severe vision impairment will be able to speed their readjustment by adapting their homes to accommodate the disability. And those who have suffered blindness in one eye will be assured that they are provided for in the event that they lose sight in the other eye.

With more and more servicemembers deployed in combat zones everyday, we are constantly reminded of the great sacrifice they make for this Nation. We owe it to them, at the very least, to ensure that they are not required to shoulder an undue burden when it comes to qualifying for veterans' benefits. Thus, I ask my colleagues in the Senate to join me in supporting this important legislation on behalf of blinded veterans.

By Mr. CARDIN (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. NELSON of Nebraska):

S. 1164. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; to the Committee on Finance.

Mr. CARDIN. Mr. President, today I introduce the Colon Cancer Screen for Life Act of 2007 along with my colleagues, Senator COLLINS, Senator LIEBERMAN, and Senator GRAHAM. Many people are aware that colon cancer is the second most deadly cancer in the United States. In 2006 alone, according to the American Cancer Society, more than 150,000 new cases were diagnosed and more than 50,000 Americans died from colon cancer. In my own State of Maryland, nearly 1,000 people lost their lives to this disease last year. What people are not as aware of, however, is that colon cancer is preventable with appropriate screening, highly detectable, and curable if found early. The purpose of our bill is to increase the rate of participation in colon cancer screening and ensure that we are saving every life that we can from this deadly disease.

Medicare coverage for colorectal cancer screening through colonoscopy was authorized in the Balanced Budget Act of 1997 and further expanded in 2000 when the colonoscopy benefit was added for high risk beneficiaries. Under this Medicare benefit, a low risk beneficiary is entitled to receive a colonoscopy once every ten years and a high risk beneficiary is entitled to a colonoscopy every two years. Despite this, recent studies have shown that patients are not utilizing coverage of CRC preventive screenings. According to the Government Accountability Office, since the implementation of the benefit in 1998, the percentage of Medicare beneficiaries receiving either a screening or a diagnostic colonoscopy has increased by 1 percent.

Since providing coverage for this lifesaving service, Congress has discovered many barriers that stand in the way of patients having access to the colonoscopy benefit. One reason for such low utilization is that the physician reimbursement has been cut by 33 percent since this benefit was enacted. In 1997, a colonoscopy performed in a hospital outpatient department or an ambulatory surgery center was reimbursed at approximately $301. Now, in 2007, that reimbursement is only $198.20.

Some may argue that reductions in Medicare payments are necessary to keep the Medicare Program financially viable. While I strongly support efforts to eliminate wasteful spending in Medicare, I can assure my colleagues that is not the case here. To the contrary, providing adequate reimbursement for screening will result in Medicare savings and better health outcomes. Let me explain. Our health care system spends an estimated $8.3 billion annually to treat newly diagnosed cases of colon cancer. The average cost of direct medical care for each cancer episode is estimated to be between $35,000 for early stage detection and $80,000 for later stage detection. So each time that cancer is not detected early, that individual faces an increased risk of developing the disease and needing treatment that costs Medicare Program tens of thousands of dollars.

Patient participation has also been is that currently Medicare does not cover a preoperative visit with a physician prior to screening. While it is true that a colonoscopy is a minimally invasive procedure, an anesthetic is used to sedate the patient to make the colonoscopy less uncomfortable. Because the patient is going to be sedated, medical standards require doctors to visit with the patient before surgery to determine and protect against any risks, such as drug interaction, and to give them preoperative instructions. Recognizing the importance of these visits, Medicare does reimburse for a consultation prior to a diagnostic colonoscopy. A preoperative visit is no less medically necessary before a preventive screening, and therefore should be reimbursed in the same manner.

Finally, some beneficiaries may delay seeking colorectal cancer screening because they cannot afford Medicare's Part B deductible. Recognizing this, Congress recently took an important step by waiving the Part B deductible for preventive colon cancer screenings, effective January 1, 2007. However, gastroenterologists are now reporting that, if polyps or other signs of cancer are discovered in the course of a preventive colonoscopy, the procedure is then considered to be diagnostic and Medicare requires that the beneficiary pay a deductible. Congress needs to ensure that beneficiaries are not dissuaded from getting this lifesaving procedure by the concern that they might have to pay a deductible if a polyp is discovered. Our legislation clarifies congressional intent to ensure that CMS will waive the deductible in all screenings so that Medicare beneficiaries are not confronted with an unexpected additional expense, should the procedure's coding change.

The Colon Cancer Screen for Life Act would eliminate every one of these barriers, and in doing so, save lives. First, this legislation would increase reimbursement for colorectal cancer related procedures to ensure that physicians are able to continue to perform these valuable services. Reimbursement for procedures performed in a physician's office would be increased by up to 10 percent and reimbursement for procedures performed in Hospital Outpatient Department, HOPD, or Ambulatory Surgery Center, ASC, would be increased by up to 30 percent. The bill would also provide Medicare coverage for the preoperative doctor's visit conducted prior to a screening colonoscopy. Finally, the bill contains a technical provision to require that the deductible is waived whether or not the beneficiary's screening was clean or results in a biopsy or lesion removal.

More than 50,000 Americans will die from colon cancer this year alone. Ninety percent of these cases might have been prevented. We cannot afford to wait another moment before doing something to eliminate these and other barriers that are standing in the way of preventing colon cancer.

I urge my colleagues to join me in support of this important legislation and enact it this year.

By Mr. CARDIN:

S. 115. A bill to require Federal buildings to be designed, constructed, and certified to meet, at a minimum, the Leadership in Energy and Environmental Design green building rating standard identified as silver by the United States Green Building Council, and for other purposes; to the Committee on Environment and Public Works.

Mr. CARDIN. Mr. President, we need to make this country energy independent, and to enact a comprehensive, long-term energy policy that will give Americans the energy they need, while protecting our environment and our national security.

As one step in this direction, today I am introducing the American Green Building Act.

Our Federal Government is the largest single energy consumer in the world.

Buildings account for over a third of America's energy consumption. Buildings also account for 49 percent of sulfur dioxide emissions, 25 percent of nitrous oxide emissions, and 10 percent of particulate emissions, all of which damage our air quality. Buildings produce 38 percent of the country's carbon dioxide emissions—the chief pollutant blamed for global warming.

Federal buildings are a large part of this problem.

Energy used in Federal buildings in fiscal year 2002 accounted for 38 percent of the total Federal energy bill. Total Federal buildings and facilities energy expenditures in fiscal year 2002 were $3.73 billion.

The American Green Building Act would require all new Federal buildings to live up to green building LEED, Leadership and Energy in Environmental Design, Silver standards, set by the United States Green Building Council. These standards were created to promote sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality. The average LEED-certified building uses 32 percent less electricity, 26 percent less natural gas and 36 percent less total energy. LEED-certified buildings in the U.S. are in aggregate saving 150,000 metric tons of carbon dioxide reduction, equivalent to 30,000 passenger cars not driven for one year. A single LEED-certified building is designed to save an average of 352 metric tons of carbon dioxide emissions annually, which is equivalent to 70 passenger cars not driven for one year. This standard would only apply to Federal buildings for which the design phase for construction or major renovation is begun after the date of enactment of the provision. The General Services Administration or relevant agency may waive this requirement for a building if it finds that the requirement cannot be met because of the quantity of energy required to carry out the building's purpose or because the building is used to carry out an activity relating to national security.

My bill will also require that significant new development or redevelopment projects undertaken by the Federal Government plan for storm water runoff. The hardened surfaces of modern life, such as roofs, parking lots, and paved streets, prevent rainfall from infiltrating the soil. Over 100 million acres of land have been developed in the United States. Development is increasing faster than population: Population growth in the Chesapeake Watershed, for example, increased by 8 percent during the 1990s, but the rate of impervious surface increased by 42 percent. Development not only leads to landscape changes but also to contamination of storm water runoff by pollutants throughout the watershed. Storm water runoff can carry pollutants to our streams, rivers, and oceans, and poses a significant problem for the Chesapeake Bay. Every other pollution source in the Chesapeake is decreasing, but pollution from storm water runoff is increasing. In urbanized areas, increased storm water runoff can cause increased flooding, stream bank erosion, degradation of in-stream habitat and a reduction in groundwater quality. For these reasons, as the Federal Government moves forward with development, we need to plan for how to manage storm water runoff. The storm water provisions in the American Green Building Act will be used to intercept precipitation and allow it to infiltrate rather than being collected on and conveyed from impervious surfaces.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Green Building Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) LEED SILVER STANDARD.—The term ''LEED silver standard'' means the Leadership in Energy and Environmental Design green building rating standard identified as silver by the United States Green Building Council.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 3. GREEN BUILDING STANDARDS FOR FEDERAL BUILDINGS.

(a) REQUIREMENT.—Except as provided in subsection (b), a Federal building for which the design phase for construction or major renovation is begun after the date of enactment of this Act shall be designed, constructed, and certified to meet, at a minimum, the LEED silver standard.

(b) DETERMINATION OF IMPRACTICABILITY.—

(1) IN GENERAL.—Subject to paragraph (3)(B), the requirement under subsection (a) shall not apply to a Federal building if the head of the Federal agency with jurisdiction over the Federal building, in accordance with the factors described in paragraph (2), determines that compliance with the requirement under subsection (a) would be impracticable.

(2) FACTORS FOR DETERMINATION.—In determining whether compliance with the requirement under subsection (a) would be impracticable, the head of the Federal agency with jurisdiction over the Federal building shall determine—

(A) the quantity of energy required by each activity carried out in the Federal building; and

(B) whether the Federal building is used to carry out an activity relating to national security.

(3) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the head of each Federal agency shall prepare and submit to the Secretary a report that includes a description of each Federal building for which the head of the Agency with jurisdiction over the Federal building determined that compliance with the requirement under subsection (a) would be impracticable.

(B) REVIEW BY SECRETARY.—Not later than 90 days after the date on which the Secretary receives a report from a head of a Federal agency under subparagraph (A), the Secretary shall review the report and notify the head of the Federal agency on whether any Federal building described in the report submitted by the head of the Federal agency shall be required to comply with the requirement under subsection (a).

(4) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations to carry out this subsection.

(c) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress the results of a study comparing—

(A) the expected energy savings resulting from the implementation of this section; with

(B) energy savings under all other Federal energy savings requirements.

(2) INCLUSION.—The Secretary shall include in the report any recommendations for changes to Federal law necessary to reduce or eliminate duplicative or inconsistent Federal energy savings requirements.

SEC. 4. STORM WATER RUNOFF REQUIREMENTS FOR FEDERAL DEVELOPMENT PROJECTS.

The sponsor of any development or redevelopment project involving property with a footprint that exceeds 5,000 square feet and that is federally-owned or federally-financed shall use site planning, design, construction, and maintenance strategies for the property to maintain, to the maximum extent technically feasible, predevelopment hydrology with regard to the temperature, rate, volume, and duration of flow.

By Mr. WARNER:

S. 1166. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain zone compensation of civilian employees of the United States; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today to introduce the Federal Employee Combat Zone Tax Parity Act, which would provide parity to civilian Federal employees by extending the tax credit currently received by military personnel in combat zones to the civilian Federal employees working alongside them. My fellow Virginian, Congressman FRANK WOLF, has introduced a similar bill in the House of Representatives.

In addition, several Federal employee organizations, such as the American Federation of Government Employees (AFGE), the National Treasury Employees Union (NTEU), the Financial Management Association (FMA), the Senior Executives Association (SEA), the American Foreign Service Association (AFSA), and the National Federation of Federal Employees (NFFE), strongly support this legislation.

As of today, I have made eleven separate trips to Iraq and Afghanistan to see firsthand the work of our military personnel, which is essential to success in these regions. In addition, the work of our Federal civilian employees in these regions is significantly important.

At the moment, a majority of the work in the reconstruction of these countries is being done by the military and the Department of State (DOS). These dedicated men and women deserve our gratitude. However, as I have said on a number of occasions, our challenging task requires the coordination and work of Federal agencies across the spectrum.

Regardless of whether one is in the military or a civilian, there are certain risks and hardships associated with working overseas. As a result, the Federal Government provides certain incentives to individuals when they take on extremely challenging jobs. For example, those in the military working in a combat zone receive the Combat Zone Tax Credit.

This tax credit permits military personnel working in combat zones to exclude a certain amount of income from their Federal income taxes. This benefit for the military was established in 1913.

Private contractors working in Iraq and Afghanistan get a similar benefit. Under the Foreign Earned Income Tax Credit, contractors are allowed to exclude a portion of their income from taxes while they work abroad, like in Iraq and Afghanistan.

To date, however, no similar benefit exists for Federal employees serving in the same combat zones. I do not believe it is fair for our Federal employees to be excluded from the same benefits available to military personnel and private contractors in the same combat zone.

The Commonwealth of Virginia, of which I have been honored to serve for the last 28 years in the Senate, is home to over 200,000 Federal employees. I have long been a strong supporter of our Federal employees as I have been for our military personnel.

Our efforts in the war on terrorism can only be successful with a highly skilled and experienced workforce. I can personally attest to the dedication of civil service employees throughout the Federal Government. Since the September 11th attacks, Federal employees have been relocated, reassigned, and worked long hours under strenuous circumstances without complaints, proving time and again their loyalty to their country is first and foremost.

During my service as Secretary of the Navy—during which I was privileged to have some 650,000 civilian employees working side by side with the uniformed Navy—I valued very highly the sense of teamwork between the civilian and uniformed members of the United States Navy. Teamwork is an intrinsic military value, in my judgment, and essential to mission accomplishment. A sense of parity and fairness is important for developing this teamwork.

In Iraq and Afghanistan, the teamwork of the entire Federal Government is essential to harness our overall efforts to secure a measure of democracy for the peoples of those countries, and we need to make it easier for our Federal employees to participate.

Last year, I offered additional legislation that became law under an emergency supplemental bill to achieve this goal. My bill, S. 2600, provided the heads of agencies other than DOS and the Department of Defense (DOD) with the authority, at their discretion, to give their employees who serve in Iraq and Afghanistan allowances, benefits, and gratuities comparable to those provided to State Department and DOD employees serving in those countries.

At that time, the agency heads of non-DOD and DOS agencies did not have such authority, and it is essential, as part of the U.S. effort to bring democracy and freedom to Iraq and Afghanistan, that agency heads be able to give their workers in those countries the same benefits as those they work beside.

In the last estimate, there are almost 2,000 Federal employees working a variety of jobs in Iraq and Afghanistan. I am grateful for their hard work in potentially dangerous situations. And, I know there are many other Federal employees who are anxious to serve their country and engage in these efforts, but it is a lot to risk.

Providing parity in this important tax credit would provide a significant incentive for individuals to take on this challenge—a challenge that America desperately needs Federal employees to undertake.

Throughout the world, America's civil servants are serving our government and our people, often in dangerous situations. They are on the ground in the war on terrorism taking over new roles to relieve military personnel of tasks civilian employees can perform. They are playing a vital role in the reconstruction of Iraq and Afghanistan.

We have a long tradition in Congress of recognizing the valuable contributions of our Federal employees in both the military service and in the civil service by providing fair and equitable treatment. This bill gives us the ability to continue this tradition while at the same time providing an important incentive to help America meet its needs.

I urge my colleagues to join with me in support of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Employee Combat Zone Tax Parity Act''.

SEC. 2. EXCLUSION FROM GROSS INCOME FOR CERTAIN COMBAT ZONE COMPENSATION OF CIVILIAN EMPLOYEES OF THE UNITED STATES.

(a) IN GENERAL.—Section 112 of the Internal Revenue Code of 1986 (relating to certain combat zone compensation of members of the Armed Forces) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) CIVILIAN EMPLOYEES OF THE UNITED STATES GOVERNMENT.—

''(1) IN GENERAL.—Gross income does not include so much of the compensation as does not exceed the maximum amount specified in subsection (b) for active service as an employee of the United States for any month during any part of which such employee—

''(A) served in a combat zone, or

''(B) was hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone; but this subparagraph shall not apply for any month beginning more than 2 years after the date of the termination of combatant activities in such zone.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) EMPLOYEE OF THE UNITED STATES.—The term 'employee of the United States' has the meaning given such term by section 2105 of title 5, United States Code, and includes—

''(i) an individual in the commissioned corps of the Public Health Service or the commissioned corps of the National Oceanic and Atmospheric Administration, and

''(ii) an individual not otherwise described in the preceding provisions of this subparagraph who is treated as an employee of the United States or an agency thereof for purposes of section 911(b).

''(B) ACTIVE SERVICE.—The term 'active service' means active Federal service by an employee of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2201(b) of such Code is amended by striking ''112(c)'' both places it appears and inserting ''112(d)''.

(2) The heading for section 112 of such Code is amended to read as follows:

''SEC. 112. CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE UNITED STATES.''.

(3) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended to read as follows:

''Sec. 112. Certain combat zone compensation of members of the Armed Forces and civilian employees of the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. HARKIN:

S. 1167. A bill to amend the Higher Education Act of 1965 in order to provide funding for student loan repayment for civil legal assistance attorneys; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I am introducing the Legal Aid Attorney Loan Repayment Act. This important legislation is critical to ensuring that basic civil liberties are protected for all of our citizens. Our promise of ''equal justice under law'' rings hollow if those who are most vulnerable are denied access to representation. Legal Aid attorneys across the country protect the safety, security, and health of low-income citizens. When a senior citizen is the victim of a financial scam, when a family faces the loss of their home, or, all too often, when a woman

seeks protection from abuse, Legal Aid is there to help them. Legal Aid attorneys are critical to ensuring that poverty is not a barrier to accessing the justice system.

Despite the importance of the services they provide, almost half of the eligible people seeking assistance from Legal Aid are being turned away because of a lack of funding. Additional qualified and experienced attorneys would alleviate some of the shortages facing Legal Aid.

I started my legal career as a legal service lawyer, and it is an experience that I will never forget. It helped shape many of my views about how government can most effectively help those in need. Working as a Legal Aid attorney is one of the most rewarding career choices a young lawyer can make.

Unfortunately, these days, it's harder and harder for newly minted lawyers to make the choice that I made to work for Legal Aid. The average starting salary for a Legal Aid lawyer is now $35,000. But the average annual loan repayment burden for a new law school graduate is $12,000! Many law graduates who are able to take positions with Legal Aid end up leaving after two or three years because their debt is too burdensome. They leave at a time when they have gained the necessary experience to provide valuable services to low-income clients, creating a revolving door of inexperienced lawyers within Legal Aid services.

That is why I am introducing this bill to provide a loan-repayment program for new law graduates who chose to work for Legal Aid. Such programs are available for Federal prosecutors and other Federal employees. But, for Legal Aid attorneys—who have the lowest incomes—there is not adequate access to loan-repayment programs. Estimates suggest that there are fewer than 2,000 attorneys who would need the assistance of such a program. This bill builds on existing loan-repayment and retention programs for lawyers in other fields by providing partial loan-repayment assistance to full time civil legal assistance lawyers. Recipients who receive the loan-repayment assistance must commit to a minimum of three years of service. And the bill prioritizes awards for those who have practiced public service law with less than five years of experience. This program is critical to ensure that lawyers who want to commit to public service are able to do so.

We have a responsibility to ensure that all citizens have appropriate protection under the law. By establishing a loan-repayment program, Legal Aid programs are better able to attract and retain qualified personnel. I urge my colleagues to support this critical legislation to reduce the barriers to public service and protect access to legal representation for all of our citizens.

By Mr. ALEXANDER:

S. 1168. A bill to amend the Clean Air Act to establish a regulatory program for sulfur dioxide, nitrogen oxides mercury, and carbon dioxide emissions from the electric generating sector; to the Committee on Environment and Public Works.

Mr. ALEXANDER. Mr. President, today I introduce legislation to reduce air pollution and the threat of global warming by enacting strict standards on the four major pollutants from powerplants. I send the legislation to the desk and ask it be introduced.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. ALEXANDER. Mr. President, I am pleased that Senator JOE LIEBERMAN, of Connecticut, who chairs a key environmental subcommittee, will be the bill's lead cosponsor, so it will be known as the Alexander-Lieberman Clean Air Climate Change Act of 2007. It will establish an aggressive but practical and achievable set of limits on four key pollutants. This is a little different sort of clean air and climate change bill, and I would like to talk for a few minutes about exactly what it does and why we are doing it this way.

Most of us in the Senate can be measured by where we come from. I come from the Great Smoky Mountains. When I go home tomorrow afternoon, after we hopefully start the competitiveness legislation debate, I will go to my home about 2 miles from the Great Smoky Mountains National Park. When the Cherokees named the Great Smoky Mountains, which today have become our most visited national park, they were not talking about smog and soot. Unfortunately, today they probably would be. There has been a lot of recent progress, but air pollution is still a serious health problem, causing illnesses from asthma to premature death, and making it harder to attract new jobs.

To be specific about that, recently, over the last 20 years, the auto industry has become important to Tennessee.

Tennessee was in competition recently for a Toyota plant that nearly came to Chattanooga but went to Mississippi. In the last 25 years, one-third of our manufacturing jobs have become auto jobs. I can remember when there were not any, and I was Governor, and the Nissan plant decided to come to Tennessee in 1980. The first thing I had to do as Governor was to help them go down to the air quality board and get a permit to paint 500,000 cars and trucks a year. That is a lot of paint, and produces a lot of emissions in the area. If Tennessee had not had clean air at that time, that Nissan plant would have been in Georgia. So clean air is not only about our health, although the more we learn about the effects of nitrogen pollutants and sulfur pollutants, the more that we learn that it and mercury are about our health, clean air is also about our ability to attract jobs. So we want to make sure that when Nissan or Toyota or any of the suppliers of any automobile company—General Motors with a Saturn plant in Tennessee—when they want to look at our State for expansion—they are not limited by our inability to meet clean air standards.

We also have jobs that come from another direction. In Tennessee, tourism is big business. Many people know about Yellowstone in the West, but the Great Smoky Mountains have three times as many visitors as any Western park, nearly 10 million visitors a year, and they come to see the Great Smokies, not to see smog, not to see soot. They want to enjoy it.

When I go into Sevierville, Dolly Parton's hometown, and ask the Chamber of Commerce right there next to Maryville where I grew up, what is your No. 1 issue, these conservative Republicans in Sevier County say to me: Clean air. That is what the Chamber of Commerce there says, clean air. So we Tennesseans think clean air is important for our health, because we love to look at our mountains and because of our jobs.

I am the chairman of the Tennessee Valley Authority Congressional Caucus. I sit on the Senate's Environment and Public Works Committee. I am especially delighted that Senator LIEBERMAN, who is the cosponsor of this legislation, not only is on that committee, but he chairs one of the major subcommittees on the Environment and Public Works Committee that has to do with global warming.

What we are hoping is that this legislation, which I am about to describe, along with legislation Senator CARPER of Delaware is introducing today or tomorrow, will help move along the debate about how we deal with global warming in our country.

In the legislation I have presented, the Alexander-Lieberman legislation, we seek to preserve our jobs while we clean the air and preserve the planet. We have a number of concerns in our country, and global warming is only one of those. So I would argue that the provisions we have set out are aggressive, but they are practical and they are achievable. They set schedules for powerplants to reduce emissions for sulfur dioxide, for nitrogen oxide, for mercury, and for carbon dioxide. Doing so will relieve some of the worst air-related health environmental problems such as ozone, acid rain, mercury contamination, and global warming.

I think it is important to note that one of the differences with this Alexander-Lieberman bill is it proposes carbon caps only on powerplants that produce electricity; it does not propose carbon caps on the economy as a whole.

Now, why would we only do that? Well, here are the reasons for that: No. 1, when we talk about global warming and carbon, we are dealing with a huge, complex economy. This country of ours produces and uses about 25 percent of all of the energy in the world. We have businesses that range from the shoe shop to Google to chemical plants.

I think we have to be very careful in Washington about coming up with great schemes and great ideas that sound good here but that might not apply to everyone across the country, because everyone across the country has a natural conservatism about the wisdom of those who are in Washington. We could scare them to death with some talk of an economywide global warming bill. So I am more comfortable thinking sector by sector. I want our steps to be practical and cost effective.

I do believe a market-based cap and trade system for powerplants makes a lot of sense. Powerplants are the logical place to start with carbon regulation. Powerplants produce about 40 percent of all the carbon in our economy. Powerplants are increasing emissions of carbon at a rate faster than any other large segment in our economy. We have selected in our legislation what we call a market-based cap and trade system to regulate the amount of carbon that is produced. This is not a new idea. The market-based cap and trade system was actually introduced by a Republican administration in which I served in the Cabinet, the first George Bush. It was a part of the Clean Air Act amendments in 1990. It was introduced because we were concerned about the amount of sulfur coming out of powerplants. Basically it created a lot of flexibility for those powerplants. It used a market system. We have now had 15 years experience with it. It has worked very well. It has significantly reduced the amount of sulfur in the air. It has done it in a way that most everyone concedes is the lowest possible cost of regulation.

It is a minimal amount of rules from here, a maximum amount of market decisions and individual decisions by individual utilities. So we have had that system in effect since 1990. There has been a similar system in effect for nitrogen. There has been a similar cap and trade system in Europe. We have a lot of experience with cap and trade. So we have elected to use a similar cap and trade market-based system to regulate the carbon coming out of the same smokestacks that sulfur, nitrogen, and mercury come out of. We can already measure the amount of carbon coming out, so we do not have to guess about that. We do not have to invent a new system.

We do have to be careful about what the standards are, what the dates are. We want to know what the costs will be to the ratepayers. We want to keep electric rates as low as we possibly can, as well as making the energy clean.

But if we are concerned about global warming in this generation, because I think we should be, then powerplants are a good place to start. It is time to finish the job of cleaning the air of sulfur, of too much sulfur, too much nitrogen, and too much mercury. It is time to take the right first step with controlling carbon emissions. It is time to acknowledge that climate change is real, that human activity is a big part of the problem, and that it is up to us to act.

Now not only am I glad to be working with Senator LIEBERMAN, who will be the lead cosponsor of this legislation, he, of course, is already a leader in this area and he has an economywide piece of legislation which he introduced. Senator MCCAIN in the last session—I am not about to try to speak for another Senator, but I think Senator LIEBERMAN is taking the position he would like to see several good trains moving down the track toward the same station in hopes that one of them eventually gets there, and that we can learn from each other.

That is the attitude I take with the legislation Senator CARPER has described today and that he is introducing today or tomorrow. Senator CARPER and I have worked together through two Congresses on four pollutant legislation. A lot has happened since we started working. For example, the Administration, to its credit, through the Environmental Protection Agency, has stiffened requirements for sulfur and nitrogen. I applaud President Bush for that. They are very good requirements. They have also proposed the regulation of mercury for the first time in our country's history. I applaud the EPA for that. So a lot has changed since Senator CARPER and I first started.

Also we have learned a lot. Senators who do not always have their mouths open learn a lot. We have discovered one of the most difficult areas in fashioning a market-based cap and trade system for sulfur or for nitrogen or for carbon is who pays for it. We called that the allocation system.

Senator CARPER and I started out with what we called an output system. We thought that sounded pretty good. It would be based upon the amount of electricity you would be putting out. But the more we studied it, he came to a different conclusion and I came to a different conclusion. I came to the conclusion that we should use historical emissions. In other words, we are saying to a utility in the United States: We are about to impose upon you some requirements for cleaning up more sulfur, cleaning up more nitrogen, cleaning up mercury—for the first time—and regulating the emissions of carbon for the first time, and I understand that is a significant cost.

That capital cost will have to be borne in the end by ratepayers. So, in my view, it seems to me that the fairest way to impose that cost would be through what we call the historical allocation system. That is the way we have done it with allowances for sulfur and nitrogen for the last 15 years.

In fact, the input or the historical allowance system as the way to pay the bill has been the way it is done almost everywhere, I believe.

But there is another way to allocate that is called the output. Senator CARPER selected that. There is still a third way to allocate the costs of doing whatever regulation we do, and that is called the auction. A market-based cap and trade system sounds complicated, but it is not so complicated. It basically says to each emitter of one of the pollutants: You have an allowance to emit one ton of that sulfur or of that carbon, and as long as you emit that much, you are okay. If you emit more than that, you are going to have to buy allowances to emit that much more from someone else. So it costs you more. Or if you emit less, you can sell your allowance. Then as the law goes along over the years, 2009 or 2010 to 2015, the amount of pollutants that come down, your allowance total drops down as well.

One of the favored proposals mostly—and especially by many environmental groups—is an auction of those allowances. Well, I have resisted. I have been careful about the auctions. I have been to a lot of auctions. I know they must have them in Minnesota as well as Tennessee. I have yet to see one where the purpose of the auction was not to get the highest possible price.

Well, if I am paying my electric bill down in Memphis, or if I am at Eastman Chemical in east Tennessee or ALCOA trying to keep my electric costs in line, I am not interested in my Senator coming to Washington and having an auction to raise my electric rates to the highest possible price.

So also there is the temptation that if you auction off these allowances, and there are a lot of them when we are talking about carbon allowances, many more than when we are talking about sulfur allowances over the last 15 years. They will bring in a lot of money. And whenever you bring in a lot of money, and 100 different Senators and lots of Congressmen know there is a pot of money, they will come up with a lot of ways to spend that money. And where will that money come from? Well, it has got to come from the man or women or family paying the electric bill in Nashville, or Knoxville. So I have been conservative about the use of auctions.

Senator LIEBERMAN and I, in this bill, say 75 percent of the allowance comes from historical emissions and 25 percent are sold in an auction. This gets way down in the weeds, as we say. But one of the things that I think may be beneficial from Senator CARPER going ahead with his bill, which relies on an output system that becomes a 100-percent auction, and way we go ahead in the Alexander-Lieberman bill with 75-percent input and 25-percent auction, may be that our colleagues will do as we have been doing over the last few months, and spend a little more time understanding allowances and auctions, and we can come to a better conclusion about this.

I value greatly my relationship with Senator CARPER and respect his leadership in this area. He chairs one of the principal subcommittees on the Environment Committee upon which I serve

and the Presiding Officer serves. What I hope is he and I are moving into a new stage of our working relationship on clean air and climate change, and the result of that will be that all of our ideas will be out in front of our colleagues and that it will move the debate along.

I would emphasize, we agree, he and I, on a lot more than we disagree on. In fact, I believe on all of the standards and deadlines for meeting those standards for nitrogen, sulfur, and mercury, we agree. We agree there should not be a cap and trade system for mercury because mercury is a neurotoxin, and down in east Tennessee where I live, we do not want TVA buying a lot of allowances so they can emit a lot more mercury, because it doesn't go up in the air and blow into North Carolina, it goes up in the air and comes right down on top of us, for the most part. We don't want that.

We don't want that. The more we learn about mercury, the less we want it. We don't have cap and trade for mercury, although we do suggest that for carbon.

Climate change has become the issue of the moment. Everybody is talking about it. There are movies about it. The Vice President was here testifying about it. It is not the only issue that faces us that has to do with air pollution. I am more concerned in Tennessee about sulfur, nitrogen, and mercury than I am about carbon. That is why this is a four-pollutant bill. We ought to address all of these at once.

I was in this body 40 years ago as a staff assistant working for Howard Baker. I remember very well when Senator Baker, a Republican, and Senator Muskie of Maine, a Democrat, worked together on the committee on which the Presiding Officer and I now serve. They passed the first Clean Water Act and the first Clean Air Act. The Clean Water Act, some people have said, is the most important piece of urban renewal legislation ever enacted because the rivers of America had gotten so dirty, nobody wanted to live on them. The rivers of America are where most of our great cities are. As soon as they were cleaned up, people moved back to the cities and around the rivers. That was 1970 and 1971.

It is appropriate to think about that now because Earth Day is coming up this weekend. I can remember Earth Day, which began in 1970. Suddenly the environment, which had been an issue that was reserved for only a few people, became a national craze. It was almost like a hula hoop. Everybody was interested in the environment and recycling. Former Senator Gaylord Nelson was a leader in creating Earth Day. I can remember sitting in a meeting of President Nixon and the Republican leadership in 1970 when I was on the White House staff, and President Nixon was trying to explain to the Republican leaders the importance of environmental issues. It was 8 o'clock in the morning, and they weren't listening very well. It was a new subject. But Gaylord Nelson was doing it. The kids were doing it. People were recycling. The Republican President was talking to the Republican leadership, and Senator Baker, Senator Muskie, and the Congress passed the first Clean Air and Clean Water Acts.

Many of us who have lived a while can remember things are better today in many ways. When I was a student at Vanderbilt in Nashville, it was so smoggy in the mornings, you couldn't see downtown. Your clothes got dirty during the day. Things got gradually better. In 1990, when the first President Bush was in office, we passed important Clean Air Act amendments, and the first cap and trade system for sulfur began. What also happened was that we learned more about how damaging these pollutants are to our health.

As a result, the standards which we once thought were high seemed low. Knoxville, the biggest city near where I grew up, near the Smoky Mountains, is the 14th most polluted city for ozone. Ozone irritates lung tissue, increases the risk of dying prematurely, increases the swelling of lung tissue. It increases the risk of being hospitalized with worsened lung diseases and triggering asthma attacks. At risk in Knoxville County alone are 176,000 children, 112,000 seniors, 15,000 children with asthma, and 50,000 adults with asthma. Ozone is not emitted directly from tailpipes and smokestacks. The raw ingredients come from coal-fired powerplants and cars.

Sulfur is in many ways our biggest problem. It is the primary contributor to haze. It causes difficulty in breathing. It causes damage to lung tissue and respiratory disease and premature death.

We know that mercury is also a problem. Monitoring by the National Park Service in the Great Smoky Mountains has found high levels of mercury deposits from air pollution. Mercury pollution of rivers and streams contaminates the fish we eat and poses a serious threat to children and pregnant women.

This bill is a clean air and a climate change bill. I hope our committee, as we take advantage of this resurgence of interest in the quality of air and our health and what we need to do about it, we won't just do part of the job. I would like to look at the whole picture. What we do in this bill is take the standards that the EPA has created for nitrogen and sulfur and put them into law. We make them a little stricter, but basically we put them into law. We take the mercury rule of the EPA, and we put it into law. We make it even stricter. The EPA says get rid of 70 percent of it. We say get rid of 90 percent. Then for the first time we put into law carbon caps on electric powerplants which produce 40 percent of all the carbon produced in the United States and are the fastest growing sector producing carbon in America.

I hope my colleagues will carefully consider this sector-by-sector approach to climate change. Carbon caps might be the best way—I believe they are—for dealing with electric powerplants. When it comes to fuel, there may be another strategy that makes sense. We could deal with that sector in a different way. For example, when we were dealing with sulfur, we didn't put a cap and trade on diesel fuel. We did on powerplants. But when we got to diesel fuel, we just said that you have to have ultra low sulfur diesel for big trucks, which just now went into effect.

There is also the large segment of building energy use. If we took the sector of building energy use, the fuel segment, and the electric powerplants, if we added that to a few stationery sources in America and developed strategies that were aggressive but practical and cost-effective for each of those segments, we would be up in the 85 to 90 percent of all the carbon we produce in America. That makes a lot more sense to me than trying to devise some one-size-fits-all system that affects every little shop, store, or farm in America. If we can get most of it this way, maybe we can learn something so that someday we can get the rest of it.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a section-by-section description of the Alexander-Lieberman bill, a one-page summary of the Alexander-Lieberman Clean Air/Climate Change Act of 2007, as well as a short memorandum which we describe as discussion points and with which I will conclude my remarks by going over in just a moment, and a letter from the National Parks Conservation Association endorsing the bill.

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

(See exhibits 1 through 4.)

Mr. ALEXANDER. Senator LIEBERMAN and I don't have all the answers with this legislation. I feel much more comfortable with this legislation today than I did with any I helped introduce last year or the year before because I have learned a lot more. But I will guarantee my colleagues that there are several areas in which I would welcome advice. Over the last several weeks, I have met with a dozen, two dozen environmental groups, utilities, Tennessee citizens, others who had suggestions. For example, the discussion points that I have put into the record contain five points that are arguable. I have come to a tentative conclusion on them. That is in the bill. But there is another side to the point. I am looking for advice.

For example, should we cap only carbon or all greenhouse gases emitted from electricity plants? I chose to cap CO_2 only. That is because this is a four-pollutant bill—sulfur, nitrogen, mercury, and carbon. It is not primarily a climate change bill.

Another consideration is that it seems Europe's experience is that it may be better to cap just carbon and

not all greenhouse gases. That is a question we can debate.

What should the size of an auction be in terms of the allowances? I discussed that earlier. Senator LIEBERMAN and I have chosen 25 percent of the total number of allowances. Senator CARPER, in his bill, eventually goes to 100 percent. There are arguments on both sides.

What influenced my decision was, I wanted to keep the costs down as much as possible. I was afraid that if we used some different kind of allowance allocation, we might literally take money away from the emitters that they ought to be using to put scrubbers on to reduce sulfur, nitrogen, mercury, or carbon and pay it to other utilities.

What rules should govern the use of offset allowances by electric plants? Offsets are an ingenious idea. The idea would be that an emitter of carbon might be able to pay somebody else to reduce their output of carbon and, therefore, we would end up with the same amount of carbon. There are many advantages to that. For example, the Tennessee Valley Authority might pay a Tennessee farmer to manage his livestock crop in a way as to not produce as much methane, might pay a Tennessee farmer to plant a lot of trees. Both of those things would reduce greenhouse gases, and the farmer would have more money in his pocket. That is a good idea.

The downside of offsets is that if they are unregulated entirely, it seems to me they could become a gimmick or a fad or worse. What we have done in this bill is adopt a system of offsets from a consortium of States ranging from Maryland to Maine—that includes Senator LIEBERMAN's State of Connecticut—and used those model rules on offsets. That tends to limit the way offsets may be used. It is a good place to at least begin. In other words, a utility might produce more carbon, but it might pay someone else who is reducing carbon by using biomass or by sequestering carbon in some other way.

There is a question about how should new coal-fired electric plants be treated. There are probably 160 new coal plants on the drawing boards. Some of them hope to escape the rules Congress is considering about capping the output of carbon. I don't think they should. This bill would apply to all coal-fired powerplants, including those on the drawing boards. It also would give an incentive to the first 30 of those plants to meet a high standard of clean coal technology. We don't want to encourage the use of natural gas in this bill. That is the last thing we want to do. We don't want to discourage the use of coal. We have a lot of coal. It would help make us energy independent. We want to encourage the creation of the kind of technology that will permit us to use coal in a clean way that either recaptures the carbon and stores it or finds some other way to deal with it.

Finally, what should the CO_2 cap levels be? We can debate that, and I am sure we will. But the cap level we pick in this legislation is to say, let's freeze at the level of last year, starting with 2011, and go down step by step into 2025 to 1.5 billion metric tons. This is our contribution to the debate.

We have learned enough about our health, about our ability to attract jobs, to know we need to finish the job of cleaning up the air of nitrogen, of sulfur, and of mercury; and we need to take the right first step to begin to control the emission of carbon to deal with global warming. I believe the right first step is a market-based cap and trade system of electricity plants which is described here.

May I also say this: Some people say: Well, let's wait until China does it. Let's wait until India does it. The great danger is that we will not unleash the technological genius of the United States of America to clean our air and to deal efficiently and inexpensively with the emissions of carbon. If we do not figure that out, India and China are going to build so many dirty coal powerplants that it will not make any difference what we do because the wind will blow the dirty air around here, and we will suffer and the planet will suffer whatever the consequences are of global warming and of the other pollutants that come from coal.

So we have an obligation not just to the world to do this, we have to do this for ourselves because 100, 200, 300, 400, 500 new coal-fired powerplants in India and China will obliterate any of the good work we might do here. I believe if we take the aggressive but practical cost-effective steps in this Clean Air/Climate Change Act, we will unleash the great entrepreneurial spirit of our country. We will be able to create an inexpensive way to deal with carbon on a segment-by-segment basis, deal with the other pollutants, and India and China will have to follow. The rest of the world will follow, and we will be better off.

I cannot imagine more interesting and exciting work to be doing. This is the kind of subject on which we should be working together on a bipartisan basis.

I thank Senator LIEBERMAN for joining me in cosponsoring this legislation. I salute Senator CARPER for his continued leadership. I look forward to working with him.

EXHIBIT 1

CLEAN AIR/CLIMATE CHANGE ACT OF 2007, SECTION BY SECTION DESCRIPTION, APRIL 19, 2007

TITLE I: GENERAL PROVISIONS

Sec. 101. New Source Performance Standard

Requires all new coal-fired electricity plants constructed or modified after January 1, 2015, to meet a performance standard of 1,100 pounds of carbon dioxide (CO_2) per megawatthour of electricity generated (MWh).

Between January 1, 2011 and December 31, 2020, 5 percent of the total CO_2 allowances will be set aside for new coal-fired power plants built after enactment that meet this performance standard.

Sec. 102. New Source Review Program

Beginning January 1, 2020, electricity plants that have been operating for 40 years or more have to meet a performance standard of 2 pounds of sulfur dioxide per MWh and 1 pound of nitrogen oxides per MWh.

Sec. 103. Integrated Air Quality Planning for the Electric Generating Sector

Cuts sulfur dioxide and nitrogen oxide emissions in two phases:

Phase One—codifies Phase One of the Clean Air Interstate Rule (CAIR).

Phase Two—in 2015, replaces CAIR with a national program, reducing the current SO_2 cap of 9.4 million tons to 2.0 million tons per year and establishing eastern and western NOx caps totaling 1.6 million tons per year.

Requires mercury emissions to be cut by 90 percent in 2015 without trading.

Establishes a Climate Champions Program that authorizes EPA to recognize electricity plants that meet a 1,100 pound of CO_2 per MWh.

Reduces carbon dioxide emissions as follows:

2011–2014 2.3 billion metric tons of CO_2
2015–2019 2.1 billion metric tons
2020–2024 1.8 billion metric tons
2025 and thereafter 1.5 billion metric tons

Authorizes an auction of 25 percent of the CO_2 allowances to be used to mitigate increased electricity costs, if any, of consumers and energy-intensive industries.

Sec. 104. Revisions to Sulfur Dioxide Allowance Program

Updates the allowance allocation formulas of the Title IV SO_2 program to meet the 2015 cap of 2.0 million tons per year and to include allowances for electricity plants built from 1990 to 2006.

Sec. 105. Air Quality Forecasts and Warnings

Requires the Administrator of the National Oceanic and Atmospheric Administration (NOAA), in cooperation with the EPA Administrator, to issue air quality forecasts and warnings.

Sec. 106. Relationship to Other Law

Requires the EPA Administrator within 2 years to promulgate regulations for the underground injection of CO_2 in a manner that protects human health and the environment.

TITLE II: GREENHOUSE GAS OFFSETS

Sec. 201. Greenhouse Gas Offsets

Establishes standards for offset allowances in six categories: landfill methane capture and destruction; sulfur hexafluoride reductions; sequestration of carbon due to afforestation or reforestation; reduction and avoidance of carbon dioxide emissions from natural gas, oil, and propane end-use combustion due to end-use energy efficiency; avoided methane emissions from agricultural manure management operations; and eligible biomass.

EXHIBIT 2

ALEXANDER-LIEBERMAN CLEAN AIR/CLIMATE CHANGE ACT OF 2007

Why legislation is needed

To improve public health and reduce the threat of global warming, Congress must enact electricity sector legislation that puts stricter standards on sulfur and nitrogen pollution, cuts mercury emissions by 90 percent, and places the first caps on carbon emissions.

The Environmental Protection Agency's new rules to limit sulfur, nitrogen, and mercury don't go far enough, fast enough.

Under current law, too many communities live with air that is unhealthy to breathe, and mercury continues to pollute our rivers and streams.

The Clean Air/Climate Change Act sets aggressive, but practical and achievable limits

for reducing four pollutants in order to preserve our jobs while we clean the air and preserve our planet.

Why the bill focuses on the electricity sector

Electricity plants are the logical place to start because:

They produce 40% of the CO_2 in our country, at a rate almost twice as fast as any other large segment of the economy.

We have 15 years' experience with a market-based cap and trade program to reduce sulfur emissions.

How Clean Air/Climate Change Act works

The Clean Air/Climate Change Act of 2007 provides an aggressive—yet achievable—schedule for power plants to reduce emissions and alleviate some of our worst air-related health and environmental problems, such as ozone, acid rain, mercury contamination, and global warming.

Specifically, the Clean Air/Climate Change Act would:

Cut sulfur dioxide (SO_2) emissions by 82 percent by 2015. This acid rain-causing pollution would be cut from today's 11 million tons to a cap of 2 million tons in 2015.

Cut emissions of nitrogen oxides (NO_x) by 68 percent by 2015. Ozone pollution would be cut from today's 5 million tons to a cap of 1.6 million tons in 2015.

Cut mercury emissions at each power plant by 90 percent in 2015. This is a stringent, yet achievable goal that would greatly reduce the risks this neurotoxin poses to children and pregnant women.

Implement a cap, trade, and offsets program to reduce CO_2 emissions. CO_2 emissions would be capped at 2.3 billion metric tons in 2011, 2.1 billion metric tons in 2015, 1.8 billion metric tons in 2020, and 1.5 billion metric tons in 2025 and beyond.

Innovative features

In order to encourage prompt, deep yet cost-effective CO_2 reductions, the Clean Air/Climate Change Act contains several innovative features, including:

Climate Champions Program. Establishes a reserve of 5% of all CO_2 allowances as an incentive for new coal-fired electricity plants that meet a performance standard of 1,100 pounds of CO_2 per megawatthour between 2011 and 2020. (This performance standard is comparable to an IGCC coal plant with 60% CO_2 capture and storage.)

Minimizes costs. Auctions 25% of the CO_2 allowances and authorizes the proceeds to be used to mitigate increased electricity costs (if any) to consumers and energy-intensive industry.

Discourages fuel switching from coal to natural gas. The use of natural gas to generate electricity can create volatility in electricity prices for consumers.

Flexible compliance. Permits the use of offsets so that companies may meet their carbon emissions reduction flexibly and cost-effectively.

EXHIBIT 3

CLEAN AIR/CLIMATE CHANGE ACT OF 2007, DISCUSSION POINTS

ISSUES THAT SEN. ALEXANDER WOULD LIKE TO DISCUSS

1. Should Congress cap only CO_2 or all greenhouse gases emitted from electricity plants?

2. What size should an auction be?

3. What rules should govern the use of offset allowances electricity plants?

4. How should new coal-fired electricity plants be treated?

5. What should CO_2 cap levels be?

---

1. Should Congress cap only CO_2 or all greenhouse gases emitted from electricity plants

Clean Air/Climate Change Oct

Caps CO_2 only.

Discussion

In his bill, Sen. Alexander chose to cap CO_2 only. In part, that decision is a result of the Clean Air/Climate Change Act being a bill that limits the four major pollutants emitted from electricity plants: sulfur dioxide, nitrogen oxides, mercury, and carbon dioxide. It is not primarily a climate change bill.

Another consideration is the experience gained from Phase One of the European Union's Emissions Trading Scheme (EU ETS), the largest cap and trade program in the world. The EU ETS capped only CO_2 in its first phase. Phase Two of that program, which starts in 2008, will cap six greenhouse gases: carbon dioxide, methane, nitrogen oxides, perflourocarbons hydrofluorocarbons, and sulfur hexaflouride

The U.K. House of Commons Environmental Audit Committee in its Fourth Report (dated March 27, 2005) recommended that Phase Two not be expanded to include gases other than carbon dioxide.

Instead, the House of Commons Committee recommended minimal significant changes to the shape and scope of the trading program.

The House of Commons Committee also recommended non-carbon greenhouse gases be addressed through regulation and not through trading.

What is the best approach?

2. What size should an auction be

Clean Air/Climate Change Act

Auctions 25 percent of CO_2 allowances.

Uses the proceeds to offset increased electricity costs (if any) of consumers and energy-intensive industries.

Discussion

The total value of the CO_2 allowances will be much higher than the total value of SO_2 allowances because there will be about 1,000 times more CO_2 allowances than SO_2 allowances. Because CO_2 allowances will be so much more valuable, economists recommend that there be an auction.

In its 2004 report, the National Commission on Energy Policy (NCEP) recommended that 10 percent of allowances be auctioned. However, in March 2007 NCEP changed its recommendation on allocation. NCEP now recommends that 50 percent of allowances be auctioned.

Similarly, a March 2007 NCEP paper states that businesses and consumers at the end of the energy supply chain—not oil, natural gas, and electric utilities—bear the largest share of the costs of a greenhouse gas emissions cap-and-trade program.

Auctioning 25 percent of the CO_2 allowances for the power sector would generate revenues sufficient to protect consumers from higher electricity rates.

The Regional Greenhouse Gas Initiative (RGGI) model rule recommends that 25 percent of CO_2 allowances be auctioned.

3. What rules should govern the use of offset allowances by electricity plants?

Clean Air/Climate Change Act

Includes the RGGI model rules on offsets.

Offset types: landfill methane capture and destruction; sulfur hexafluoride reductions; sequestration of carbon through afforestation or reforestation; reduction and avoidance of carbon dioxide emissions from natural gas, oil, and propane end-use combustion due to end-use energy efficiency; avoided methane emissions from agricultural management operations; and eligible biomass.

Discussion

Allowing electricity plants to meet their CO_2 reductions through offsets provides compliance flexibility that greatly reduces costs to consumers and industry.

Offsets must be real reductions, however, and not gimmicks.

RGGI's model rules on offsets were adopted in an extensive, multi-state stakeholder process.

Sen. Alexander is seeking additional measures to include in a four pollutant law that will prevent fuel switching to natural gas, as the use of natural gas to generate electricity can create volatility in electricity prices for consumers.

4. How should new coal-fired electricity plants be treated

Clean Air/Climate Change Act

New fossil fuel electricity plants coming on line after January 1, 2007 will be required to purchase 100 percent of their required allowances.

Between January 1, 2007 and December 31, 2020, 5 percent of the total CO_2 allowances will be set aside as an incentive for new coal-fired power plants that meet a performance standard of 1,100 pounds of CO_2 per megawatt hour.

In 2015, all new coal-fired electricity plants must meet this performance standard.

Discussion

Electricity sector climate legislation should actively discourage the construction of new conventional fossil fuel power plant and encourage technologies that allow for the capture and sequestration of CO_2.

A performance standard of 1,100 pounds of CO_2 per MWh (the same standard used in California for electricity purchases from out-of-state coal-fired power plants) will ensure that new coal-fired power plants capture at least 60 percent of their CO_2.

Denying CO_2 allowances to plants that fail to meet this standard is a powerful disincentive to building conventional coal plants that lack lack carbon capture technology.

Otherwise, new conventional coal plants will lock in high CO_2 emissions for years.

Inclusion of natural gas-fired plants in this program is important to avoid creating an incentive to shift more generation to natural gas.

What should CO_2 cap levels be

Clean Air/Climate Chance Act

The power sector CO_2 cap should decline over time on the following schedule: 2011–2014, 2.3 billion metric tons; 2015–2019, 2.1 million metric tons; 2020–2024, 1.8 billion metric tons; and 2025 and beyond; 1.5 billion metric tons.

Discussion

This an aggressive yet achievable cap that starts with limiting electricity sector CO_2 to the level emitted in 2006 and then declines in a step wise manner out to 2025.

An electricity sector CO_2 cap on 1.5 billion metric tons is roughly equivalent to the electricity sector cap in the Lieberman-McCain Climate Stewardship and Innovation Act.

Electricity plants emit 40 percent of U.S. carbon dioxide. Emissions from this major sector source of carbon dioxide need to be reduced now in order to preserve the option of stabilizing atmospheric concentrations at 450 parts per million, the level that scientists believe will most likely prevent some of the worst global warming impacts being projected.

Delaying emissions reductions will make the job more challenging and expensive down the road.

EXHIBIT 4

NATIONAL PARKS CONSERVATION ASSOCIATION,
Washington, DC, April 18, 2007.

Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALEXANDER: On behalf of the National Parks Conservation Association, we strongly commend you for introducing the Clean Air/Climate Change Act of 2007, a bill designed to provide healthier air to millions of Americans, help restore clear skies to our national parks, and take important steps toward addressing global warming.

As I know you are well aware, coal-fired power plants are a leading source of the pollutants that cause asthma attacks and respiratory disease in humans, habitat damage and hazy skies in our parks, and mercury-laden fish in our rivers and lakes. They are also the main industrial source of the pollution that causes global warming. Technologies are readily available that can allow these plants to operate much more cleanly. The Clean Air/Climate Change Act would employ flexible market mechanisms and adequate lead-time so these technologies can be affordably applied at these plants to help restore air quality and diminish the causes of global warming. Starting with the coal-fired power plants, which are the worst offenders, before proceeding to address other polluters makes strategic and economic sense.

Taken together, the provisions in the Clean Air/Climate Change Act provide a comprehensive and balanced solution to the problem of coal-fired power plant pollution. The National Parks Conservation Association is pleased to support the Clean Air/Climate Change Act of 2007. From all of us, thank you for your strong leadership on this incredibly important subject.

Sincerely,

THOMAS C. KIERNAN,
President.

By Mr. DURBIN (for himself, Mr. KERRY, Mr. FEINGOLD, Ms. CANTWELL, Mr. MENENDEZ, Mr. CARDIN, Mr. REED, Mr. HARKIN, Mr. KENNEDY, Mr. BAYH, Mr. LIEBERMAN, Ms. STABENOW, Mr. SCHUMER, Mr. LAUTENBERG, Mrs. BOXER, Mr. WHITEHOUSE, Mr. BROWN, Mrs. CLINTON, and Mr. LEAHY):

S. 1170. A bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Basin and Range Deserts in the State of Utah for the benefit of present and future generations of people in the United States; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, I rise today to introduce America's Red Rock Wilderness Act of 2007. This legislation continues our Nation's commitment to preserve our natural heritage. Preservation of our Nation's vital natural resources will be one of our most important legacies.

America's Red Rock Wilderness Act will designate as wilderness some of our Nation's most remarkable, but currently unprotected public lands. Bureau of Land Management (BLM) lands in Utah harbor some of the largest and most remarkable roadless desert areas anywhere in the world. Included in the 9.4 million acres I seek to protect are well known landscapes, like the Grand Staircase Escalante National Monument, as well as lesser known areas just outside Zion National Park, Canyonlands National Park, and Arches National Park. Together this wild landscape offers spectacular vistas of rare rock formations, canyons and desert lands, important archaeological sites, and habitat for rare plant and animal species.

I have visited many of the areas this Act would designate as wilderness. I can tell you that the natural beauty of these truly unique landscapes is a compelling reason for Congress to grant these lands wilderness protection. I have the honor of introducing legislation first introduced by my friend and former colleague in the House of Representatives, Wayne Owens. As the representative for much of Utah's Red Rock country, Representative Owens pioneered the Congressional effort to protect Utah wilderness. He did this with broad public support, which still exists not only in Utah, but in all corners of our Nation.

The wilderness designated in this bill was chosen based on more than twenty years of meticulous research and surveying. Volunteers have taken inventories of thousands of square miles of BLM land in Utah to help determine which lands should be protected. These volunteers provided extensive documentation to ensure that these areas meet Federal wilderness criteria. The BLM also completed a reinventory of approximately six million acres of Federal land in the same area in 1999. While only six million acres of the total 9.4 million acres were inventoried by the BLM, the results provide a convincing confirmation that the areas designated for protection under this bill meet Federal wilderness criteria.

For more than 20 years, Utah conservationists have been working to add the last great blocks of undeveloped BLM-administered land in Utah to the National Wilderness Preservation System. The lands proposed for protection surround and connect eight of Utah's nine national park, monument and recreation areas. These proposed BLM wilderness areas easily equal their neighboring national parklands in scenic beauty, opportunities for recreation, and ecological importance. Yet, unlike the parks, most of these scenic treasures lack any form of long-term protection.

Today, the BLM is in the process of making critical decisions about the future stewardship and use of nearly six million acres of wild lands that my legislation would protect. The BLM will decide which areas should be preserved or developed and whether they will be left roadless or have roads cut through them. It also will determine if these wild lands will be open to off-road vehicles or exploited for mineral mining and oil and gas exploration. Any policies put in place will stand for 15 to 20 years, a timespan long enough to leave a lasting mark on this landscape.

Americans understand the need for wise and balanced stewardship of these wild landscapes. Unfortunately, the Administration has proposed little or no serious protections for Utah's most majestic places. Instead, the BLM appears to lack a solid conservation ethic and routinely favors development and consumptive uses of our wild public land. In just the last four years, the BLM has leased for oil and gas development over 125,000 acres of land that would have been designated for wilderness in America's Red Rock Wilderness Act.

This legislation represents a realistic balance between our need to protect our natural heritage and our demand for energy. While wilderness designation has been portrayed as a barrier to energy independence, it is important to note that within the entire 9.4 million acres of America's Red Rock Wilderness Act the amount of ''technically recoverable'' undiscovered natural gas and oil resources amounts to less than four days of oil and four weeks of natural gas at current consumption levels.

America's Red Rock Wilderness Act is a lasting gift to the American public. By protecting this serene yet wild land we are giving future generations the opportunity to enjoy the same untrammeled landscape that so many now cherish.

I'd like to thank my colleagues who are original cosponsors of this measure, many of whom have supported the bill since it was first introduced. Original cosponsors are Senators KERRY, FEINGOLD, CANTWELL, MENENDEZ, CARDIN, REED, HARKIN, KENNEDY, BAYH, LIEBERMAN, STABENOW, SCHUMER, LAUTENBERG, BOXER, WHITEHOUSE, BROWN and CLINTON. Additionally, I would like to thank The Utah Wilderness Coalition, which includes The Wilderness Society and Sierra Club; The Southern Utah Wilderness Alliance; and all of the other national, regional and local, hard-working groups who, for years, have championed this legislation.

Theodore Roosevelt once stated:

''The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased and not impaired in value.''

Enactment of this legislation will help us realize Roosevelt's vision. To protect these precious resources in Utah for future generations, I urge my colleagues to support America's Red Rock Wilderness Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''America's Red Rock Wilderness Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Land Management.

(2) STATE.—The term ''State'' means the State of Utah.

TITLE I—DESIGNATION OF WILDERNESS AREAS

SEC. 101. GREAT BASIN WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—

(1) the Great Basin region of western Utah is comprised of starkly beautiful mountain ranges that rise as islands from the desert floor;

(2) the Wah Wah Mountains in the Great Basin region are arid and austere, with massive cliff faces and leathery slopes speckled with piñon and juniper;

(3) the Pilot Range and Stansbury Mountains in the Great Basin region are high enough to draw moisture from passing clouds and support ecosystems found nowhere else on earth;

(4) from bristlecone pine, the world's oldest living organism, to newly-flowered mountain meadows, mountains of the Great Basin region are islands of nature that—

(A) support remarkable biological diversity; and

(B) provide opportunities to experience the colossal silence of the Great Basin; and

(5) the Great Basin region of western Utah should be protected and managed to ensure the preservation of the natural conditions of the region.

(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Antelope Range (approximately 17,000 acres).

(2) Barn Hills (approximately 20,000 acres).

(3) Black Hills (approximately 9,000 acres).

(4) Bullgrass Knoll (approximately 15,000 acres).

(5) Burbank Hills/Tunnel Spring (approximately 92,000 acres).

(6) Conger Mountains (approximately 21,000 acres).

(7) Crater Bench (approximately 35,000 acres).

(8) Crater and Silver Island Mountains (approximately 121,000 acres).

(9) Cricket Mountains Cluster (approximately 62,000 acres).

(10) Deep Creek Mountains (approximately 126,000 acres).

(11) Drum Mountains (approximately 39,000 acres).

(12) Dugway Mountains (approximately 24,000 acres).

(13) Essex Canyon (approximately 1,300 acres).

(14) Fish Springs Range (approximately 64,000 acres).

(15) Granite Peak (approximately 19,000 acres).

(16) Grassy Mountains (approximately 23,000 acres).

(17) Grouse Creek Mountains (approximately 15,000 acres).

(18) House Range (approximately 201,000 acres).

(19) Keg Mountains (approximately 38,000 acres).

(20) Kern Mountains (approximately 15,000 acres).

(21) King Top (approximately 110,000 acres).

(22) Ledger Canyon (approximately 9,000 acres).

(23) Little Goose Creek (approximately 1,200 acres).

(24) Middle/Granite Mountains (approximately 80,000 acres).

(25) Mountain Home Range (approximately 90,000 acres).

(26) Newfoundland Mountains (approximately 22,000 acres).

(27) Ochre Mountain (approximately 13,000 acres).

(28) Oquirrh Mountains (approximately 9,000 acres).

(29) Painted Rock Mountain (approximately 26,000 acres).

(30) Paradise/Steamboat Mountains (approximately 144,000 acres).

(31) Pilot Range (approximately 45,000 acres).

(32) Red Tops (approximately 28,000 acres).

(33) Rockwell-Little Sahara (approximately 21,000 acres).

(34) San Francisco Mountains (approximately 39,000 acres).

(35) Sand Ridge (approximately 73,000 acres).

(36) Simpson Mountains (approximately 42,000 acres).

(37) Snake Valley (approximately 100,000 acres).

(38) Stansbury Island (approximately 10,000 acres).

(39) Stansbury Mountains (approximately 24,000 acres).

(40) Thomas Range (approximately 36,000 acres).

(41) Tule Valley (approximately 159,000 acres).

(42) Wah Wah Mountains (approximately 167,000 acres).

(43) Wasatch/Sevier Plateaus (approximately 29,000 acres).

(44) White Rock Range (approximately 5,200 acres).

SEC. 102. ZION AND MOJAVE DESERT WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—

(1) the renowned landscape of Zion National Park, including soaring cliff walls, forested plateaus, and deep narrow gorges, extends beyond the boundaries of the Park onto surrounding public land managed by the Secretary;

(2) from the pink sand dunes of Moquith Mountain to the golden pools of Beaver Dam Wash, the Zion and Mojave Desert areas encompass 3 major provinces of the Southwest that include—

(A) the sculpted canyon country of the Colorado Plateau;

(B) the Mojave Desert; and

(C) portions of the Great Basin;

(3) the Zion and Mojave Desert areas display a rich mosaic of biological, archaeological, and scenic diversity;

(4) 1 of the last remaining populations of threatened desert tortoise is found within this region; and

(5) the Zion and Mojave Desert areas in Utah should be protected and managed as wilderness areas.

(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Beaver Dam Mountains (approximately 30,000 acres).

(2) Beaver Dam Wash (approximately 23,000 acres).

(3) Beaver Dam Wilderness Expansion (approximately 8,000 acres).

(4) Canaan Mountain (approximately 67,000 acres).

(5) Cottonwood Canyon (approximately 12,000 acres).

(6) Cougar Canyon/Docs Pass (approximately 41,000 acres).

(7) Joshua Tree (approximately 12,000 acres).

(8) Mount Escalante (approximately 17,000 acres).

(9) Parunuweap Canyon (approximately 43,000 acres).

(10) Red Butte (approximately 4,500 acres).

(11) Red Mountain (approximately 21,000 acres).

(12) Scarecrow Peak (approximately 16,000 acres).

(13) Square Top Mountain (approximately 23,000 acres).

(14) Zion Adjacent (approximately 58,000 acres).

SEC. 103. GRAND STAIRCASE-ESCALANTE WILDERNESS AREAS.

(a) GRAND STAIRCASE AREA.—

(1) FINDINGS.—Congress finds that—

(A) the area known as the Grand Staircase rises more than 6,000 feet in a series of great cliffs and plateaus from the depths of the Grand Canyon to the forested rim of Bryce Canyon;

(B) the Grand Staircase—

(i) spans 6 major life zones, from the lower Sonoran Desert to the alpine forest; and

(ii) encompasses geologic formations that display 3,000,000,000 years of Earth's history;

(C) land managed by the Secretary lines the intricate canyon system of the Paria River and forms a vital natural corridor connection to the deserts and forests of those national parks;

(D) land described in paragraph (2) (other than East of Bryce, Upper Kanab Creek, Moquith Mountain, Bunting Point, and Vermillion Cliffs) is located within the Grand Staircase-Escalante National Monument; and

(E) the Grand Staircase in Utah should be protected and managed as a wilderness area.

(2) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(A) Bryce View (approximately 4,500 acres).

(B) Bunting Point (approximately 11,000 acres).

(C) Canaan Peak Slopes (approximately 2,300 acres).

(D) East of Bryce (approximately 750 acres).

(E) Glass Eye Canyon (approximately 24,000 acres).

(F) Ladder Canyon (approximately 14,000 acres).

(G) Moquith Mountain (approximately 16,000 acres).

(H) Nephi Point (approximately 14,000 acres).

(I) Paria-Hackberry (approximately 188,000 acres).
(J) Paria Wilderness Expansion (approximately 3,300 acres).
(K) Pine Hollow (approximately 11,000 acres).
(L) Slopes of Bryce (approximately 2,600 acres).
(M) Timber Mountain (approximately 51,000 acres).
(N) Upper Kanab Creek (approximately 49,000 acres).
(O) Vermillion Cliffs (approximately 26,000 acres).
(P) Willis Creek (approximately 21,000 acres).
(b) KAIPAROWITS PLATEAU.—
(1) FINDINGS.—Congress finds that—
(A) the Kaiparowits Plateau east of the Paria River is 1 of the most rugged and isolated wilderness regions in the United States;
(B) the Kaiparowits Plateau, a windswept land of harsh beauty, contains distant vistas and a remarkable variety of plant and animal species;
(C) ancient forests, an abundance of big game animals, and 22 species of raptors thrive undisturbed on the grassland mesa tops of the Kaiparowits Plateau;
(D) each of the areas described in paragraph (2) (other than Heaps Canyon, Little Valley, and Wide Hollow) is located within the Grand Staircase-Escalante National Monument; and
(E) the Kaiparowits Plateau should be protected and managed as a wilderness area.
(2) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(A) Andalex Not (approximately 18,000 acres).
(B) The Blues (approximately 21,000 acres).
(C) Box Canyon (approximately 2,800 acres).
(D) Burning Hills (approximately 80,000 acres).
(E) Carcass Canyon (approximately 83,000 acres).
(F) The Cockscomb (approximately 11,000 acres).
(G) Fiftymile Bench (approximately 12,000 acres).
(H) Fiftymile Mountain (approximately 203,000 acres).
(I) Heaps Canyon (approximately 4,000 acres).
(J) Horse Spring Canyon (approximately 31,000 acres).
(K) Kodachrome Headlands (approximately 10,000 acres).
(L) Little Valley Canyon (approximately 4,000 acres).
(M) Mud Spring Canyon (approximately 65,000 acres).
(N) Nipple Bench (approximately 32,000 acres).
(O) Paradise Canyon-Wahweap (approximately 262,000 acres).
(P) Rock Cove (approximately 16,000 acres).
(Q) Warm Creek (approximately 23,000 acres).
(R) Wide Hollow (approximately 6,800 acres).
(c) ESCALANTE CANYONS.—
(1) FINDINGS.—Congress finds that—
(A) glens and coves carved in massive sandstone cliffs, spring-watered hanging gardens, and the silence of ancient Anasazi ruins are examples of the unique features that entice hikers, campers, and sightseers from around the world to Escalante Canyon;
(B) Escalante Canyon links the spruce fir forests of the 11,000-foot Aquarius Plateau with winding slickrock canyons that flow into Glen Canyon;
(C) Escalante Canyon, 1 of Utah's most popular natural areas, contains critical habitat for deer, elk, and wild bighorn sheep that also enhances the scenic integrity of the area;
(D) each of the areas described in paragraph (2) is located within the Grand Staircase-Escalante National Monument; and
(E) Escalante Canyon should be protected and managed as a wilderness area.
(2) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(A) Brinkerhof Flats (approximately 3,000 acres).
(B) Colt Mesa (approximately 28,000 acres).
(C) Death Hollow (approximately 49,000 acres).
(D) Forty Mile Gulch (approximately 6,600 acres).
(E) Hurricane Wash (approximately 9,000 acres).
(F) Lampstand (approximately 7,900 acres).
(G) Muley Twist Flank (approximately 3,600 acres).
(H) North Escalante Canyons (approximately 176,000 acres).
(I) Pioneer Mesa (approximately 11,000 acres).
(J) Scorpion (approximately 53,000 acres).
(K) Sooner Bench (approximately 390 acres).
(L) Steep Creek (approximately 35,000 acres).
(M) Studhorse Peaks (approximately 24,000 acres).

SEC. 104. MOAB-LA SAL CANYONS WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the canyons surrounding the La Sal Mountains and the town of Moab offer a variety of extraordinary landscapes;
(2) outstanding examples of natural formations and landscapes in the Moab-La Sal area include the huge sandstone fins of Behind the Rocks, the mysterious Fisher Towers, and the whitewater rapids of Westwater Canyon; and
(3) the Moab-La Sal area should be protected and managed as a wilderness area.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(1) Arches Adjacent (approximately 12,000 acres).
(2) Beaver Creek (approximately 41,000 acres).
(3) Behind the Rocks and Hunters Canyon (approximately 22,000 acres).
(4) Big Triangle (approximately 20,000 acres).
(5) Coyote Wash (approximately 28,000 acres).
(6) Dome Plateau-Professor Valley (approximately 35,000 acres).
(7) Fisher Towers (approximately 18,000 acres).
(8) Goldbar Canyon (approximately 9,000 acres).
(9) Granite Creek (approximately 5,000 acres).
(10) Mary Jane Canyon (approximately 25,000 acres).
(11) Mill Creek (approximately 14,000 acres).
(12) Porcupine Rim and Morning Glory (approximately 20,000 acres).
(13) Renegade Point (approximately 6,600 acres).
(14) Westwater Canyon (approximately 37,000 acres).
(15) Yellow Bird (approximately 4,200 acres).

SEC. 105. HENRY MOUNTAINS WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the Henry Mountain Range, the last mountain range to be discovered and named by early explorers in the contiguous United States, still retains a wild and undiscovered quality;
(2) fluted badlands that surround the flanks of 11,000-foot Mounts Ellen and Pennell contain areas of critical habitat for mule deer and for the largest herd of free-roaming buffalo in the United States;
(3) despite their relative accessibility, the Henry Mountain Range remains 1 of the wildest, least-known ranges in the United States; and
(4) the Henry Mountain range should be protected and managed to ensure the preservation of the range as a wilderness area.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System.
(1) Bull Mountain (approximately 16,000 acres).
(2) Bullfrog Creek (approximately 35,000 acres).
(3) Dogwater Creek (approximately 3,400 acres).
(4) Fremont Gorge (approximately 20,000 acres).
(5) Long Canyon (approximately 16,000 acres).
(6) Mount Ellen-Blue Hills (approximately 140,000 acres).
(7) Mount Hillers (approximately 21,000 acres).
(8) Mount Pennell (approximately 147,000 acres).
(9) Notom Bench (approximately 6,200 acres).
(10) Oak Creek (approximately 1,700 acres).
(11) Ragged Mountain (approximately 28,000 acres).

SEC. 106. GLEN CANYON WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the side canyons of Glen Canyon, including the Dirty Devil River and the Red, White and Blue Canyons, contain some of the most remote and outstanding landscapes in southern Utah;
(2) the Dirty Devil River, once the fortress hideout of outlaw Butch Cassidy's Wild Bunch, has sculpted a maze of slickrock canyons through an imposing landscape of monoliths and inaccessible mesas;
(3) the Red and Blue Canyons contain colorful Chinle/Moenkopi badlands found nowhere else in the region; and
(4) the canyons of Glen Canyon in the State should be protected and managed as wilderness areas.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(1) Cane Spring Desert (approximately 18,000 acres).
(2) Dark Canyon (approximately 134,000 acres).
(3) Dirty Devil (approximately 242,000 acres).
(4) Fiddler Butte (approximately 92,000 acres).
(5) Flat Tops (approximately 30,000 acres).
(6) Little Rockies (approximately 64,000 acres).
(7) The Needle (approximately 11,000 acres).
(8) Red Rock Plateau (approximately 213,000 acres).
(9) White Canyon (approximately 98,000 acres).

SEC. 107. SAN JUAN-ANASAZI WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—

(1) more than 1,000 years ago, the Anasazi Indian culture flourished in the slickrock canyons and on the piñon-covered mesas of southeastern Utah;

(2) evidence of the ancient presence of the Anasazi pervades the Cedar Mesa area of the San Juan-Anasazi area where cliff dwellings, rock art, and ceremonial kivas embellish sandstone overhangs and isolated benchlands;

(3) the Cedar Mesa area is in need of protection from the vandalism and theft of its unique cultural resources;

(4) the Cedar Mesa wilderness areas should be created to protect both the archaeological heritage and the extraordinary wilderness, scenic, and ecological values of the United States; and

(5) the San Juan-Anasazi area should be protected and managed as a wilderness area to ensure the preservation of the unique and valuable resources of that area.

(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Allen Canyon (approximately 5,900 acres).

(2) Arch Canyon (approximately 30,000 acres).

(3) Comb Ridge (approximately 15,000 acres).

(4) East Montezuma (approximately 45,000 acres).

(5) Fish and Owl Creek Canyons (approximately 73,000 acres).

(6) Grand Gulch (approximately 159,000 acres).

(7) Hammond Canyon (approximately 4,400 acres).

(8) Nokai Dome (approximately 93,000 acres).

(9) Road Canyon (approximately 63,000 acres).

(10) San Juan River (Sugarloaf) (approximately 15,000 acres).

(11) The Tabernacle (approximately 7,000 acres).

(12) Valley of the Gods (approximately 21,000 acres).

SEC. 108. CANYONLANDS BASIN WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—

(1) Canyonlands National Park safeguards only a small portion of the extraordinary red-hued, cliff-walled canyonland region of the Colorado Plateau;

(2) areas near Arches National Park and Canyonlands National Park contain canyons with rushing perennial streams, natural arches, bridges, and towers;

(3) the gorges of the Green and Colorado Rivers lie on adjacent land managed by the Secretary;

(4) popular overlooks in Canyonlands Nations Park and Dead Horse Point State Park have views directly into adjacent areas, including Lockhart Basin and Indian Creek; and

(5) designation of those areas as wilderness would ensure the protection of this erosional masterpiece of nature and of the rich pockets of wildlife found within its expanded boundaries.

(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Bridger Jack Mesa (approximately 33,000 acres).

(2) Butler Wash (approximately 27,000 acres).

(3) Dead Horse Cliffs (approximately 5,300 acres).

(4) Demon's Playground (approximately 3,700 acres).

(5) Duma Point (approximately 14,000 acres).

(6) Gooseneck (approximately 9,000 acres).

(7) Hatch Point Canyons/Lockhart Basin (approximately 149,000 acres).

(8) Horsethief Point (approximately 15,000 acres).

(9) Indian Creek (approximately 28,000 acres).

(10) Labyrinth Canyon (approximately 150,000 acres).

(11) San Rafael River (approximately 101,000 acres).

(12) Shay Mountain (approximately 14,000 acres).

(13) Sweetwater Reef (approximately 69,000 acres).

(14) Upper Horseshoe Canyon (approximately 60,000 acres).

SEC. 109. SAN RAFAEL SWELL WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—

(1) the San Rafael Swell towers above the desert like a castle, ringed by 1,000-foot ramparts of Navajo Sandstone;

(2) the highlands of the San Rafael Swell have been fractured by uplift and rendered hollow by erosion over countless millennia, leaving a tremendous basin punctuated by mesas, buttes, and canyons and traversed by sediment-laden desert streams;

(3) among other places, the San Rafael wilderness offers exceptional back country opportunities in the colorful Wild Horse Badlands, the monoliths of North Caineville Mesa, the rock towers of Cliff Wash, and colorful cliffs of Humbug Canyon;

(4) the mountains within these areas are among Utah's most valuable habitat for desert bighorn sheep; and

(5) the San Rafael Swell area should be protected and managed to ensure its preservation as a wilderness area.

(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Cedar Mountain (approximately 15,000 acres).

(2) Devils Canyon (approximately 23,000 acres).

(3) Eagle Canyon (approximately 38,000 acres).

(4) Factory Butte (approximately 22,000 acres).

(5) Hondu Country (approximately 20,000 acres).

(6) Jones Bench (approximately 2,800 acres).

(7) Limestone Cliffs (approximately 25,000 acres).

(8) Lost Spring Wash (approximately 37,000 acres).

(9) Mexican Mountain (approximately 100,000 acres).

(10) Molen Reef (approximately 33,000 acres).

(11) Muddy Creek (approximately 240,000 acres).

(12) Mussentuchit Badlands (approximately 25,000 acres).

(13) Pleasant Creek Bench (approximately 1,100 acres).

(14) Price River-Humbug (approximately 120,000 acres).

(15) Red Desert (approximately 40,000 acres).

(16) Rock Canyon (approximately 18,000 acres).

(17) San Rafael Knob (approximately 15,000 acres).

(18) San Rafael Reef (approximately 114,000 acres).

(19) Sids Mountain (approximately 107,000 acres).

(20) Upper Muddy Creek (approximately 19,000 acres).

(21) Wild Horse Mesa (approximately 92,000 acres).

SEC. 110. BOOK CLIFFS AND UINTA BASIN WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—

(1) the Book Cliffs and Uinta Basin wilderness areas offer—

(A) unique big game hunting opportunities in verdant high-plateau forests;

(B) the opportunity for float trips of several days duration down the Green River in Desolation Canyon; and

(C) the opportunity for calm water canoe weekends on the White River;

(2) the long rampart of the Book Cliffs bounds the area on the south, while seldom-visited uplands, dissected by the rivers and streams, slope away to the north into the Uinta Basin;

(3) bears, Bighorn sheep, cougars, elk, and mule deer flourish in the back country of the Book Cliffs; and

(4) the Book Cliffs and Uinta Basin areas should be protected and managed to ensure the protection of the areas as wilderness.

(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System.

(1) Bourdette Draw (approximately 15,000 acres).

(2) Bull Canyon (approximately 2,800 acres).

(3) Chipeta (approximately 95,000 acres).

(4) Dead Horse Pass (approximately 8,000 acres).

(5) Desbrough Canyon (approximately 13,000 acres).

(6) Desolation Canyon (approximately 557,000 acres).

(7) Diamond Breaks (approximately 9,000 acres).

(8) Diamond Canyon (approximately 166,000 acres).

(9) Diamond Mountain (also known as ''Wild Mountain'') (approximately 27,000 acres).

(10) Dinosaur Adjacent (approximately 10,000 acres).

(11) Goslin Mountain (approximately 4,900 acres).

(12) Hideout Canyon (approximately 12,000 acres).

(13) Lower Bitter Creek (approximately 14,000 acres).

(14) Lower Flaming Gorge (approximately 21,000 acres).

(15) Mexico Point (approximately 15,000 acres).

(16) Moonshine Draw (also known as ''Daniels Canyon'') (approximately 10,000 acres).

(17) Mountain Home (approximately 9,000 acres).

(18) O-Wi-Yu-Kuts (approximately 13,000 acres).

(19) Red Creek Badlands (approximately 3,600 acres).

(20) Seep Canyon (approximately 21,000 acres).

(21) Sunday School Canyon (approximately 18,000 acres).

(22) Survey Point (approximately 8,000 acres).

(23) Turtle Canyon (approximately 39,000 acres).

(24) White River (approximately 24,500 acres).

(25) Winter Ridge (approximately 38,000 acres).

(26) Wolf Point (approximately 15,000 acres).

TITLE II—ADMINISTRATIVE PROVISIONS

SEC. 201. GENERAL PROVISIONS.

(a) NAMES OF WILDERNESS AREAS.—Each wilderness area named in title I shall—

(1) consist of the quantity of land referenced with respect to that named area, as

generally depicted on the map entitled ''Utah BLM Wilderness Proposed by S. [_____], 110th Congress''; and

(2) be known by the name given to it in title I.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by this Act with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the Office of the Director of the Bureau of Land Management.

SEC. 202. ADMINISTRATION.

Subject to valid rights in existence on the date of enactment of this Act, each wilderness area designated under this Act shall be administered by the Secretary in accordance with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 203. STATE SCHOOL TRUST LAND WITHIN WILDERNESS AREAS.

(a) IN GENERAL.—Subject to subsection (b), if State-owned land is included in an area designated by this Act as a wilderness area, the Secretary shall offer to exchange land owned by the United States in the State of approximately equal value in accordance with section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) and section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)).

(b) MINERAL INTERESTS.—The Secretary shall not transfer any mineral interests under subsection (a) unless the State transfers to the Secretary any mineral interests in land designated by this Act as a wilderness area.

SEC. 204. WATER.

(a) RESERVATION.—

(1) WATER FOR WILDERNESS AREAS.—

(A) IN GENERAL.—With respect to each wilderness area designated by this Act, Congress reserves a quantity of water determined by the Secretary to be sufficient for the wilderness area.

(B) PRIORITY DATE.—The priority date of a right reserved under subparagraph (A) shall be the date of enactment of this Act.

(2) PROTECTION OF RIGHTS.—The Secretary and other officers and employees of the United States shall take any steps necessary to protect the rights reserved by paragraph (1)(A), including the filing of a claim for the quantification of the rights in any present or future appropriate stream adjudication in the courts of the State—

(A) in which the United States is or may be joined; and

(B) that is conducted in accordance with section 208 of the Department of Justice Appropriation Act, 1953 (66 Stat. 560, chapter 651).

(b) PRIOR RIGHTS NOT AFFECTED.—Nothing in this Act relinquishes or reduces any water rights reserved or appropriated by the United States in the State on or before the date of enactment of this Act.

(c) ADMINISTRATION.—

(1) SPECIFICATION OF RIGHTS.—The Federal water rights reserved by this Act are specific to the wilderness areas designated by this Act.

(2) NO PRECEDENT ESTABLISHED.—Nothing in this Act related to reserved Federal water rights—

(A) shall establish a precedent with regard to any future designation of water rights; or

(B) shall affect the interpretation of any other Act or any designation made under any other Act.

SEC. 205. ROADS.

(a) SETBACKS.—

(1) MEASUREMENT IN GENERAL.—A setback under this section shall be measured from the center line of the road.

(2) WILDERNESS ON 1 SIDE OF ROADS.—Except as provided in subsection (b), a setback for a road with wilderness on only 1 side shall be set at—

(A) 300 feet from a paved Federal or State highway;

(B) 100 feet from any other paved road or high standard dirt or gravel road; and

(C) 30 feet from any other road.

(3) WILDERNESS ON BOTH SIDES OF ROADS.—Except as provided in subsection (b), a setback for a road with wilderness on both sides (including cherry-stems or roads separating 2 wilderness units) shall be set at—

(A) 200 feet from a paved Federal or State highway;

(B) 40 feet from any other paved road or high standard dirt or gravel road; and

(C) 10 feet from any other roads.

(b) SETBACK EXCEPTIONS.—

(1) WELL-DEFINED TOPOGRAPHICAL BARRIERS.—If, between the road and the boundary of a setback area described in paragraph (2) or (3) of subsection (a), there is a well-defined cliff edge, stream bank, or other topographical barrier, the Secretary shall use the barrier as the wilderness boundary.

(2) FENCES.—If, between the road and the boundary of a setback area specified in paragraph (2) or (3) of subsection (a), there is a fence running parallel to a road, the Secretary shall use the fence as the wilderness boundary if, in the opinion of the Secretary, doing so would result in a more manageable boundary.

(3) DEVIATIONS FROM SETBACK AREAS.—

(A) EXCLUSION OF DISTURBANCES FROM WILDERNESS BOUNDARIES.—In cases where there is an existing livestock development, dispersed camping area, borrow pit, or similar disturbance within 100 feet of a road that forms part of a wilderness boundary, the Secretary may delineate the boundary so as to exclude the disturbance from the wilderness area.

(B) LIMITATION ON EXCLUSION OF DISTURBANCES.—The Secretary shall make a boundary adjustment under subparagraph (A) only if the Secretary determines that doing so is consistent with wilderness management goals.

(C) DEVIATIONS RESTRICTED TO MINIMUM NECESSARY.—Any deviation under this paragraph from the setbacks required under in paragraph (2) or (3) of subsection (a) shall be the minimum necessary to exclude the disturbance.

(c) DELINEATION WITHIN SETBACK AREA.—The Secretary may delineate a wilderness boundary at a location within a setback under paragraph (2) or (3) of subsection (a) if, as determined by the Secretary, the delineation would enhance wilderness management goals.

SEC. 206. LIVESTOCK.

Within the wilderness areas designated under title I, the grazing of livestock authorized on the date of enactment of this Act shall be permitted to continue subject to such reasonable regulations and procedures as the Secretary considers necessary, as long as the regulations and procedures are consistent with—

(1) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(2) section 101(f) of the Arizona Desert Wilderness Act of 1990 (Public Law 101–628; 104 Stat. 4469).

SEC. 207. FISH AND WILDLIFE.

Nothing in this Act affects the jurisdiction of the State with respect to wildlife and fish on the public land located in the State.

SEC. 208. MANAGEMENT OF NEWLY ACQUIRED LAND.

Any land within the boundaries of a wilderness area designated under this Act that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this Act and other laws applicable to wilderness areas.

SEC. 209. WITHDRAWAL.

Subject to valid rights existing on the date of enactment of this Act, the Federal land referred to in title I is withdrawn from all forms of—

(1) entry, appropriation, or disposal under public law;

(2) location, entry, and patent under mining law; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

Mr. FEINGOLD. Mr. President, I am very pleased to again join with the Senior Senator from Illinois, Mr. DURBIN, as an original cosponsor of legislation, America's Red Rocks Wilderness Act of 2007, to designate areas of pristine Federal lands in Utah as wilderness.

I had an opportunity to travel twice to Utah. I viewed firsthand some of the lands that would be designated for wilderness under Senator DURBIN's bill. I was able to view most of the proposed wilderness areas from the air, and was able to enhance my understanding through hikes outside of the Zion National Park on the Dry Creek Bench wilderness unit contained in this proposal and inside the Grand Staircase-Escalante National Monument to Upper Calf Creek Falls. I also viewed the lands proposed for designation in this bill from a river trip down the Colorado River, and in the San Rafael Swell with members of the Emery County government.

I support this legislation, for a few reasons, but most of all because I have personally seen what is at stake, and I know the marvelous resources that Wisconsinites and all Americans own in the Bureau of Land Management, BLM, lands of southern Utah.

Second, I support this legislation because I believe it sets the broadest and boldest mark for the lands that should be protected in southern Utah. I believe that when the Senate considers wilderness legislation it ought to know, as a benchmark, the full measure of those lands which are deserving of wilderness protection. This bill encompasses all the BLM lands of wilderness quality in Utah. Unfortunately, the Senate has not, as we do today, always had the benefit of considering wilderness designations for all of the deserving lands in southern Utah. During the 104th Congress, I joined with

the former Senator from New Jersey, Mr. Bradley, in opposing that Congress's omnibus parks legislation. It contained provisions, which were eventually removed, that many in my home State of Wisconsin believed not only designated as wilderness too little of the Bureau of Land Management's holding in Utah deserving of such protection, but also substantively changed the protections afforded designated lands under the Wilderness Act of 1964.

The lands of southern Utah are very special to the people of Wisconsin. In writing to me over the last few years, my constituents have described these lands as places of solitude, special family moments, and incredible beauty. In December 1997, Ron Raunikar of the Capital Times, a paper in Madison, WI, wrote:

> Other remaining wilderness in the U.S. is at first daunting, but then endearing and always a treasure for all Americans. The sensually sculpted slickrock of the Colorado Plateau and windswept crag lines of the Great Basin include some of the last of our country's wilderness, which is not fully protected. We must ask our elected officials to redress this circumstance, by enacting legislation which would protect those national lands within the boundaries of Utah. This wilderness is a treasure we can lose only once or a legacy we can be forever proud to bestow to our children.

I believe that the measure being introduced today will accomplish that goal. The measure protects wild lands that really are not done justice by any description in words. In my trip I found widely varied and distinct terrain, remarkable American resources of red rock cliff walls, desert, canyons and gorges which encompass the canyon country of the Colorado Plateau, the Mojave Desert and portions of the Great Basin. The lands also include mountain ranges in western Utah, and stark areas like the Grand Staircase-Escalante National Monument. These regions appeal to all types of American outdoor interests from hikers and sightseers to hunters.

Phil Haslanger of the Capital Times, answered an important question I am often asked when people want to know why a Senator from Wisconsin would cosponsor legislation to protect lands in Utah. He wrote on September 13, 1995 simply that ''These are not scenes that you could see in Wisconsin. That's part of what makes them special.'' He continues, and adds what I think is an even more important reason to act to protect these lands than the landscape's uniqueness, ''the fight over wilderness lands in Utah is a test case of sorts. The anti-environmental factions in Congress are trying hard to remove restrictions on development in some of the nation's most splendid areas.''

Wisconsinites are watching this test case closely. I believe that Wisconsinites view the outcome of this fight to save Utah's lands as a sign of where the Nation is headed with respect to its stewardship of natural resources. What Haslanger's Capital Times comments make clear is that while some in Congress may express concern about creating new wilderness in Utah, wilderness, as Wisconsinites know, is not created by legislation. Legislation to protect existing wilderness ensures that future generations may have an experience on public lands equal to that which is available today. The action of Congress to preserve wild lands by extending the protections of the Wilderness Act of 1964 will publicly codify that expectation and promise.

Finally, this legislation has earned my support, and deserves the support of others in this body, because all of the acres that will be protected under this bill are already public lands held in trust by the Federal Government for the people of the United States. Thus, while they are physically located in Utah, their preservation is important to the citizens of Wisconsin as it is for other Americans.

I am eager to work with my colleague from Illinois, Mr. DURBIN, to protect these lands. I commend him for introducing this measure.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1171. A bill to amend the Colorado River Storage Project Act and Public Law 87–483 to authorize the construction and rehabilitation of water infrastructure in Northwestern New Mexico, to authorize the use of the reclamation fund to fund the Reclamation Water Settlements Fund, to authorize the conveyance of certain Reclamation land and infrastructure, to authorize the Commissioner of Reclamation to provide for the delivery of water, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, on behalf of myself and Senator DOMENICI, I am pleased today to introduce a bill which attempts to promote good stewardship of our limited water supplies in the San Juan River basin in New Mexico. The bill is entitled the ''Northwestern New Mexico Rural Water Projects Act''. Within its scope are a number of provisions relating to and amending Federal statutes that relate to the Bureau of Reclamation and the use of water in the Colorado River basin. There are also new authorizations for the Bureau of Reclamation. Finally, there are provisions that will resolve the Navajo Nation's water rights claims in the San Juan River in New Mexico. This bill is critical for New Mexico's future. I look forward to working with my colleagues in the Senate to see that it gets enacted into law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Northwestern New Mexico Rural Water Projects Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) ACRE-FEET.—The term ''acre-feet'' means acre-feet per year.

(2) AGREEMENT.—The term ''Agreement'' means the agreement among the State of New Mexico, the Nation, and the United States setting forth a stipulated and binding agreement signed by the State of New Mexico and the Nation on April 19, 2005.

(3) ANIMAS-LA PLATA PROJECT.—The term ''Animas-La Plata Project'' has the meaning given the term in section 3 of Public Law 100–585 (102 Stat. 2973), including Ridges Basin Dam, Lake Nighthorse, the Pipeline, and any other features or modifications made pursuant to the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106–554; 114 Stat. 2763A–258).

(4) CITY.—The term ''City'' means the city of Gallup, New Mexico.

(5) COMPACT.—The term ''Compact'' means the Upper Colorado River Basin Compact as consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48).

(6) CONTRACT.—The term ''Contract'' means the contract between the United States and the Nation setting forth certain commitments, rights, and obligations of the United States and the Nation, as described in paragraph 6.0 of the Agreement.

(7) DEPLETION.—The term ''depletion'' means the depletion of the flow of the San Juan River stream system in State of New Mexico by a particular use of water (including any depletion incident to the use) and represents the diversion from the stream system by the use, less return flows to the stream system from the use.

(8) DRAFT IMPACT STATEMENT.—The term ''Draft Impact Statement'' means the draft

environmental impact statement prepared by the Bureau of Reclamation for the Project dated March 2007.

(9) FUND.—The term ''Fund'' means the Reclamation Waters Settlements Fund established by section 201(a).

(10) HYDROLOGIC DETERMINATION.—The term ''hydrologic determination'' means the draft hydrologic determination entitled ''Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico,'' prepared by the Bureau of Reclamation pursuant to section 11 of the Act of June 13, 1962 (Public Law 87–483; 76 Stat. 99), and dated May 2006.

(11) NATION.—The term ''Nation'' means the Navajo Nation, a body politic and federally-recognized Indian nation as provided for in section 101(2) of the Federally Recognized Indian Tribe List of 1994 (25 U.S.C. 497a(2)), also known variously as the ''Navajo Tribe,'' the ''Navajo Tribe of Arizona, New Mexico & Utah,'' and the ''Navajo Tribe of Indians'' and other similar names, and includes all bands of Navajo Indians and chapters of the Navajo Nation.

(12) NAVAJO INDIAN IRRIGATION PROJECT.—The term ''Navajo Indian Irrigation Project'' means the Navajo Indian irrigation project authorized by section 2 of Public Law 87–483 (76 Stat. 96).

(13) NAVAJO RESERVOIR.—The term ''Navajo Reservoir'' means the reservoir created by the impoundment of the San Juan River at Navajo Dam, as authorized by the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620 et seq.).

(14) NAVAJO NATION MUNICIPAL PIPELINE.—The term ''Navajo Nation Municipal Pipeline'' means the pipeline used to convey the water of the Animas-La Plata Project of the Navajo Nation from the City of Farmington, New Mexico, to communities of the Navajo Nation located in close proximity to the San Juan River Valley in State of New Mexico (including the City of Shiprock), as authorized by section 15(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973; 114 Stat. 2763A–263).

(15) NON-NAVAJO IRRIGATION DISTRICT.—The term ''Non-Navajo Irrigation Districts'' means—

(A) the Hammond Conservancy District;

(B) the Bloomfield Irrigation District; and

(C) any other community ditch organization in the San Juan River basin in State of New Mexico.

(16) PROJECT.—The term ''Project'' means the Northwestern New Mexico Rural Water Supply Project (commonly known as the ''Navajo-Gallup Pipeline Project'') authorized under section 302(a), as substantially described as the preferred alternative in the Draft Impact Statement.

(17) PROJECT PARTICIPANTS.—The term ''Project Participants'' means the City, the Nation, and the Jicarilla Apache Nation.

(18) RESOLUTION.—The term ''Resolution'' means the Resolution of the Upper Colorado River Commission entitled ''Use and Accounting of Upper Basin Water Supplied to the Lower Basin in New Mexico by the Proposed Project'' and dated June 17, 2003.

(19) SAN JUAN RIVER RECOVERY IMPLEMENTATION PROGRAM.—The term ''San Juan River Recovery Implementation Program'' means the intergovernmental program established pursuant to the cooperative agreement dated October 21, 1992 (including any amendments to the program).

(20) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation or any other designee.

(21) STREAM ADJUDICATION.—The term ''stream adjudication'' means the general stream adjudication that is the subject of New Mexico v. United States, et al., No. 75–185 (11th Jud. Dist., San Juan County, New Mexico) (involving claims to waters of the San Juan River and the tributaries of that river).

(22) TRUST FUND.—The term ''Trust Fund'' means the Navajo Nation Water Resources Development Trust Fund established by section 402(a).

SEC. 3. COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) EFFECT OF EXECUTION OF AGREEMENT.—The execution of the Agreement under section 401(a)(2) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this Act, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

TITLE I—AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT AND PUBLIC LAW 87–483

SEC. 101. AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT.

(a) PARTICIPATING PROJECTS.—Paragraph (2) of the first section of the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620(2)) is amended by inserting ''the Northwestern New Mexico Rural Water Supply Project,'' after ''Fruitland Mesa,''.

(b) NAVAJO RESERVOIR WATER BANK.—The Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') is amended—

(1) by redesignating section 16 (43 U.S.C. 620o) as section 17; and

(2) by inserting after section 15 (43 U.S.C. 620n) the following:

''SEC. 16. (a) The Secretary of the Interior may create and operate within the available capacity of Navajo Reservoir a top water bank.

''(b) Water made available for the top water bank in accordance with subsections (c) and (d) shall not be subject to section 11 of Public Law 87–483 (76 Stat. 99).

''(c) The top water bank authorized under subsection (a) shall be operated in a manner that—

''(1) is consistent with applicable law; and

''(2) does not impair the ability of the Secretary of the Interior to deliver water under contracts entered into under—

''(A) Public Law 87–483 (76 Stat. 96); and

''(B) New Mexico State Engineer File Nos. 2847, 2848, 2849, and 2917.

''(d)(1) The Secretary of the Interior, in cooperation with the State of New Mexico (acting through the Interstate Stream Commission), shall develop any terms and procedures for the storage, accounting, and release of water in the top water bank that are necessary to comply with subsection (c).

''(2) The terms and procedures developed under paragraph (1) shall include provisions requiring that—

''(A) the storage of banked water shall be subject to approval under State law by the New Mexico State Engineer to ensure that impairment of any existing water right does not occur, including storage of water under New Mexico State Engineer File No. 2849;

''(B) water in the top water bank be subject to evaporation and other losses during storage;

''(C) water in the top water bank be released for delivery to the owner or assigns of the banked water on request of the owner, subject to reasonable scheduling requirements for making the release; and

''(D) water in the top water bank be the first water spilled or released for flood control purposes in anticipation of a spill, on the condition that top water bank water shall not be released or included for purposes of calculating whether a release should occur for purposes of satisfying releases required under the San Juan River Recovery Implementation Program.

''(e) The Secretary of the Interior may charge fees to water users that use the top water bank in amounts sufficient to cover the costs incurred by the United States in administering the water bank.''.

SEC. 102. AMENDMENTS TO PUBLIC LAW 87–483.

(a) NAVAJO INDIAN IRRIGATION PROJECT.—Public Law 87–483 (76 Stat. 96) is amended by striking section 2 and inserting the following:

''SEC. 2. (a) In accordance with the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act') (43 U.S.C. 620 et seq.), the Secretary of the Interior is authorized to construct, operate, and maintain the Navajo Indian Irrigation Project to provide irrigation water to a service area of not more than 110,630 acres of land.

''(b)(1) Subject to paragraph (2), the average diversion by the Navajo Indian Irrigation Project from the Navajo Reservoir over any consecutive 10-year period shall be the lesser of—

''(A) 508,000 acre-feet per year; or

''(B) the quantity of water necessary to supply an average depletion of 270,000 acre-feet per year.

''(2) The quantity of water diverted for any 1 year shall not be more than 15 percent of the average diversion determined under paragraph (1).

''(c) In addition to being used for irrigation, the water diverted by the Navajo Indian Irrigation Project under subsection (b) may be used within the area served by Navajo Indian Irrigation Project facilities for the following purposes:

''(1) Aquaculture purposes, including the rearing of fish in support of the San Juan River Basin Recovery Implementation Program authorized by Public Law 106–392 (114 Stat. 1602).

''(2) Domestic, industrial, or commercial purposes relating to agricultural production and processing.

''(3) The generation of hydroelectric power as an incident to the diversion of water by the Navajo Indian Irrigation Project for authorized purposes.

''(4) The implementation of the alternate water source provisions described in subparagraph 9.2 of the agreement executed under section 401(a)(2) of the Northwestern New Mexico Rural Water Projects Act.

''(d) The Navajo Indian Irrigation Project water diverted under subsection (b) may be transferred to areas located within or outside the area served by Navajo Indian Irrigation Project facilities, and within or outside the boundaries of the Navajo Nation, for any beneficial use in accordance with—

''(1) the agreement executed under section 401(a)(2) of the Northwestern New Mexico Rural Water Projects Act;

''(2) the contract executed under section 304(a)(2)(B) of the Northwestern New Mexico Rural Water Projects Act; and

''(3) any other applicable law.

''(e)(1) The Secretary may use the capacity of the Navajo Indian Irrigation Project works to convey water supplies for—

''(A) the Northwestern New Mexico Rural Water Supply Project under section 302 of the Northwestern New Mexico Rural Water Projects Act; or

''(B) other nonirrigation purposes authorized under subsection (c) or (d).

''(2) The Secretary shall not reallocate, or require repayment of, construction costs of the Navajo Indian Irrigation Project because of the conveyance of water supplies under paragraph (1).''.

(b) RUNOFF ABOVE NAVAJO DAM.—Section 11 of Public Law 87–483 (76 Stat. 100) is amended by adding at the end the following:

''(d)(1) For purposes of implementing in a year of prospective shortage the water allocation procedures established by subsection (a), the Secretary of the Interior shall determine the quantity of any shortages and the appropriate apportionment of water using the normal diversion requirements on the flow of the San Juan River originating above Navajo Dam based on the following criteria:

''(A) The quantity of diversion or water delivery for the current year anticipated to be necessary to irrigate land in accordance with cropping plans prepared by contractors.

''(B) The annual diversion or water delivery demands for the current year anticipated for non-irrigation uses under water delivery contracts, including the demand for delivery for uses in the State of Arizona under the Northwestern New Mexico Rural Water Supply Project authorized by section 302(a) of the Northwestern New Mexico Rural Water Projects Act, but excluding any current demand for surface water for placement into aquifer storage for future recovery and use.

''(C) An annual normal diversion demand of 135,000 acre-feet for the initial stage of the San Juan-Chama Project authorized by section 8.

''(2) The Secretary shall not include in the normal diversion requirements—

''(A) the quantity of water that reliably can be anticipated to be diverted or delivered under a contract from inflows to the San Juan River arising below Navajo Dam under New Mexico State Engineer File No. 3215; or

''(B) the quantity of water anticipated to be supplied through reuse.

''(3) If the State of New Mexico determines that water uses under Navajo Reservoir water supply contracts or diversions by the San Juan-Chama Project need to be reduced in any 1 year for the State to comply with the Upper Colorado River Basin Compact, as consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), the Secretary shall reduce the normal diversion requirements for the year to reflect the water use or diversion limitations imposed by the State of New Mexico.

''(e)(1) If the Secretary determines that there is a shortage of water under subsection (a), the Secretary shall allocate the shortage to the demands on the Navajo Reservoir water supply in the following order of priority:

''(A) The demand for delivery for uses in the State of Arizona under the Northwestern New Mexico Rural Water Supply Project authorized by section 303 of the Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for the uses from inflows to the San Juan River that arise below Navajo Dam in accordance with New Mexico State Engineer File No. 3215.

''(B) The demand for delivery for uses allocated under paragraph 8.2 of the agreement executed under section 401(a)(2) of the Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for such uses under State Engineer File No. 3215.

''(C) The uses in the State of New Mexico that are determined under subsection (d), in accordance with the procedure for apportioning the water supply under subsection (a).

''(2) For any year for which the Secretary determines and allocates a shortage in the Navajo Reservoir water supply, the Secretary shall not deliver, and contractors of the water supply shall not divert, any of the water supply for placement into aquifer storage for future recovery and use.

''(3) To determine the occurrence and amount of any shortage to contracts entered into under this section, the Secretary shall not include as available storage any water stored in a top water bank in Navajo Reservoir established under section 16(a) of the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act').

''(f) The Secretary of the Interior shall apply the sharing and apportionment of water determined under subsections (a), (d), and (e) on an annual volume basis.

''(g) The Secretary of the Interior may revise a determination of shortages, apportionments, or allocations of water under subsections (a), (d), and (e) on the basis of information relating to water supply conditions that was not available at the time at which the determination was made.

''(h) Nothing in this section prohibits the Secretary from reallocating water for any year, including a year in which a shortage is determined under subsection (a), in accordance with cooperative water agreements between water users providing for a sharing of water supplies.

''(i) Any water available for diversion under New Mexico State Engineer File No. 3215 shall be distributed, to the maximum extent practicable, in proportionate amounts to the diversion demands of all contractors and subcontractors of the Navajo Reservoir water supply that are diverting water below Navajo Dam.''.

SEC. 103. EFFECT ON FEDERAL WATER LAW.

Unless expressly provided in this Act, nothing in this Act modifies, conflicts with, preempts, or otherwise affects—

(1) the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(2) the Boulder Canyon Project Adjustment Act (54 Stat. 774, chapter 643);

(3) the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620 et seq.);

(4) the Act of September 30, 1968 (commonly known as the ''Colorado River Basin Project Act'') (82 Stat. 885);

(5) Public Law 87–483 (76 Stat. 96);

(6) the Treaty between the United States of America and Mexico representing utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington February 3, 1944 (59 Stat. 1219);

(7) the Colorado River Compact of 1922, as approved by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000);

(8) the Compact;

(9) the Act of April 6, 1949 (63 Stat. 31, chapter 48);

(10) the Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2237); or

(11) section 205 of the Energy and Water Development Appropriations Act, 2005 (118 Stat. 2949).

TITLE II—RECLAMATION WATER SETTLEMENTS FUND

SEC. 201. RECLAMATION WATER SETTLEMENTS FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Reclamation Water Settlements Fund'', consisting of—

(1) such amounts as are deposited to the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund under subsection (d).

(b) DEPOSITS TO FUND.—

(1) IN GENERAL.—For each of fiscal years 2018 through 2028, the Secretary of the Treasury shall deposit in the Fund, if available, $100,000,000 of the revenues that would otherwise be deposited for the fiscal year in the fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093).

(2) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Fund under paragraph (1) shall be made available pursuant to this section—

(A) without further appropriation; and

(B) in addition to amounts appropriated pursuant to any authorization contained in any other provision of law.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—For each of fiscal years 2018 through 2030, on request by the Secretary pursuant to paragraphs (2) and (3), the Secretary of the Treasury shall transfer from the Fund to the Secretary an amount not to exceed $100,000,000 for the fiscal year requested.

(2) REQUESTS.—The Secretary may request a transfer from the Fund to implement a settlement agreement approved by Congress that resolves, in whole or in part, litigation involving the United States or any other agreement approved by Congress that is entered into by the Secretary, if the settlement or other agreement requires the Bureau of Reclamation to plan, design, and construct—

(A) water supply infrastructure; or

(B) a project—

(i) to rehabilitate a water delivery system to conserve water; or

(ii) to restore fish and wildlife habitat or otherwise improve environmental conditions associated with or affected by a reclamation project that is in existence on the date of enactment of this Act.

(3) USE FOR COMPLETION OF PROJECT.—

(A) PRIORITIES.—

(i) FIRST PRIORITY.—The first priority for expenditure of amounts in the Fund shall be for the purposes described in subparagraph (B).

(ii) OTHER PURPOSES.—Any amounts in the Fund that are not needed for the purposes described in subparagraph (B) may be used for other purposes authorized in paragraph (2).

(B) COMPLETION OF PROJECT.—Effective beginning January 1, 2018, if, in the judgment of the Secretary, the deadline described in section 401(f)(1)(A)(ix) is unlikely to be met because a sufficient amount of funding is not otherwise available through appropriations made available pursuant to section 309(a), the Secretary shall request the Secretary of the Treasury to transfer from the Fund to the Secretary such amounts on an annual basis pursuant to paragraph (1), not to exceed a total of $500,000,000, as are necessary to pay the Federal share of the costs, and substantially complete as expeditiously as practicable, the construction of the water supply infrastructure authorized as part of the Project.

(C) PROHIBITED USE OF FUND.—The Secretary shall not use any amount transferred from the Fund under subparagraph (A) to carry out any other feature or activity described in title IV other than a feature or activity relating to the construction of the water supply infrastructure authorized as part of the Project.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) TERMINATION.—On September 30, 2030—

(1) the Fund shall terminate; and

(2) the unexpended and unobligated balance of the Fund shall be transferred to the general fund of the Treasury.

TITLE III—NORTHWESTERN NEW MEXICO RURAL WATER SUPPLY PROJECT

SEC. 301. PURPOSES.

The purposes of this subtitle are—

(1) to authorize the Secretary to construct the Northwestern New Mexico Rural Water Supply Project;

(2) to allocate the water supply for the Project among the Nation, the city of Gallup, New Mexico, and the Jicarilla Apache Nation; and

(3) to authorize the Secretary to enter into Project repayment contracts with the city of Gallup and the Jicarilla Apache Nation.

SEC. 302. AUTHORIZATION OF NORTHWESTERN NEW MEXICO RURAL WATER SUPPLY PROJECT.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, is authorized to design, construct, operate, and maintain the Project in substantial accordance with the preferred alternative in the Draft Impact Statement.

(b) PROJECT FACILITIES.—To provide for the delivery of San Juan River water to Project Participants, the Secretary may construct, operate, and maintain the Project facilities described in the preferred alternative in the Draft Impact Statement, including:

(1) A pumping plant on the San Juan River in the vicinity of Kirtland, New Mexico.

(2)(A) A main pipeline from the San Juan River near Kirtland, New Mexico, to Shiprock, New Mexico, and Gallup, New Mexico, which follows United States Highway 491.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).

(3)(A) A main pipeline from Cutter Reservoir to Ojo Encino, New Mexico, which follows United States Highway 550.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).

(4)(A) Lateral pipelines from the main pipelines to Nation communities in the States of New Mexico and Arizona.

(B) Any pumping plants associated with the pipelines authorized under subparagraph (A).

(5) Any water regulation, storage or treatment facility, service connection to an existing public water supply system, power substation, power distribution works, or other appurtenant works (including a building or access road) that is related to the Project facilities authorized by paragraphs (1) through (4), including power transmission facilities to connect Project facilities to existing high-voltage transmission facilities.

(c) ACQUISITION OF LAND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may acquire any land or interest in land that is necessary to construct, operate, and maintain the Project facilities authorized under subsection (b).

(2) LIMITATION.—The Secretary may not condemn water rights for purposes of the Project.

(d) CONDITIONS.—

(1) IN GENERAL.—The Secretary shall not commence construction of the facilities authorized under subsection (b) until such time as—

(A) the Secretary executes the Agreement and the Contract;

(B) the contracts authorized under section 304 are executed;

(C) the Secretary—

(i) completes an environmental impact statement for the Project; and

(ii) has issued a record of decision that provides for a preferred alternative; and

(D) the State of New Mexico has made arrangements with the Secretary to contribute $25,000,000 toward the construction costs of the Project.

(2) COST SHARING.—State contributions required under paragraph (1)(D) shall be in addition to amounts that the State of New Mexico contributes for the planning and construction of regional facilities to distribute Project water to the City and surrounding Nation communities before the date on which the City executes a repayment contract under section 304(b).

(3) EFFECT.—The design and construction of the Project shall not be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(e) POWER ISSUES.—

(1) RESERVATION.—The Secretary shall reserve, from existing reservations of Colorado River Storage Project power for Bureau of Reclamation projects, up to 26 megawatts of power for use by the Project.

(2) REALLOCATION OF COSTS.—Notwithstanding the Act of April 11, 1956 (commonly known as the ''Colorado River Storage Project Act'') (43 U.S.C. 620 et seq.), the Secretary shall not reallocate or reassign any cost associated with the Project from an entity covered by this title to the power function.

(f) CONVEYANCE OF PROJECT FACILITIES.—

(1) IN GENERAL.—The Secretary is authorized to enter into separate agreements with the City and the Nation to convey each Project facility authorized under subsection (b) to the City and the Nation after—

(A) completion of construction of the Project; and

(B) execution of a Project operations agreement approved by the Secretary and the Project Participants that sets forth—

(i) any terms and conditions that the Secretary determines are necessary—

(I) to ensure the continuation of the intended benefits of the Project; and

(II) to fulfill the purposes of this subtitle;

(ii) requirements acceptable to the Secretary and the Project Participants for—

(I) the distribution of water under the Project; and

(II) the allocation and payment of annual operation, maintenance, and replacement costs of the Project based on the proportionate uses of Project facilities; and

(iii) conditions and requirements acceptable to the Secretary and the Project Participants for operating and maintaining each Project facility on completion of the conveyance, including the requirement that the City and the Nation shall—

(I) comply with—

(aa) the Compact; and

(bb) other applicable law; and

(II) be responsible for—

(aa) the operation, maintenance, and replacement of each Project facility; and

(bb) the accounting and management of water conveyance and Project finances, as necessary to administer and fulfill the conditions of the Contract executed under section 304(a)(2)(B).

(2) CONVEYANCE TO THE CITY OF GALLUP OR NAVAJO NATION.—In conveying a Project facility under this subsection, the Secretary shall convey to—

(A) the City the facilities and any land or interest in land acquired by the United States for the construction, operation, and maintenance of the Project that are located within the corporate boundaries of the City; and

(B) the Nation the facilities and any land or interests in land acquired by the United States for the construction, operation, and maintenance of the Project that are located outside the corporate boundaries of the City.

(3) EFFECT OF CONVEYANCE.—The conveyance of each Project facility shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) relating to the use of the water associated with the Project.

(4) NOTICE OF PROPOSED CONVEYANCE.—Not later than 45 days before the date of a proposed conveyance of any Project facility, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate notice of the conveyance of each Project facility.

(g) COLORADO RIVER STORAGE PROJECT POWER.—The conveyance of Project facilities under subsection (f) shall not affect the availability of Colorado River Storage Project power to the Project under subsection (e).

(h) REGIONAL USE OF PROJECT FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), Project facilities constructed under subsection (b) may be used to treat and convey non-Project water or water that is not allocated by subsection 303(b) if—

(A) capacity is available without impairing any water delivery to a Project Participant; and

(B) the unallocated or non-Project water beneficiary—

(i) has the right to use the water;

(ii) agrees to pay the operation, maintenance, and replacement costs assignable to the beneficiary for the use of the Project facilities; and

(iii) agrees to pay a fee established by the Secretary to assist in the recovery of any capital cost relating to that use.

(2) EFFECT OF PAYMENTS.—Any payments to the United States or the Nation for the use of unused capacity under this subsection or for water under any subcontract with the Nation or the Jicarilla Apache Nation shall not alter the construction repayment requirements or the operation, maintenance, and replacement payment requirements of the Project Participants.

SEC. 303. DELIVERY AND USE OF NORTHWESTERN NEW MEXICO RURAL WATER SUPPLY PROJECT WATER.

(a) USE OF PROJECT WATER.—

(1) IN GENERAL.—In accordance with this Act and other applicable law, water supply from the Project shall be used for municipal, industrial, commercial, domestic, and stock watering purposes.

(2) USE ON CERTAIN LAND.—

(A) IN GENERAL.—Subject to subparagraph (B), the Nation may use Project water allocations on—

(i) land held by the United States in trust for the Nation and members of the Nation; and

(ii) land held in fee by the Nation.

(B) TRANSFER.—The Nation may transfer the purposes and places of use of the allocated water in accordance with the Agreement and applicable law.

(3) HYDROELECTRIC POWER.—Hydroelectric power may be generated as an incident to the delivery of Project water under paragraph (1).

(4) STORAGE.—

(A) IN GENERAL.—Subject to subparagraph (B), any water contracted for delivery under paragraph (1) that is not needed for current water demands or uses may be delivered by the Project for placement in underground storage in the State of New Mexico for future recovery and use.

(B) STATE APPROVAL.—Delivery of water under subparagraph (A) is subject to—

(i) approval by the State of New Mexico under applicable provisions of State law relating to aquifer storage and recovery; and

(ii) the provisions of the Agreement and this Act.

(b) PROJECT WATER AND CAPACITY ALLOCATIONS.—

(1) DIVERSION.—The Project shall divert from the Navajo Reservoir and the San Juan River a quantity of water that does not exceed the lesser of—

(A) 37,760 acre-feet of water; or

(B) the quantity of water necessary to supply a depletion from the San Juan River of 35,890 acre-feet.

(2) ALLOCATION.—

(A) IN GENERAL.—Water diverted under paragraph (1) shall be allocated to the Project Participants in accordance with subparagraphs (B) through (E), other provisions of this Act, and other applicable law.

(B) ALLOCATION TO THE CITY OF GALLUP.—The Project shall deliver at the point of diversion from the San Juan River not more than 7,500 acre-feet of water for use by the City.

(C) ALLOCATION TO NAVAJO NATION COMMUNITIES IN NEW MEXICO.—For use by the Nation in the State of New Mexico, the Project shall deliver at the points of diversion from the San Juan River or at Navajo Reservoir the lesser of—

(i) 22,650 acre-feet of water; or

(ii) the quantity of water necessary to supply a depletion from the San Juan River of 20,780 acre-feet of water.

(D) ALLOCATION TO NAVAJO NATION COMMUNITIES IN ARIZONA.—In accordance with subsection (d), the Project may deliver at the point of diversion from the San Juan River not more than 6,411 acre-feet of water for use by the Nation in the State of Arizona.

(E) ALLOCATION TO JICARILLA APACHE NATION.—The Project shall deliver at Navajo Reservoir not more than 1,200 acre-feet of water for use by the Jicarilla Apache Nation in the southern portion of the Jicarilla Apache Nation Reservation in the State of New Mexico.

(3) USE IN EXCESS OF ALLOCATION QUANTITY.—Notwithstanding each allocation quantity limit described in subparagraphs (B), (C), and (E) of paragraph (2), the Secretary may authorize a Project Participant to exceed the allocation quantity limit of that Project Participant if—

(A) capacity is available without impairing any water delivery to any other Project Participant; and

(B) the Project Participant benefitting from the increased allocation quantity—

(i) has the right to use the additional water;

(ii) agrees to pay the operation, maintenance, and replacement costs relating to the additional use any Project facility; and

(iii) agrees to pay a fee established by the Secretary to assist in recovering capital costs relating to that additional use.

(c) SOURCES OF WATER.—The sources of water for the Project allocated by subsection (b) shall be water originating in—

(1) drainage of the San Juan River above Navajo Dam, to be supplied under New Mexico State Engineer File No. 2849; and

(2) inflow to the San Juan River arising below Navajo Dam, to be supplied under New Mexico State Engineer File No. 3215.

(d) CONDITIONS FOR USE IN ARIZONA.—

(1) REQUIREMENTS.—Project water shall not be delivered for use by any community of the Nation in the State of Arizona under subsection (b)(2)(D) until the date on which—

(A) the Secretary determines by hydrologic investigation that sufficient water is reasonably likely to be available to supply uses from water of the Colorado River system allocated to the State of Arizona;

(B) the Secretary submits to Congress the determination described in subparagraph (A);

(C) the Secretary determines that the uses in the State of Arizona are within the apportionment of the water of the Colorado River made to the State of Arizona through compact, statute, or court decree;

(D) Congress has approved a Navajo Reservoir supply contract between the Nation and the United States to provide for the delivery of Project water for the uses in Arizona;

(E) the Navajo Nation and the State of Arizona have entered into an agreement providing for delivery of water of the Project for uses in Arizona; and

(F) any other determination is made as may be required by the Compact.

(2) ACCOUNTING OF USES IN ARIZONA.—Any depletion of water from the San Juan River stream system in the State of New Mexico that results from the diversion of water by the Project for uses within the State of Arizona (including depletion incidental to the diversion, impounding, or conveyance of water in the State of New Mexico for uses in the State of Arizona)—

(A) shall be accounted for as a part of the Colorado River System apportionments to the State of Arizona; and

(B) shall not increase the total quantity of water to which the State of Arizona is entitled to use under any compact, statute, or court decree.

(e) FORBEARANCE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), during any year in which a shortage to the normal diversion requirement for any use relating to the Project within the State of Arizona occurs (as determined under section 11 of Public Law 87–483 (76 Stat. 99)), the Nation may temporarily forbear the delivery of the water supply of the Navajo Reservoir for uses in the State of New Mexico under the apportionments of water to the Navajo Indian Irrigation Project and the normal diversion requirements of the Project to allow an equivalent quantity of water to be delivered from the Navajo Reservoir water supply for municipal and domestic uses of the Nation in the State of Arizona under the Project.

(2) LIMITATION OF FORBEARANCE.—The Nation may forebear the delivery of water under paragraph (1) of a quantity not exceeding the quantity of the shortage to the normal diversion requirement for any use relating to the Project within the State of Arizona.

(3) EFFECT.—The forbearance of the delivery of water under paragraph (1) shall be subject to the requirements relating to accounting and water quantity described in subsection (d)(2).

(f) EFFECT.—Nothing in this Act—

(1) authorizes the marketing, leasing, or transfer of the water supplies made available to the Nation under the Contract to non-Navajo water users in States other than the State of New Mexico; or

(2) authorizes the forbearance of water uses in the State of New Mexico to allow uses of water in other States other than as authorized under subsection (e).

(g) CONSISTENCY WITH UPPER COLORADO RIVER BASIN COMPACT.—In accordance with the Resolution and notwithstanding any other provision of law—

(1) water may be diverted by the Project from the San Juan River in the State of New Mexico for use in the Lower Colorado River Basin in the State of New Mexico; and

(2) water diverted under paragraph (1) shall be a part of the consumptive use apportionment made to the State of New Mexico by Article III(a) of the Compact.

SEC. 304. PROJECT CONTRACTS.

(a) NAVAJO NATION CONTRACT.—

(1) HYDROLOGIC DETERMINATION.—Congress recognizes that the Hydrologic Determination satisfactory to support approval of the Contract has been completed.

(2) CONTRACT APPROVAL.—

(A) APPROVAL.—

(i) IN GENERAL.—Except to the extent that any provision of the Contract conflicts with this Act, Congress approves, ratifies, and incorporates by reference the Contract.

(ii) AMENDMENTS.—To the extent any amendment is executed to make the Contract consistent with this Act, that amendment is authorized, ratified, and confirmed.

(B) EXECUTION OF CONTRACT.—The Secretary, acting on behalf of the United States, shall enter into the Contract to the extent that the Contract does not conflict with this Act (including any amendment that is required to make the Contract consistent with this Act).

(3) NO REPAYMENT OBLIGATION.—The Nation is not obligated to repay—

(A) any share of the construction costs of the Nation relating to the Project authorized by section 302(a); or

(B) any costs relating to the construction of the Navajo Indian Irrigation Project that may otherwise be allocable to the Nation for use of any facility of the Navajo Indian Irrigation Project to convey water to each Navajo community under the Project.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT OBLIGATION.—Subject to subsection (f), the Nation shall pay any costs relating to the operation, maintenance, and replacement of each facility of the Project that are allocable to the Nation.

(5) LIMITATION, CANCELLATION, TERMINATION, AND RESCISSION.—The Contract may be limited by a term of years, canceled, terminated, or rescinded only by an Act of Congress.

(b) CITY OF GALLUP CONTRACT.—

(1) CONTRACT AUTHORIZATION.—To the extent consistent with this Act, the Secretary is authorized to enter into a repayment contract with the City that requires the City—

(A) to repay, within a 50-year period, the share of any construction cost of the City relating to the Project; and

(B) to pay the operation, maintenance, and replacement costs of the Project that are allocable to the City.

(2) SHARE OF CONSTRUCTION COSTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the share of the construction costs of the City relating to the Project, based on the ability of the City to pay the construction costs of each facility of the Project that is allocable to the City.

(B) MINIMUM PERCENTAGE.—The share of the construction costs of the City shall be at least 25 percent of the construction costs of the Project that are allocable to the City.

(3) EXCESS CONSTRUCTION COSTS.—Any construction costs of the Project allocable to

providing capacity to deliver water to the City that are in excess of the share of the City of the construction costs of the Project, as determined under paragraph (2), shall be nonreimbursable.

(4) GRANT FUNDS.—A grant from any other Federal source shall not be credited toward the amount required to be repaid by the City under a repayment contract.

(5) TITLE TRANSFER.—If title is transferred to the City prior to repayment under section 302(f), the City shall be required to provide assurances satisfactory to the Secretary of fulfillment of the remaining repayment obligation of the City.

(6) OPERATION, MAINTENANCE AND REPLACEMENT OBLIGATION.—The City shall pay the operation, maintenance, and replacement costs for each facility of the Project that is allocable to the City.

(7) WATER DELIVERY SUBCONTRACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall not enter into a contract under paragraph (1) with the City until the City has secured a water supply for the portion of the Project for which the City is responsible by entering into, as approved by the Secretary, a water delivery subcontract for a period of not less than 40 years beginning on the date on which the construction of any facility of the Project serving the City is completed, but for a period not exceeding 99 years, with—

(i) the Nation, as authorized by the Contract; or

(ii) the Jicarilla Apache Nation, as authorized by the settlement contract between the United States and the Jicarilla Apache Tribe, authorized by the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102–441; 106 Stat. 2237).

(B) EFFECT.—Nothing in this paragraph—

(i) prevents the City from obtaining an alternate source of water for the portion of the Project for which the City is responsible, subject to approval of the Secretary and the State of New Mexico, acting through the New Mexico Interstate Stream Commission and the New Mexico State Engineer; or

(ii) obligates the Nation or the Jicarilla Apache Nation to enter into a water delivery subcontract with the City.

(c) JICARILLA APACHE NATION CONTRACT.—

(1) CONTRACT AUTHORIZATION.—To the extent consistent with this Act, the Secretary is authorized to enter into a repayment contract with the Jicarilla Apache Nation that requires the Jicarilla Apache Nation—

(A) to repay, within a 50-year period, the share of any construction cost of the Jicarilla Apache Nation relating to the Project; and

(B) to pay the operation, maintenance, and replacement costs of the Project that are allocable to the Jicarilla Apache Nation.

(2) SHARE OF CONSTRUCTION COSTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the share of the Jicarilla Apache Nation of the construction costs of the Project, based on the ability of the Jicarilla Apache Nation to pay the construction costs of the Project facilities that are allocable to the Jicarilla Apache Nation.

(B) MINIMUM PERCENTAGE.—The share of the Jicarilla Apache Nation under subparagraph (A) shall be at least 25 percent of the construction costs of the Project that are allocable to the Jicarilla Apache Nation.

(3) EXCESS CONSTRUCTION COSTS.—Any construction costs of the Project allocable to providing capacity to deliver water to the Jicarilla Apache Nation that are in excess of the share of the Jicarilla Apache Nation of the construction costs of the Project, as determined under paragraph (2), shall be nonreimbursable.

(4) GRANT FUNDS.—A grant from any other Federal source shall not be credited toward the share of the Jicarilla Apache Nation of construction costs.

(5) NAVAJO INDIAN IRRIGATION PROJECT COSTS.—The Jicarilla Apache Nation shall have no obligation to repay any Navajo Indian Irrigation Project construction costs that might otherwise be allocable to the Jicarilla Apache Nation for use of the Navajo Indian Irrigation Project facilities to convey water to the Jicarilla Apache Nation.

(6) OPERATION, MAINTENANCE AND REPLACEMENT OBLIGATION.—The Jicarilla Apache Nation shall pay the operation, maintenance, and replacement costs relating to each facility of the Project that are allocable to the Jicarilla Apache Nation.

(d) CAPITAL COST ALLOCATIONS.—For purposes of determining the capital repayment requirements of the Project Participants under this section, the Secretary shall review and, as appropriate, update the report prepared by the Bureau of Reclamation in the Draft Impact Statement allocating capital construction costs for the Project.

(e) OPERATION, MAINTENANCE, AND REPLACEMENT COST ALLOCATIONS.—For purposes of determining the operation, maintenance, and replacement obligations of the Project Participants under this section, the Secretary shall review and, as appropriate, update the report prepared by the Bureau of Reclamation in the Draft Impact Statement that allocates operation, maintenance, and replacement costs for the Project.

(f) TEMPORARY WAIVERS OF PAYMENTS.—

(1) IN GENERAL.—On the date on which the Project is substantially complete and the Nation receives a delivery of water generated by the Project, the Secretary may waive, for a period of not more than 10 years, the operation, maintenance, and replacement costs of the Project allocable to the Nation that the Secretary determines are in excess of the ability of the Nation to pay.

(2) PAYMENT BY UNITED STATES.—Any operation, maintenance, or replacement costs waived by the Secretary under paragraph (1) shall be paid by the United States.

(3) EFFECT ON CONTRACTS.—Failure of the Secretary to waive costs under paragraph (1) because of a lack of availability of Federal funding to pay the costs under paragraph (2) shall not alter the obligations of the Nation or the United States under a repayment contract.

(4) TERMINATION OF AUTHORITY.—The authority of the Secretary to waive costs under paragraph (1) with respect to a Project facility transferred to the Nation under section 302(f) shall terminate on the date on which the Project facility is transferred.

SEC. 305. USE OF NAVAJO NATION MUNICIPAL PIPELINE.

In addition to use of the Navajo Nation Municipal Pipeline to convey the Animas-La Plata Project water of the Nation, the Nation may use the Navajo Nation Municipal Pipeline to convey water for other purposes (including purposes relating to the Project).

SEC. 306. AUTHORIZATION OF CONJUNCTIVE USE WELLS.

(a) CONJUNCTIVE GROUNDWATER DEVELOPMENT PLAN.—Not later than 1 year after the date of enactment of this Act, the Nation, in consultation with the Secretary, shall complete a conjunctive groundwater development plan for the wells described in subsections (b) and (c).

(b) WELLS IN THE SAN JUAN RIVER BASIN.—In accordance with the conjunctive groundwater development plan, the Secretary may construct or rehabilitate wells and related pipeline facilities to provide capacity for the diversion and distribution of not more than 1,670 acre-feet of groundwater in the San Juan River Basin in the State of New Mexico for municipal and domestic uses.

(c) WELLS IN THE LITTLE COLORADO AND RIO GRANDE BASINS.—

(1) IN GENERAL.—In accordance with the Project and conjunctive groundwater development plan for the Nation, the Secretary may construct or rehabilitate wells and related pipeline facilities to provide capacity for the diversion and distribution of—

(A) not more than 680 acre-feet of groundwater in the Little Colorado River Basin in the State of New Mexico;

(B) not more than 80 acre-feet of groundwater in the Rio Grande Basin in the State of New Mexico; and

(C) not more than 770 acre-feet of groundwater in the Little Colorado River Basin in the State of Arizona.

(2) USE.—Groundwater diverted and distributed under paragraph (1) shall be used for municipal and domestic uses.

(d) ACQUISITION OF LAND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may acquire any land or interest in land that is necessary for the construction, operation, and maintenance of the wells and related pipeline facilities authorized under subsections (b) and (c).

(2) LIMITATION.—Nothing in this subsection authorizes the Secretary to condemn water rights for the purposes described in paragraph (1).

(e) CONDITION.—The Secretary shall not commence any construction activity relating to the wells described in subsections (b) and (c) until the Secretary executes the Agreement.

(f) CONVEYANCE OF WELLS.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the Nation to convey to the Nation—

(A) any well or related pipeline facility constructed or rehabilitated under subsections (a) and (b) after the wells and related facilities have been completed; and

(B) any land or interest in land acquired by the United States for the construction, operation, and maintenance of the well or related pipeline facility.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT.—On completion of a conveyance under paragraph (1), the Nation shall assume responsibility for the operation, maintenance, and replacement of the well or related pipeline facility conveyed.

(3) EFFECT OF CONVEYANCE.—The conveyance to the Nation of the conjunctive use wells under paragraph (1) shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(g) USE OF PROJECT FACILITIES.—The capacities of the treatment facilities, main pipelines, and lateral pipelines of the Project authorized by section 302(b) may be used to treat and convey groundwater to Nation communities if the Nation provides for payment of the operation, maintenance, and replacement costs associated with the use of the facilities or pipelines.

(h) LIMITATIONS.—The diversion and use of groundwater by wells constructed or rehabilitated under this section shall be made in a manner consistent with applicable Federal and State law.

SEC. 307. SAN JUAN RIVER NAVAJO IRRIGATION PROJECTS.

(a) REHABILITATION.—Subject to subsection (b), the Secretary shall rehabilitate—

(1) the Fruitland-Cambridge Irrigation Project to serve not more than 3,335 acres of land, which shall be considered to be the total serviceable area of the Project; and

(2) the Hogback-Cudei Irrigation Project to serve not more than 8,830 acres of land, which shall be considered to be the total serviceable area of the Project.

(b) CONDITION.—The Secretary shall not commence any construction activity relating to the rehabilitation of the Fruitland-Cambridge Irrigation Project or the Hogback-Cudei Irrigation Project under subsection (a) until the Secretary executes the Agreement.

(c) OPERATION, MAINTENANCE, AND REPLACEMENT OBLIGATION.—Upon the date of completion of the rehabilitation, the Nation shall assume the obligations for the operation, maintenance, and replacement of each facility rehabilitated under this section.

SEC. 308. OTHER IRRIGATION PROJECTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the State of New Mexico (acting through the Interstate Stream Commission) and the Non-Navajo Irrigation Districts that elect to participate, shall—

(1) conduct a study of Non-Navajo Irrigation District diversion and ditch facilities; and

(2) based on the study, identify and prioritize a list of projects, with associated cost estimates, that are recommended to be implemented to repair, rehabilitate, or reconstruct irrigation diversion and ditch facilities to improve water use efficiency.

(b) GRANTS.—The Secretary may provide grants to, and enter into cooperative agreements with, the Non-Navajo Irrigation Districts to plan, design, or otherwise implement the projects identified under subsection (a)(2).

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the total cost of carrying out a project under subsection (b) shall be not more than 50 percent.

(2) FORM.—The non-Federal share required under paragraph (1) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under subsection (b).

(3) STATE CONTRIBUTION.—The Secretary may accept from the State of New Mexico a partial or total contribution toward the non-Federal share for a project carried out under subsection (b).

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR NORTHWESTERN NEW MEXICO RURAL WATER SUPPLY PROJECT.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to construct the Project such sums as are necessary for the period of fiscal years 2008 through 2022.

(2) ADJUSTMENTS.—The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2005 in construction costs, as indicated by engineering cost indices applicable to the types of construction involved.

(3) USE.—In addition to the uses authorized under paragraph (1), amounts made available under that paragraph may be used for the conduct of related activities to comply with Federal environmental laws.

(b) APPROPRIATIONS FOR CONJUNCTIVE USE WELLS.—

(1) SAN JUAN WELLS.—There is authorized to be appropriated to the Secretary for the construction or rehabilitation of conjunctive use wells under section 306(b) $30,000,000, as adjusted under paragraph (3), for the period of fiscal years 2008 through 2018.

(2) WELLS IN THE LITTLE COLORADO AND RIO GRANDE BASINS.—There is authorized to be appropriated to the Secretary for the construction or rehabilitation of conjunctive use wells under section 306(c) such sums as are necessary for the period of fiscal years 2008 through 2024.

(3) ADJUSTMENTS.—The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2004 in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(4) NONREIMBURSABLE EXPENDITURES.—Amounts made available under paragraphs (1) and (2) shall be nonreimbursable to the United States.

(5) USE.—In addition to the uses authorized under paragraphs (1) and (2), amounts made available under that paragraph may be used for the conduct of related activities to comply with Federal environmental laws.

(c) SAN JUAN RIVER IRRIGATION PROJECTS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary—

(A) to carry out section 307(a)(1), not more than $7,700,000, as adjusted under paragraph (2), for the period of fiscal years 2008 through 2014; and

(B) to carry out section 307(a)(2), not more than $15,400,000, as adjusted under paragraph (2), for the period of fiscal years 2008 through 2017.

(2) ADJUSTMENT.—The amounts made available under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since January 1, 2004, in construction costs, as indicated by engineering cost indices applicable to the types of construction involved in the rehabilitation.

(3) NONREIMBURSABLE EXPENDITURES.—Amounts made available under this subsection shall be nonreimbursable to the United States.

(d) OTHER IRRIGATION PROJECTS.—There are authorized to be appropriated to the Secretary to carry out section 308 $11,000,000 for the period of fiscal years 2008 through 2017.

(e) CULTURAL RESOURCES.—

(1) IN GENERAL.—The Secretary may use not more than 4 percent of amounts made available under subsections (a) and (b) for the survey, recovery, protection, preservation, and display of archaeological resources in the area of a Project facility or conjunctive use well.

(2) NONREIMBURSABLE EXPENDITURES.—Any amounts made available under paragraph (1) shall be nonreimbursable and nonreturnable to the United States.

(f) FISH AND WILDLIFE FACILITIES.—

(1) IN GENERAL.—In association with the development of the Project, the Secretary may use not more than 4 percent of amounts made available under subsections (a) and (b) to purchase land and construct and maintain facilities to mitigate the loss of, and improve conditions for the propagation of, fish and wildlife if any such purchase, construction, or maintenance will not affect the operation of any water project or use of water.

(2) NONREIMBURSABLE EXPENDITURES.—Any amounts expended under paragraph (1) shall be nonreimbursable and nonreturnable to the United States.

TITLE IV—NAVAJO NATION WATER RIGHTS

SEC. 401. AGREEMENT.

(a) AGREEMENT APPROVAL.—

(1) APPROVAL BY CONGRESS.—Except to the extent that any provision of the Agreement conflicts with this Act, Congress approves, ratifies, and incorporates by reference the Agreement (including any amendments to the Agreement that are executed to make the Agreement consistent with this Act).

(2) EXECUTION BY SECRETARY.—The Secretary, acting on behalf of the United States, shall enter into the Agreement to the extent that the Agreement does not conflict with this Act, including—

(A) any exhibits to the Agreement requiring the signature of the Secretary; and

(B) any amendments to the Agreement necessary to make the Agreement consistent with this Act.

(3) AUTHORITY OF SECRETARY.—The Secretary may carry out any action that the Secretary determines is necessary or appropriate to implement the Agreement, the Contract, and this section.

(4) ADMINISTRATION OF NAVAJO RESERVOIR RELEASES.—The State of New Mexico may administer releases of stored water from Navajo Reservoir in accordance with subparagraph 9.1 of the Agreement.

(b) WATER AVAILABLE UNDER CONTRACT.—

(1) QUANTITIES OF WATER AVAILABLE.—

(A) IN GENERAL.—Water shall be made available annually under the Contract for projects in the State of New Mexico supplied from the Navajo Reservoir and the San Juan River (including tributaries of the River) under New Mexico State Engineer File Numbers 2849, 2883, and 3215 in the quantities described in subparagraph (B).

(B) WATER QUANTITIES.—The quantities of water referred to in subparagraph (A) are as follows:

	Diversion (acre-feet/year)	Depletion (acre-feet/year)
Navajo Indian Irrigation Project	508,000	270,000
Northwestern New Mexico Rural Water Supply Project	22,650	20,780
Animas-La Plata Project	4,680	2,340
Total	535,330	293,120

(C) MAXIMUM QUANTITY.—A diversion of water to the Nation under the Contract for a project described in subparagraph (B) shall not exceed the quantity of water necessary to supply the amount of depletion for the project.

(D) TERMS, CONDITIONS, AND LIMITATIONS.—The diversion and use of water under the Contract shall be subject to and consistent with the terms, conditions, and limitations of the Agreement, this Act, and any other applicable law.

(2) AMENDMENTS TO CONTRACT.—The Secretary, with the consent of the Nation, may amend the Contract if the Secretary determines that the amendment is—

(A) consistent with the Agreement; and

(B) in the interest of conserving water or facilitating beneficial use by the Nation or a subcontractor of the Nation.

(3) RIGHTS OF THE NATION.—The Nation may, under the Contract—

(A) use tail water, wastewater, and return flows attributable to a use of the water by the Nation or a subcontractor of the Nation if—

(i) the depletion of water does not exceed the quantities described in paragraph (1); and

(ii) the use of tail water, wastewater, or return flows is consistent with the terms, conditions, and limitations of the Agreement, the Resolution, and any other applicable law; and

(B) change a point of diversion, change a purpose or place of use, and transfer a right for depletion under this Act (except for a point of diversion, purpose or place of use, or right for depletion for use in the State of Arizona under section 303(b)(2)(D)), to another use, purpose, place, or depletion in the State of New Mexico to meet a water resource or economic need of the Nation if—

(i) the change or transfer is subject to and consistent with the terms of the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Contract, and any other applicable law; and

(ii) a change or transfer of water use by the Nation does not alter any obligation of the United States, the Nation, or another party to pay or repay project construction, operation, maintenance, or replacement costs under this Act and the Contract.

(c) SUBCONTRACTS.—

(1) IN GENERAL.—

(A) SUBCONTRACTS BETWEEN NATION AND THIRD PARTIES.—The Nation may enter into subcontracts for the delivery of Project water under the Contract to third parties for any beneficial use in the State of New Mexico (on or off land held by the United States in trust for the Nation or a member of the Nation or land held in fee by the Nation).

(B) APPROVAL REQUIRED.—A subcontract entered into under subparagraph (A) shall not be effective until approved by the Secretary in accordance with this subsection and the Contract.

(C) SUBMITTAL.—The Nation shall submit to the Secretary for approval or disapproval any subcontract entered into under this subsection.

(D) DEADLINE.—The Secretary shall approve or disapprove a subcontract submitted to the Secretary under subparagraph (C) not later than the later of—

(i) the date that is 180 days after the date on which the subcontract is submitted to the Secretary; and

(ii) the date that is 60 days after the date on which a subcontractor complies with—

(I) section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

(II) any other requirement of Federal law.

(E) ENFORCEMENT.—A party to a subcontract may enforce the deadline described in subparagraph (D) under section 1361 of title 28, United States Code.

(F) COMPLIANCE WITH OTHER LAW.—A subcontract described in subparagraph (A) shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, and any other applicable law.

(2) ALIENATION.—

(A) PERMANENT ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Contract.

(B) MAXIMUM TERM.—The term of any water use subcontract (including a renewal) under this subsection shall be not more than 99 years.

(3) NONINTERCOURSE ACT COMPLIANCE.—This subsection—

(A) provides congressional authorization for the subcontracting rights of the Nation; and

(B) is deemed to fulfill any requirement that may be imposed by section 2116 of the Revised Statutes (25 U.S.C. 177).

(4) FORFEITURE.—The nonuse of the water supply secured by a subcontractor of the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(5) NO PER CAPITA PAYMENTS.—No part of the revenue from a water use subcontract under this subsection shall be distributed to any member of the Nation on a per capita basis.

(d) WATER LEASES NOT REQUIRING SUBCONTRACTS.—

(1) AUTHORITY OF NATION.—

(A) IN GENERAL.—The Nation may lease, contract, or otherwise transfer to another party or to another purpose or place of use in the State of New Mexico (on or off land that is held by the United States in trust for the Nation or a member of the Nation or held in fee by the Nation) a water right that—

(i) is decreed to the Nation under the Agreement; and

(ii) is not subject to the Contract.

(B) COMPLIANCE WITH OTHER LAW.—In carrying out an action under this subsection, the Nation shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Supplemental Partial Final Decree described in paragraph 4.0 of the Agreement, and any other applicable law.

(2) ALIENATION; MAXIMUM TERM.—

(A) ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Agreement.

(B) MAXIMUM TERM.—The term of any water use lease, contract, or other arrangement (including a renewal) under this subsection shall be not more than 99 years.

(3) NONINTERCOURSE ACT COMPLIANCE.—This subsection—

(A) provides congressional authorization for the lease, contracting, and transfer of any water right described in paragraph (1)(A); and

(B) is deemed to fulfill any requirement that may be imposed by the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177).

(4) FORFEITURE.—The nonuse of a water right of the Nation by a lessee or contractor to the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(e) HYDROGRAPHIC SURVEY.—

(1) PREPARATION.—The Secretary, on behalf of the United States, shall prepare a hydrographic survey under the joint supervision of the Secretary and the State of New Mexico (acting through the New Mexico State Engineer) to identify and quantify any historic or existing diversion or use of water (including from surface water and underground water sources) by the Nation or a member of the Nation from the San Juan River Basin in the State of New Mexico, as described in subparagraph 4.2 of the Agreement.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), there is authorized to be appropriated to the Bureau of Indian Affairs to carry out paragraph (1) $5,000,000 for the period of fiscal years 2008 through 2013.

(B) ADJUSTMENT.—The amounts made available under subparagraph (A) shall be adjusted by such amounts as are necessary to account for increases in the costs of preparing a hydrographic survey after January 1, 2004, as determined using cost indices applicable to the types of technical and engineering work involved in preparing the hydrographic survey.

(C) NONREIMBURSABLE EXPENDITURES.—Any amounts made available under this paragraph shall be nonreimbursable to the United States.

(f) NULLIFICATION.—

(1) DEADLINES.—

(A) IN GENERAL.—In carrying out this section, the following deadlines apply with respect to implementation of the Agreement:

(i) AGREEMENT.—Not later than December 31, 2008, the Secretary shall execute the Agreement.

(ii) CONTRACT.—Not later than December 31, 2009, the Secretary and the Nation shall execute the Contract.

(iii) PARTIAL FINAL DECREE.—Not later than December 31, 2012, the court in the stream adjudication shall have entered the Partial Final Decree described in paragraph 3.0 of the Agreement.

(iv) HYDROGRAPHIC SURVEY.—Not later than December 31, 2013, the Secretary shall complete the hydrographic survey described in subsection (e).

(v) FRUITLAND-CAMBRIDGE IRRIGATION PROJECT.—Not later than December 31, 2014, the rehabilitation construction of the Fruitland-Cambridge Irrigation Project authorized under section 307(a)(1) shall be completed.

(vi) SUPPLEMENTAL PARTIAL FINAL DECREE.—Not later than December 31, 2015, the court in the stream adjudication shall enter the Supplemental Partial Final Decree described in subparagraph 4.0 of the Agreement.

(vii) HOGBACK-CUDEI IRRIGATION PROJECT.—Not later than December 31, 2017, the rehabilitation construction of the Hogback-Cudei Irrigation Project authorized under section 307(a)(2) shall be completed.

(viii) TRUST FUND.—Not later than December 31, 2018, the United States shall make all deposits into the Trust Fund under section 402.

(ix) CONJUNCTIVE WELLS.—Not later than December 31, 2018, the funds authorized to be appropriated under section 309(b)(1) for the conjunctive use wells authorized under section 306(b) should be appropriated.

(x) NORTHWESTERN NEW MEXICO RURAL WATER SUPPLY PROJECT.—Not later than December 31, 2022, the construction of all Project facilities shall be completed.

(B) EXTENSION.—A deadline described in subparagraph (A) may be extended if the Nation, the United States (acting through the Secretary), and the State of New Mexico (acting through the New Mexico Interstate Stream Commission) agree that an extension is reasonably necessary.

(2) REVOCABILITY OF AGREEMENT, CONTRACT AND AUTHORIZATIONS.—

(A) PETITION.—If the Nation determines that a deadline described in paragraph (1)(A) is not substantially met, the Nation may submit to the court in the stream adjudication a petition to enter an order terminating the Agreement and Contract.

(B) TERMINATION.—On issuance of an order to terminate the Agreement and Contract under subparagraph (A)—

(i) the Trust Fund shall be terminated;

(ii) the balance of the Trust Fund shall be deposited in the general fund of the Treasury;

(iii) the authorizations for construction and rehabilitation of water projects under this Act shall be revoked and any Federal activity related to that construction and rehabilitation shall be suspended; and

(iv) this title and titles I and III shall be null and void.

(3) CONDITIONS NOT CAUSING NULLIFICATION OF SETTLEMENT.—

(A) IN GENERAL.—If a condition described in subparagraph (B) occurs, the Agreement and Contract shall not be nullified or terminated.

(B) CONDITIONS.—The conditions referred to in subparagraph (A) are as follows:

(i) A lack of right to divert at the capacities of conjunctive use wells constructed or rehabilitated under section 306.

(ii) A failure—

(I) to determine or resolve an accounting of the use of water under this Act in the State of Arizona;

(II) to obtain a necessary water right for the consumptive use of water in Arizona;

(III) to contract for the delivery of water for use in Arizona; or

(IV) to construct and operate a lateral facility to deliver water to a community of the Nation in Arizona, under the Project.

(4) RIGHTS OF THE NATION.—A tribal right under the Contract, a water right adjudicated consistent with the Contract in the stream adjudication by the Partial Final Decree described in paragraph 3.0 of the Agreement, and any other tribal water right stipulated, adjudicated, or decreed as described in the Agreement and this Act shall be held in

trust by the United States in perpetuity for the benefit of the Nation.

(g) EFFECT ON RIGHTS OF INDIAN TRIBES.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in the Agreement, the Contract, or this section quantifies or adversely affects the land and water rights, or claims or entitlements to water, of any Indian tribe or community other than the rights, claims, or entitlements of the Nation in, to, and from the San Juan River Basin in the State of New Mexico.

(2) EXCEPTION.—The right of the Nation to use water under water rights the Nation has in other river basins in the State of New Mexico shall be forborne to the extent that the Nation supplies the uses for which the water rights exist by diversions of water from the San Juan River Basin under the Project consistent with subparagraph 9.13 of the Agreement.

SEC. 402. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the ''Navajo Nation Water Resources Development Trust Fund'', consisting of—

(1) such amounts as are appropriated to the Trust Fund under subsection (f); and

(2) any interest earned on investment of amounts in the Trust Fund under subsection (d).

(b) USE OF FUNDS.—The Nation may use amounts in the Trust Fund—

(1) to investigate, construct, operate, maintain, or replace water project facilities, including facilities conveyed to the Nation under this Act; and

(2) to investigate, implement, or improve a water conservation measure (including a metering or monitoring activity) necessary for the Nation to make use of a water right of the Nation under the Agreement.

(c) MANAGEMENT.—The Secretary shall manage the Trust Fund, invest amounts in the Trust Fund, and make amounts available from the Trust Fund for distribution to the Nation in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) INVESTMENT OF THE TRUST FUND.—The Secretary shall invest amounts in the Trust Fund in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(e) CONDITIONS FOR EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—Subject to paragraph (7), on approval by the Secretary of a tribal management plan in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the Nation may withdraw all or a portion of the amounts in the Trust Fund.

(B) REQUIREMENTS.—In addition to any requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Nation only use amounts in the Trust Fund for the purposes described in subsection (b), including the identification of water conservation measures to be implemented in association with the agricultural water use of the Nation.

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Trust Fund are used in accordance with this Act.

(3) NO LIABILITY.—Neither the Secretary nor the Secretary of the Treasury shall be liable for the expenditure or investment of any amounts withdrawn from the Trust Fund by the Nation.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Nation shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Trust Fund made available under this section that the Nation does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Nation remaining in the Trust Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) ANNUAL REPORT.—The Nation shall submit to the Secretary an annual report that describes any expenditures from the Trust Fund during the year covered by the report.

(6) LIMITATION.—No portion of the amounts in the Trust Fund shall be distributed to any Nation member on a per capita basis.

(7) CONDITIONS.—Any amount authorized to be appropriated to the Trust Fund under subsection (f) shall not be available for expenditure or withdrawal—

(A) before December 31, 2018; and

(B) until the date on which the court in the stream adjudication has entered—

(i) the Partial Final Decree described in paragraph 3.0 of the Agreement; and

(ii) the Supplemental Partial Final Decree described in paragraph 4.0 of the Agreement.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for deposit in the Trust Fund—

(1) $6,000,000 for each of fiscal years 2008 through 2012; and

(2) $4,000,000 for each of fiscal years 2013 through 2017.

SEC. 403. WAIVERS AND RELEASES.

(a) EXECUTION.—The Nation, on behalf of itself and members of the Nation (other than members in their capacity as allottees), and the United States, acting through the Secretary and in its capacity as trustee for the Nation, shall execute waivers and releases in accordance with paragraph 7.0 of the Agreement.

(b) RESERVATION.—Notwithstanding subsection (a), the Nation and its members (including members in their capacity as allottees) and the United States, as trustee for the Nation and allottees, shall retain the rights and claims specified in paragraph 7.0 of the Agreement.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The waivers and releases described in subsection (a) shall be effective on the date on which the Secretary publishes in the Federal Register a statement of findings documenting that each of the deadlines described in section 401(f)(1) have been met.

(2) DEADLINE.—If the deadlines in section 401(f)(1)(A) have not been met by the later of March 1, 2023, or the date of any extension under section 401(f)(1)(B)—

(A) the waivers and releases described in subsection (a) shall be of no effect; and

(B) section 401(f)(2)(B) shall apply.

By Mr. DURBIN (for himself, Mr. LUGAR, Mrs. LINCOLN, Mr. SMITH, Mr. OBAMA, Mr. REED, Mr. WYDEN, Mr. NELSON of Florida, Mr. FEINGOLD, Mr. DOMENICI, Mr. KENNEDY, Mr. ROCKEFELLER, and, Mr. AKAKA):

S. 1172. A bill to reduce hunger in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, President Eisenhower once stated, ''Every gun that is made, every warship that is launched, every rocket fired, signifies in the final sense a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in armaments is not spending its money alone: it is spending the sweat of its laborers, the genius of its scientists, the hopes of its children.''

In as trying a time as we live in today, his statement cannot ring more true. We are in the middle of a war with no seeming end in sight. We have daily debates about the numbers in our budget. But President Eisenhower was right. We are not spending our money alone.

In a Nation as rich as ours, we should be able to arrange our priorities to meet the needs of our country, but the unfortunate reality is that in the United States today, children go hungry. Children count on school, not only for education but also for their meals. Seniors are forced to make a choice between life-saving medicines and groceries for their meals. Families are forced to make the difficult choice between paying for food and paying for utilities or their rent or mortgage or even their medicine or medical care. This is the reality of our America.

As Senators, we often hear from families that tell us the difficulty in making ends meet. More and more working families are turning to food banks, pantries and soup kitchens for emergency food assistance. When examining the actual costs of housing, food, utilities and other necessities, researchers have found that in most areas of the country, families need about 200 percent of the poverty level to achieve ''minimal economic self-sufficiency.'' Individuals and families are faced with a cost of living that continues to rise and an increasing gap between what low-wage workers earn and what is required to meet basic needs.

In my State of Illinois, over 158,000 Illinois households experienced hunger in 2005. If we include households that have had to struggle to put food on the table or have had to skip meals to make sure the food would last through the week—that's 440,000 households in Illinois living with food insecurity—9 percent of Illinois households. These are working families who need more to lead healthy, happy lives.

Fortunately, we have some programs in existence to offer hope. Since President Johnson started the war on poverty, we have documented that the Federal nutrition programs work to reduce hunger. When people are able to use Food Stamps, there are enough groceries to last through the week. When new moms are helped by WIC, they and their babies have enough milk and eggs and fruit. When senior citizens are near a Commodity Supplemental Food Program site, they can take home a box of food to fill the pantry AND buy their prescription drugs. Our school children can fill their stomachs and then focus on learning—because of the Federal school food program. In cases of emergency, like the

tragic occurrences of hurricanes, our Federal nutrition assistance programs have been there to assist families in need. These Federal food programs work, but more can be done.

Last Congress, I introduced the Hunger Free Communities Act with Senators LINCOLN, SMITH and LUGAR. The bill creates new grant programs that help communities make the most of the Federal nutrition programs and build on their successes.

First, the bill makes grant money available to local groups that are working to eliminate hunger in their communities. Each day, soup kitchens serve meals, and food pantries give groceries, and volunteers collect food, make sandwiches, and deliver food. Our bill creates an anti-hunger grant program—the first of its kind—that asks communities to assess hunger and hunger relief at the local level. Grant money is available to help with that assessment or grant money can be used to help fill in the gaps that a local plan identifies.

Second, we create a funding stream that food banks and soup kitchens can use to keep up their buildings and trucks and kitchen equipment. The response of the food bank network to the crisis after hurricanes Katrina and Rita was remarkable. Tons of food was donated, transported and delivered by thousands of volunteers from all over the country. But within days, America's Second Harvest recognized the food banks needed freezers, forklifts, delivery trucks and repairs to warehouses and equipment. My bill creates the only Federal funding stream specifically for the capital needs of local hunger relief efforts. Helping these organizations is especially important for those organizations in underserved areas and areas where rates of food insecurity, hunger, poverty, or unemployment are higher than the national average.

Late last Congress, the Hunger Free Communities Act was passed by the Senate. I had hoped that there might be time for the House to act on it before the Session ended, but we ran out of time. This was, however, a small victory. It was a small step toward progress—a step that both Democrats and Republicans want to take for the health and well-being of our communities.

There are still too many parents in this country who skip meals because there is not enough money in the family food budget for them and their children to eat every night. There are still too many babies and toddlers in America who are not getting the nutrition their minds and bodies need to develop to their fullest potential. There are too many seniors, and children, who go to bed hungry. In the richest Nation in the history of the world, that is unacceptable.

Progress against hunger is possible, even with a war abroad and budget deficits at home. I am heartened by the 43 United States Senators who agreed with me and cosponsored the Hunger Free Communities Act last year. I am heartened by the support of the Illinois Coalition on Hunger, Bread for the World and America's Second Harvest. Congress will be reauthorizing many nutrition programs this year with the farm bill, and the Hunger Free Communities Act should be a part of that. I believe this bill can take a modest but meaningful step toward eliminating hunger in this country. We tried to make that first step when the bill passed the Senate late last year. We can do it again and should.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Hunger-Free Communities Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) at the 1996 World Food Summit, the United States, along with 185 other countries, pledged to reduce the number of undernourished people by half by 2015; and

(B) as a result of that pledge, the Department of Health and Human Services adopted the Healthy People 2010 goal to cut food insecurity in half by 2010, and in doing so reduce hunger;

(2) national nutrition programs are among the fastest, most direct ways to efficiently and effectively prevent hunger, reduce food insecurity, and improve nutrition among the populations targeted by a program;

(3) in 2001, food banks, food pantries, soup kitchens, and emergency shelters helped to feed more than 23,000,000 low-income people; and

(4) community-based organizations and charities can help—

(A) play an important role in preventing and reducing hunger;

(B) measure community food security;

(C) develop and implement plans for improving food security;

(D) educate community leaders about the problems of and solutions to hunger;

(E) ensure that local nutrition programs are implemented effectively; and

(F) improve the connection of food insecure people to anti-hunger programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) DOMESTIC HUNGER GOAL.—The term ''domestic hunger goal'' means—

(A) the goal of reducing hunger in the United States to at or below 2 percent by 2010; or

(B) the goal of reducing food insecurity in the United States to at or below 6 percent by 2010.

(2) EMERGENCY FEEDING ORGANIZATION.—The term ''emergency feeding organization'' has the meaning given the term in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501).

(3) FOOD SECURITY.—The term ''food security'' means the state in which an individual has access to enough food for an active, healthy life.

(4) HUNGER-FREE COMMUNITIES GOAL.—The term ''hunger-free communities goal'' means any of the 14 goals described in the H. Con. Res. 302 (102nd Congress).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

TITLE I—NATIONAL COMMITMENT TO END HUNGER

SEC. 101. HUNGER REPORTS.

(a) STUDY.—

(1) TIMELINE.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a study of major matters relating to the problem of hunger in the United States, as determined by the Secretary.

(B) UPDATE.—Not later than 5 years after the date on which the study under subparagraph (A) is conducted, the Secretary shall update the study.

(2) MATTERS TO BE ASSESSED.—The matters to be assessed by the Secretary in the study and update under this section shall include—

(A) data on hunger and food insecurity in the United States;

(B) measures carried out during the previous year by Federal, State, and local governments to achieve domestic hunger goals and hunger-free communities goals;

(C) measures that could be carried out by Federal, State, and local governments to achieve domestic hunger goals and hunger-free communities goals; and

(D) the impact of hunger and household food insecurity on obesity, in the context of poverty and food assistance programs.

(b) RECOMMENDATIONS.—The Secretary shall develop recommendations on—

(1) removing obstacles to achieving domestic hunger goals and hunger-free communities goals; and

(2) otherwise reducing domestic hunger.

(c) REPORT.—The Secretary shall submit to the President and Congress—

(1) not later than 1 year after the date of enactment of this Act, a report that contains—

(A) a detailed statement of the results of the study, or the most recent update to the study, conducted under subsection (a)(1); and

(B) the most recent recommendations of the Secretary under subsection (b); and

(2) not later than 5 years after the date of submission of the report under paragraph (1), an update of the report.

TITLE II—STRENGTHENING COMMUNITY EFFORTS

SEC. 121. HUNGER-FREE COMMUNITIES COLLABORATIVE GRANTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means a public food program service provider or a nonprofit organization, including but not limited to an emergency feeding organization, that demonstrates the organization has collaborated, or will collaborate, with 1 or more local partner organizations to achieve at least 1 hunger-free communities goal.

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made

available under section 125 to make grants to eligible entities to pay the Federal share of the costs of an activity described in subsection (d).

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this section shall not exceed 80 percent.

(3) NON-FEDERAL SHARE.—

(A) CALCULATION.—The non-Federal share of the cost of an activity under this section may be provided in cash or in kind, fairly evaluated, including facilities, equipment, or services.

(B) SOURCES.—Any entity may provide the non-Federal share of the cost of an activity under this section through a State government, a local government, or a private source.

(c) APPLICATION.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit an application to the Secretary at the time and in the manner and accompanied by any information the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) identify any activity described in subsection (d) that the grant will be used to fund;

(B) describe the means by which an activity identified under subparagraph (A) will reduce hunger in the community of the eligible entity;

(C) list any partner organizations of the eligible entity that will participate in an activity funded by the grant;

(D) describe any agreement between a partner organization and the eligible entity necessary to carry out an activity funded by the grant; and

(E) if an assessment described in subsection (d)(1) has been performed, include—

(i) a summary of that assessment; and

(ii) information regarding the means by which the grant will help reduce hunger in the community of the eligible entity.

(3) PRIORITY.—In making grants under this section, the Secretary shall give priority to eligible entities that—

(A) demonstrate in the application of the eligible entity that the eligible entity makes collaborative efforts to reduce hunger in the community of the eligible entity; and

(B)(i) serve a predominantly rural and geographically underserved area;

(ii) serve communities in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates;

(iii) provide evidence of long-term efforts to reduce hunger in the community;

(iv) provide evidence of public support for the efforts of the eligible entity; or

(v) demonstrate in the application of the eligible entity a commitment to achieving more than 1 hunger-free communities goal.

(d) USE OF FUNDS.—

(1) ASSESSMENT OF HUNGER IN THE COMMUNITY.—

(A) IN GENERAL.—An eligible entity in a community that has not performed an assessment described in subparagraph (B) may use a grant received under this section to perform the assessment for the community.

(B) ASSESSMENT.—The assessment referred to in subparagraph (A) shall include—

(i) an analysis of the problem of hunger in the community served by the eligible entity;

(ii) an evaluation of any facility and any equipment used to achieve a hunger-free communities goal in the community;

(iii) an analysis of the effectiveness and extent of service of existing nutrition programs and emergency feeding organizations; and

(iv) a plan to achieve any other hunger-free communities goal in the community.

(2) ACTIVITIES.—An eligible entity in a community that has submitted an assessment to the Secretary shall use a grant received under this section for any fiscal year for activities of the eligible entity, including—

(A) meeting the immediate needs of people in the community served by the eligible entity who experience hunger by—

(i) distributing food;

(ii) providing community outreach; or

(iii) improving access to food as part of a comprehensive service;

(B) developing new resources and strategies to help reduce hunger in the community;

(C) establishing a program to achieve a hunger-free communities goal in the community, including—

(i) a program to prevent, monitor, and treat children in the community experiencing hunger or poor nutrition; or

(ii) a program to provide information to people in the community on hunger, domestic hunger goals, and hunger-free communities goals; and

(D) establishing a program to provide food and nutrition services as part of a coordinated community-based comprehensive service.

SEC. 122. HUNGER-FREE COMMUNITIES INFRASTRUCTURE GRANTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means an emergency feeding organization (as defined in section 201A(4) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501(4))).

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall use not more than 40 percent of any funds made available under section 125 to make grants to eligible entities to pay the Federal share of the costs of an activity described in subsection (d).

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this section shall not exceed 80 percent.

(c) APPLICATION.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit an application to the Secretary at the time and in the manner and accompanied by any information the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) identify any activity described in subsection (d) that the grant will be used to fund; and

(B) describe the means by which an activity identified under subparagraph (A) will reduce hunger in the community of the eligible entity.

(3) PRIORITY.—In making grants under this section, the Secretary shall give priority to eligible entities the applications of which demonstrate 2 or more of the following:

(A) The eligible entity serves a predominantly rural and geographically underserved area.

(B) The eligible entity serves a community in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(C) The eligible entity serves a community that has carried out long-term efforts to reduce hunger in the community.

(D) The eligible entity serves a community that provides public support for the efforts of the eligible entity.

(E) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(d) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out activities of the eligible entity, including—

(1) constructing, expanding, or repairing a facility or equipment to support hunger relief agencies in the community;

(2) assisting an emergency feeding organization in the community in obtaining locally-produced produce and protein products; and

(3) assisting an emergency feeding organization in the community to process and serve wild game.

SEC. 123. HUNGER-FREE COMMUNITIES TRAINING AND TECHNICAL ASSISTANCE GRANTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means a national or regional nonprofit organization that carries out an activity described in subsection (d).

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall use not more than 10 percent of any funds made available under section 125 to make grants to eligible entities to pay the Federal share of the costs of an activity described in subsection (d).

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this section shall not exceed 80 percent.

(c) APPLICATION.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit an application to the Secretary at the time and in the manner and accompanied by any information the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) demonstrate that the eligible entity does not operate for profit;

(B) describe any national or regional training program carried out by the eligible entity, including a description of each region served by the eligible entity;

(C) describe any national or regional technical assistance provided by the eligible entity, including a description of each region served by the eligible entity; and

(D) describe the means by which each organization served by the eligible entity—

(i) works to achieve a domestic hunger goal;

(ii) works to achieve a hunger-free communities goal; or

(iii) used a grant received by the organization under section 121 or 122.

(3) PRIORITY.—In making grants under this section, the Secretary shall give priority to eligible entities the applications of which demonstrate 2 or more of the following:

(A) The eligible entity serves a predominantly rural and geographically underserved area.

(B) The eligible entity serves a region in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(C) The eligible entity serves a region that has carried out long-term efforts to reduce hunger in the region.

(D) The eligible entity serves a region that provides public support for the efforts of the eligible entity.

(E) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(d) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out national or regional training and technical assistance for organizations that—

(1) work to achieve a domestic hunger goal;

(2) work to achieve a hunger-free communities goal; or

(3) receive a grant under section 121 or 122.

SEC. 124. REPORT.

Not later than September 30, 2013, the Secretary shall submit to Congress a report describing—

(1) each grant made under this title, including—

(A) a description of any activity funded by such a grant; and

(B) the degree of success of each activity funded by such a grant in achieving hunger-free communities goals; and

(2) the degree of success of all activities funded by grants under this title in achieving domestic hunger goals.

SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $50,000,000 for each of fiscal years 2008 through 2013.

By Mr. CARDIN (for himself and Ms. MIKULSKI):

S. 1174. A bill to amend the Natural Gas Act to modify a provision relating to the siting, construction, expansion, and operation of liquefied natural gas terminals; to the Committee on Energy and Natural Resources.

Mr. CARDIN. Mr. President, today I am introducing legislation to restore the authority of State and local governments to protect the environment and ensure public safety with respect to the siting of Liquefied Natural Gas (LNG) terminals within their States. This measure would strike a provision in the Energy Policy Act of 2005 which gave the Federal Regulatory Energy Commission (FERC) power to preempt State and local concerns in the siting, construction and operation of LNG facilities.

In recent years, the LNG industry has proposed building dozens of new LNG terminals throughout the United States, as LNG's share of the natural gas market continues to grow rapidly. Many of these terminals are being planned near populated areas or in environmentally sensitive coastal areas. As a highly hazardous and combustible fuel source, LNG poses serious safety concerns to local communities from potential accidents, as well as terrorism risks. Richard Clarke, a former Bush Administration Counter Terrorism official, noted that LNG terminals and tankers present ''especially attractive targets'' to terrorists. Experts have identified anumber of potentially catastrophic events that could arise from an LNG release, including pool fires—an extremely intense fire that cannot be extinguished and can spread over considerable distance, flammable vapor clouds that may drift some distance from the spill site, and flameless explosions. According to the Congressional Research Service, there have been approximately 13 serious accidents at LNG plants around the world over the past six decades, including three accidents which caused fatalities—two in Algeria in 1977 and 2004 respectively, and another at Cove Point, MD; in 1979, which killed one worker and caused some $3 million in damages.

In the State of Maryland, which is already home to one of six operating LNG terminals in the United States, AES Sparrows Point LNG, LLC and Mid-Atlantic Express, LLC has proposed building a new terminal near a densely-populated area of Baltimore. Our area Congressional Delegation, Governor O'Malley, Baltimore County Executive Jim Smith and other local officials and community leaders believe this project poses unacceptable public safety, economic and environmental risks and does not serve the public interest. Yet, under current law, the Federal Energy Regulatory Commission now has exclusive authority to approve onshore LNG terminal siting applications. While the law requires FERC to consult with State and local governments regarding safety concerns, they have no role in the final decision. Moreover, while the law permits states to conduct safety inspections of LNG terminals, they do not have the authority to require any safety precautions or to take enforcement actions if they discover problems at a facility during a safety inspection.

It is vital, in my opinion, that State and local authorities and the public have a meaningful opportunity to participate in the decision-making process about the siting of these plants. These terminals have the potential for tremendous impacts on the communities in which they would be constructed and would operate. The measure I am introducing today seeks to restore that authority and give Governors the same veto powers for onshore LNG terminal proposals as they currently exercise for offshore terminal proposals under the Deepwater Port Act. I urge my colleagues to join me in supporting this measure.

By Mr. DURBIN (for himself and Mr. BROWNBACK):

S. 1175. A bill to end the use of child soldiers in hostilities around the world, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. Mr. President, I rise today to discuss an issue of children's rights and human rights: the recruitment and use of child soldiers.

Hundreds of thousands of children in the world today serve as child soldiers, boys and girls alike.

They serve as combatants, porters, human mine detectors and sex slaves.

Their health and lives are endangered and their childhoods are sacrificed.

The bulk of these children are captured, recruited, or sold into service with rebel groups such as the infamous Lord's Resistance Army in Uganda.

But some serve with uniformed armed forces or government-supported paramilitaries or militias.

Even more troubling, children have served as child soldiers for governments that receive U.S. military assistance.

Today, Senator SAM BROWNBACK and I are introducing legislation addressing this issue.

Our bill, the Child Soldiers Prevention Act, will ensure that U.S. taxpayer dollars are not used to support foreign militaries known to recruit or use child soldiers in government armed forces or government-supported militaries.

U.S. military assistance can continue under this bill, but it will be used to remedy the problem by helping countries successfully demobilize their child soldiers and professionalize their forces.

Under the terms of this bill, Foreign Military Assistance and other defense-related aid would be limited if countries are clearly identified in the State Department's Human Rights report as recruiting or using child soldiers.

Military assistance to these countries would be limited to supporting the professionalization of their forces until they eliminate the use of child soldiers.

If years of abuse continue, then U.S. assistance would eventually be eliminated.

In all circumstances, the President would be able to waive these rules if he deems that it is in the national interest.

What do we mean by professionalization?

We mean creating regular militaries which conform to long-standing international norms, such as not using children, respecting human rights, and functioning as professional armies.

This bill can only affect governmental or government sanctioned military and paramilitary organizations.

But that is where we have leverage through our foreign military assistance programs and we will use whatever leverage we have to address this heinous phenomenon.

In the last year, many of us have read the haunting memoir of Ishmael Beah, A LONG WAY GONE: Memoirs of a Boy Soldier.

Beah is all of 26: that might seem too young to write a memoir, but sadly, his youth was stolen from him many years ago.

Beah grew up in war-torn Sierra Leone. He was born in 1980.

Eleven years later, civil war broke out, killing tens of thousands of people and driving millions from their homes.

At the age of twelve, he fled attacking rebels.

Beah's parents and his two brothers were among those killed.

By thirteen, he'd been picked up by the government army, but that was no refuge.

Fleeing the rebels who had killed so many of his friends and family, Beah wound up in a village run by government troops.

He wrote of this moment in his life, ''In the beginning it seemed we had found safety the smiles on people's faces assured us that there was nothing to worry about anymore. All that darkened the mood of the village was the sight of orphaned children. There were over thirty boys between the ages of six and sixteen. I was one of them. Apart from this, there were no indications that our childhood was threatened, much less that we would be robbed of it.''

That was exactly what was happening, though.

In Beah's first battle he watched his eleven-year old tent-mate bleed out before his very eyes.

He writes of this awful day, ''My face, my hands, my shirt and gun were covered with blood. I raised the gun and pulled the trigger, and I killed a man. Suddenly, as if someone was

shooting them inside my brain, all the massacres I had seen since the day I was touched by war began flashing in my head. Every time I stopped shooting to change magazines and saw my two young lifeless friends, I angrily pointed my gun into the swamp and killed more people.''

That was at 13. Thirteen—- an age for junior high soccer games, not for going to war.

Ultimately during his time in the government army, Beah says he killed ''too many people to count.''

In 1998 he fled and in 1999 he was able to come to New York.

Returning to civilization, according to Beah, was actually harder than the act of becoming a child soldier because ''dehumanizing children is a relatively easy task.''

Thank God, Sierra Leone's civil war is over.

But too many children in the world continue to be forced to serve as child soldiers.

Ensuring that countries professionalize their militaries and help their child soldiers make the transition back into civil society is a humanitarian issue but also in the best interest for our own armed forces.

We do not want American soldiers in a position where they have to return fire on children.

Delay in such a moment could cost an American soldier his life, but think also of the psychic costs of having to kill a child in battle.

We want our troops to avoid such a situation and we want to ensure that American taxpayer dollars are used as they should be: for professionalizing the militaries of countries whom we are assisting.

It is not enough for child soldiers simply to be demobilized: U.S.-funded programs assist in the rehabilitation of child soldiers and the reintegration of these young people back into civilian life.

Some of these child veterans of war have witnessed or been forced to do terrible things.

Many of the girls have been victims of rape and may be coming back into civilian life with their own children.

I strongly support programs to provide psychological services, educational and vocational training, and other assistance to these traumatized young people.

I also support efforts to bring to justice those rebel leaders and others who kidnap children for use as child soldiers.

The use of child soldiers represents a basic issue of human rights.

For that reason, next week Senator COBURN, who is the ranking member on the Judiciary Subcommittee on Human Rights and the Law, and I will be holding a Subcommittee hearing on Child Soldiers and the Law.

In this hearing, we will explore the persistent use of child soldiers despite the fact that this practice is widely acknowledged as a war crime.

Is this persistent crime in part a failure of enforcement?

Are reforms needed in U.S. law to criminalize this terrible practice?

How is this issue addressed under our immigration laws?

Expert witnesses from non-governmental and faith-based organizations will speak to these issues in our hearing next Tuesday.

So too will Ishmael Beah, whose words vividly capture the horror of children at war.

I am introducing this bill and our subcommittee is holding this hearing as progressive steps to remedy a terrible and persistent problem.

Here in Washington, on the floor of the Senate, it is hard to imagine the atrocities that children endure every day, as combatants, as sex slaves, and as forced labor for militaries and paramilitaries.

But those atrocities do continue.

At the least we should ensure that U.S. assistance goes to remedy the problem and that it is never used to prolong it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Soldier Prevention Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the September 7, 2005, report to the General Assembly of the United Nations by the Special Representative of the Secretary-General for Children and Armed Conflict, ''In the last decade, two million children have been killed in situations of armed conflict, while six million children have been permanently disabled or injured. Over 250,000 children continue to be exploited as child soldiers and tens of thousands of girls are being subjected to rape and other forms of sexual violence.''.

(2) According to the Center for Emerging Threats and Opportunities (CETO), Marine Corps Warfighting Laboratory, ''The Child Soldier Phenomenon has become a post-Cold War epidemic that has proliferated to every continent with the exception of Antarctica and Australia.''.

(3) Many of the children currently serving in armed forces or paramilitaries were forcibly conscripted through kidnapping or coercion, a form of human trafficking, while others joined military units due to economic necessity, to avenge the loss of a family member, or for their own personal safety.

(4) Some military and militia commanders force child soldiers to commit gruesome acts of ritual killings or torture, including acts of violence against other children.

(5) Many female child soldiers face the additional psychological and physical horrors of rape and sexual abuse, enslavement for sexual purposes by militia commanders, and severe social stigma should they return home.

(6) Some military and militia commanders target children for recruitment because of their psychological immaturity and vulnerability to manipulation and indoctrination. Children are often separated from their families in order to foster dependence on military units and leaders. Consequently, many of these children suffer from deep trauma and are in need of psychological counseling and rehabilitation.

(7) Child soldiers are exposed to hazardous conditions and are at risk of physical injury and disability, psychological trauma, sexually transmitted diseases, respiratory and skin infections, and often death.

(8) On May 25, 2000, the United Nations adopted and opened for signature, ratification, and accession the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (in this Act referred to as the ''Optional Protocol''), which establishes 18 as the minimum age for conscription or forced recruitment and requires states party to ensure that members of their armed forces under the age of 18 do not take a direct part in hostilities.

(9) On June 18, 2002, the Senate unanimously approved the resolution advising and consenting to the ratification of the Optional Protocol.

(10) On December 23, 2002, the United States presented the ratified optional protocol to the United Nations.

(11) More than 110 governments worldwide have ratified the optional protocol, establishing a clear international norm concerning the use of children in combat.

(12) On December 2, 1999, the United States ratified International Labour Convention 182, the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which includes the use of child soldiers among the worst forms of child labor.

(13) On October 7, 2005, the Senate gave its advice and consent to the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.

(14) It is in the national security interest of the United States to reduce the chances that members of the United States Armed Forces will be forced to encounter children in combat situations.

(15) Section 502B(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(3)) provides that ''the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise''.

SEC. 3. CHILD SOLDIER DEFINED.

In this Act, consistent with the provisions of the Optional Protocol, the term ''child soldier''—

(1) means—

(A) any person under age 18 who takes a direct part in hostilities as a member of governmental armed forces;

(B) any person under age 18 who has been compulsorily recruited into governmental armed forces;

(C) any person under age 16 voluntarily recruited into governmental armed forces; and

(D) any person under age 18 recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(2) includes any person described in subparagraphs (B), (C), and (D) of paragraph (1) who is serving in any capacity, including in

a support role such as a cook, porter, messenger, medic, guard, or sex slave.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress—

(1) to condemn the conscription, forced recruitment or use of children by governments, paramilitaries, or other organizations in hostilities;

(2) that the United States Government should support and, where practicable, lead efforts to establish and uphold international standards designed to end this abuse of human rights;

(3) that the United States Government should expand ongoing services to rehabilitate recovered child soldiers and to reintegrate them back into their communities by—

(A) offering ongoing psychological services to help victims recover from their trauma and relearn how to deal with others in nonviolent ways such that they are no longer a danger to their community;

(B) facilitating reconciliation with their communities through negotiations with traditional leaders and elders to enable recovered abductees to resume normal lives in their communities; and

(C) providing educational and vocational assistance;

(4) that the United States should work with the international community, including, where appropriate, third country governments, nongovernmental organizations, faith-based organizations, United Nations agencies, local governments, labor unions, and private enterprise—

(A) on efforts to bring to justice rebel organizations that kidnap children for use as child soldiers, including the Lord's Resistance Army (LRA) in Uganda, Fuerzas Armadas Revolucionarias de Colombia (FARC), and Liberation Tigers of Tamil Eelam (LTTE), including, where feasible, by arresting the leaders of such groups; and

(B) on efforts to recover those children who have been abducted and to assist them in their rehabilitation and reintegration into communities;

(5) that the Secretary of State, the Secretary of Labor, and the Secretary of Defense should coordinate programs to achieve the goals specified in paragraph (3), and in countries where the use of child soldiers is an issue, whether or not it is supported or sanctioned by the governments of such countries, United States diplomatic missions should include in their mission program plans a strategy to achieve the goals specified in such paragraph;

(6) that United States diplomatic missions in countries in which governments use or tolerate child soldiers should develop, as part of annual program planning, strategies to promote efforts to end this abuse of human rights; and

(7) that, in allocating or recommending the allocation of funds or recommending candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to promote the end to this abuse of human rights.

SEC. 5. PROHIBITION.

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), none of the funds appropriated or otherwise made available for international military education and training, foreign military financing, foreign military sales, direct commercial sales, or excess Defense articles by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102) or any other Act making appropriations for foreign operations, export financing, and related programs may be obligated or otherwise made available to the government of a country that is clearly identified by the Department of State in the Department of State's most recent Country Reports on Human Rights Practices as having governmental armed forces or government supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit or use child soldiers.

(b) NOTIFICATION TO COUNTRIES IN VIOLATION OF THE STANDARDS OF THIS ACT.—The Secretary of State shall formally notify any government identified pursuant to subsection (a).

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the interest of the United States.

(2) PUBLICATION AND NOTIFICATION.—The President shall publish each waiver granted under paragraph (1) in the Federal Register and shall notify the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives of each such waiver, including the justification for the waiver, in accordance with the regular notification procedures of such Committees.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to Congress that the government of such country—

(1) has implemented effective measures to come into compliance with the standards of this Act; and

(2) has implemented effective policies and mechanisms to prohibit and prevent future use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) EXCEPTION FOR PROGRAMS DIRECTLY RELATED TO ADDRESSING THE PROBLEM OF CHILD SOLDIERS OR PROFESSIONALIZATION OF THE MILITARY.—

(1) IN GENERAL.—The President may provide to a country assistance for international military education and training otherwise prohibited under subsection (a) upon certifying to Congress that—

(A) the government of such country is implementing effective measures to demobilize child soldiers in its forces or in government supported paramilitaries and to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(B) the assistance provided by the United States Government to the government of such country will go to programs that will directly support professionalization of the military.

(2) LIMITATION.—The exception under paragraph (1) may not remain in effect for more than 2 years following the date of notification specified in section 5(b).

SEC. 6. REPORTS.

(a) PREPARATION OF REPORTS REGARDING CHILD SOLDIERS.—United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the Human Rights Reports that relate to child soldiers, the Secretary of State shall ensure that such reports shall include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) INCLUSION OF INFORMATION ON VIOLATIONS.—When the Secretary of State determines that a government has violated the standards of this Act, the Secretary shall clearly indicate that fact in the relevant Annual Human Rights Report.

(d) LETTER TO CONGRESS.—Not later than June 15 of each year for 10 years following the enactment of this Act, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives—

(1) a list of the countries receiving notification that they are in violation of the standards of this Act;

(2) a list of any waivers or exceptions exercised under this Act;

(3) justification for those waivers and exceptions; and

(4) a description of any assistance provided pursuant to this Act.

SEC. 7. REPORT ON IMPLEMENTATION OF ACT.

Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report setting forth a strategy for achieving the policy objectives of this Act, including a description of an effective mechanism for coordination of United States Government efforts to implement this strategy.

SEC. 8. TRAINING FOR FOREIGN SERVICE OFFICERS.

Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following new subsection:

''(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided after January 1, 2008, for officers of the Service, including chiefs of mission, instruction on matters related to child soldiers and the substance of the Child Soldier Prevention Act of 2007.''.

SEC. 9. EFFECTIVE DATE; APPLICABILITY.

This Act shall take effect 180 days after the date of the enactment of this Act and shall apply to funds obligated after such effective date.

AMENDMENTS SUBMITTED AND PROPOSED

SA 898. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 897 proposed by Mr. ENSIGN (for himself and Mr. CRAIG) to the bill S. 378, to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; which was ordered to lie on the table.

SA 899. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 378, supra; which was ordered to lie on the table.

SA 900. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 378, supra; which was ordered to lie on the table.

SA 901. Mr. DORGAN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 378, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 898. Mr. ENSIGN submitted an amendment intended to be proposed to

amendment SA 897 proposed by Mr. ENSIGN (for himself and Mr. CRAIG) to the bill S. 378, to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted insert the following:

TITLE VI: NINTH CIRCUIT SPLIT

SEC. 601. SHORT TITLE.

This title may be cited as the ''The Circuit Court of Appeals Restructuring and Modernization Act of 2007''.

SEC. 602. DEFINITIONS.

In this title:

(1) FORMER NINTH CIRCUIT.—The term ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this title.

(2) NEW NINTH CIRCUIT.—The term ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by section 603(2)(A).

(3) TWELFTH CIRCUIT.—The term ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by section 603(2)(B).

SEC. 603. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking ''thirteen'' and inserting ''fourteen''; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

''Ninth	California, Guam, Hawaii, Northern Mariana Islands.''

and

(B) by inserting after the item relating to the eleventh circuit the following:

''Twelfth	Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.''.

SEC. 604. JUDGESHIPS.

(a) NEW JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 5 additional circuit judges for the new ninth circuit court of appeals, whose official duty station shall be in California.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENT OF JUDGES.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the former ninth circuit court of appeals, whose official duty stations shall be in California.

(2) EFFECT OF VACANCIES.—The first 2 vacancies occurring on the new ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 605. NUMBER OF CIRCUIT JUDGES.

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth	20''

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth	14''.

SEC. 606. PLACES OF CIRCUIT COURT.

The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth	Honolulu, Pasadena, San Francisco.''

and

(2) by inserting after the item relating to the eleventh circuit the following:

''Twelfth	Las Vegas, Phoenix, Portland, Seattle.''.

SEC. 607. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.

The offices of the Circuit Executive of the Twelfth Circuit and the Clerk of the Court of the Twelfth Circuit shall be located in Phoenix, Arizona.

SEC. 608. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this title—

(1) is in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

(2) is in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington shall be a circuit judge of the twelfth circuit as of such effective date.

SEC. 609. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this title may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 610. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 608, or

(2) who elects to be assigned under section 609,

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 611. APPLICATION TO CASES.

The following apply to any case in which, on the day before the effective date of this title, an appeal or other proceeding has been filed with the former ninth circuit:

(1) Except as provided in paragraph (3), if the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this title had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this title been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) If a petition for rehearing en banc is pending on or after the effective date of this title, the petition shall be considered by the court of appeals to which it would have been submitted had this title been in full force and effect at the time that the appeal or other proceeding was filed with the court of appeals.

SEC. 612. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.

Section 291 of title 28, United States Code, is amended by adding at the end the following:

''(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit.

''(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit.''.

SEC. 613. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.

Section 292 of title 28, United States Code, is amended by adding at the end the following:

''(f) The chief judge of the United States Court of Appeals for the Ninth Circuit may in the public interest—

''(1) upon request by the chief judge of the Twelfth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit, or a division thereof, whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit.

''(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

''(1) upon request by the chief judge of the Ninth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit, or a division thereof, whenever the business of that court so requires; and

''(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit.

''(h) Any designations or assignments under subsection (f) or (g) shall be in conformity with the rules or orders of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.''.

SEC. 614. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this title may take such administrative action as may be required to carry out this title and the amendments made by this title. Such court shall cease to exist for administrative purposes 2 years after the date of enactment of this Act.

SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title, including funds for additional court facilities.

SEC. 616. EFFECTIVE DATE.

Except as provided in section 604(c), this title and the amendments made by this title shall take effect 12 months and 1 day after the date of enactment of this Act.

SA 899. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 378, to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; which was ordered to lie on the table; as follows:

TITLE VI. ADDITIONAL JUDGESHIPS FOR THE SOUTHWEST BORDER

At the end of the bill, add the following:

SEC. 601. SHORT TITLE.

This title may be cited as the ''Federal Criminal Immigration Courts Act of 2007''.

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—Based on the recommendations made by the 2007 Judicial Conference and the statistical data provided by the 2006 Federal Court Management Statistics (issued by the Administrative Office of the

United States Courts), the Congress finds the following:

(1) Federal courts along the southwest border of the United States have a greater percentage of their criminal caseload affected by immigration cases than other Federal courts.

(2) The percentage of criminal immigration cases in most southwest border district courts totals more than 49 percent of the total criminal caseloads of those districts.

(3) The current number of judges authorized for those courts is inadequate to handle the current caseload.

(4) Such an increase in the caseload of criminal immigration filings requires a corresponding increase in the number of Federal judgeships.

(5) The 2007 Judicial Conference recommended the addition of judgeships to meet this growing burden.

(6) The Congress should authorize the additional district court judges necessary to carry out the 2007 recommendations of the Judicial Conference for district courts in which the criminal immigration filings represented more than 49 percent of all criminal filings for the 12-month period ending September 30, 2006.

(b) PURPOSE.—The purpose of this title is to increase the number of Federal judgeships, in accordance with the recommendations of the 2007 Judicial Conference, in district courts that have an extraordinarily high criminal immigration caseload.

SEC. 603. ADDITIONAL DISTRICT COURT JUDGESHIPS.

(a) PERMANENT JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 4 additional district judges for the district of Arizona;

(B) 1 additional district judge for the district of New Mexico;

(C) 2 additional district judges for the southern district of Texas; and

(D) 1 additional district judge for the western district of Texas.

(2) CONFORMING AMENDMENTS.—In order that the table contained in section 133(a) of title 28, United States Code, reflect the number of additional judges authorized under paragraph (1), such table is amended—

(A) by striking the item relating to Arizona and inserting the following:

''Arizona ..... 6'';

(B) by striking the item relating New Mexico and inserting the following:

''New Mexico ..... 7''; and

(C) by striking the item relating to Texas and inserting the following:

''Texas:
Northern 12
Southern 21
Eastern 17
Western ..... 14''.

(b) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the district of Arizona; and

(B) 1 additional district judge for the district of New Mexico.

(2) VACANCY.—For each of the judicial districts named in this subsection, the first vacancy arising on the district court 10 years or more after a judge is first confirmed to fill the temporary district judgeship created in that district by this subsection shall not be filled.

SA 900. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 378, to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. MEDIA COVERAGE OF FEDERAL COURT PROCEEDINGS.

(a) DEFINITIONS.—In this section:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

(b) AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.—

(1) AUTHORITY OF APPELLATE COURTS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the presiding judge of an appellate court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(B) EXCEPTION.—The presiding judge shall not permit any action under subparagraph (A), if—

(i) in the case of a proceeding involving only the presiding judge, that judge determines the action would constitute a violation of the due process rights of any party; or

(ii) in the case of a proceeding involving the participation of more than 1 judge, a majority of the judges participating determine that the action would constitute a violation of the due process rights of any party.

(2) AUTHORITY OF DISTRICT COURTS.—

(A) IN GENERAL.—

(i) AUTHORITY.—Notwithstanding any other provision of law, except as provided under clause (iii), the presiding judge of a district court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(ii) OBSCURING OF WITNESSES.—Except as provided under clause (iii)—

(I) upon the request of any witness (other than a party) in a trial proceeding, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding; and

(II) the presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request the image and voice of that witness to be obscured during the witness' testimony.

(iii) EXCEPTION.—The presiding judge shall not permit any action under this subparagraph, if that judge determines the action would constitute a violation of the due process rights of any party.

(B) NO TELEVISING OF JURORS.—The presiding judge shall not permit the televising of any juror in a trial proceeding.

(3) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, at the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under paragraphs (1) and (2).

(4) SUNSET OF DISTRICT COURT AUTHORITY.—The authority under paragraph (2) shall terminate 3 years after the date of the enactment of this Act.

SA 901. Mr. DORGAN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 378, to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ____—RESTITUTION FOR VICTIMS OF CRIME ACT OF 2007

SEC. __01. SHORT TITLE.

This title may be cited as the ''Restitution for Victims of Crime Act of 2007''.

Subtitle A—Collection of Restitution

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the ''Collection of Restitution Improvement Act of 2007''.

SEC. 1102. PROCEDURE FOR ISSUANCE AND ENFORCEMENT OF RESTITUTION.

Section 3664(f) of title 18, United States Code, is amended by striking paragraphs (2) through (4) and inserting the following:

''(C)(i) Each restitution order shall—

''(I) contain information sufficient to identify each victim to whom restitution is owed;

''(II) require that a copy of the court order be sent to each such victim; and

''(III) inform each such victim of the obligation to notify the appropriate entities of any change in address.

''(ii) It shall be the responsibility of each victim to whom restitution is owed to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed to the victim.

''(iii) The confidentiality of any information relating to a victim under this subparagraph shall be maintained.

''(2) The court shall order that the restitution imposed is due in full immediately upon imposition.

''(3) The court shall direct the defendant—

''(A) to make a good-faith effort to satisfy the restitution order in the shortest time in which full restitution can be reasonably made, and to refrain from taking any action that conceals or dissipates the defendant's assets or income;

''(B) to notify the court of any change in residence; and

''(C) to notify the United States Attorney for the district in which the defendant was sentenced of any change in residence, and of any material change in economic circumstances that might affect the defendant's ability to pay restitution.

''(4) Compliance with all payment directions imposed under paragraphs (6) and (7) shall be prima facie evidence of a good faith effort under paragraph (3)(A), unless it is shown that the defendant has concealed or dissipated assets.

''(5) Notwithstanding any other provision of law, for the purpose of enforcing a restitution order, a United States Attorney may receive, without the need for a court order, any financial information concerning the defendant obtained by the grand jury that indicted the defendant for the crime for which restitution has been awarded, the United States Probation Office, or the Bureau of Prisons. A victim may also provide financial information concerning the defendant to the United States Attorney.

''(6)(A) At sentencing, or at any time prior to the termination of a restitution obligation under section 3613 of this title, the court may—

''(i) impose special payment directions upon the defendant or modify such directions; or

''(ii) direct the defendant to make a single, lump sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

''(B) The period of time over which scheduled payments are established for purposes of this paragraph shall be the shortest time in which full payment reasonably can be made.

''(C) In-kind payments may be in the form of the return of property, replacement of property, or, if the victim agrees, services rendered to the victim or a person or organization other than the victim.

''(D) In ordering restitution, the court may direct the defendant to—

''(i) repatriate any property that constitutes proceeds of the offense of conviction, or property traceable to such proceeds; and

''(ii) surrender to the United States, or to the victim named in the restitution order, any interest of the defendant in any nonexempt asset.

''(E) The court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property for restitution.

''(7)(A) In determining whether to impose or modify specific payment directions, the court may consider—

''(i) the need to provide restitution to the victims of the offense;

''(ii) the financial ability of the defendant;

''(iii) the economic circumstances of the defendant, including the financial resources and other assets of the defendant and whether any of those assets are jointly controlled;

''(iv) the projected earnings and other income of the defendant;

''(v) any financial obligations of the defendant, including obligations to dependents;

''(vi) whether the defendant has concealed or dissipated assets or income; and

''(vii) any other appropriate circumstances.

''(B) Any substantial resources from any source, including inheritance, settlement, or other judgment, shall be applied to any outstanding restitution obligation.

''(8)(A) If the court finds that the economic circumstances of the defendant do not allow the payment of any substantial amount as restitution, the court may direct the defendant to make nominal payments of not less than $100 per year toward the restitution obligation.

''(B) Any money received from the defendant under subparagraph (A) shall be disbursed so that any outstanding assessment imposed under section 3013 is paid first in full.

''(9) Court-imposed special payment directions shall not limit the ability of the Attorney General to maintain an Inmate Financial Responsibility Program that encourages sentenced inmates to meet their legitimate financial obligations.

''(10)(A) The ability of the Attorney General to enforce restitution obligations ordered under paragraph (2) shall not be limited by appeal, or the possibility of a correction, modification, amendment, adjustment, or reimposition of a sentence, unless the court expressly so orders for good cause shown and stated on the record.

''(B) Absent exceptional circumstances, as determined by the court, an order limiting the enforcement of restitution obligations shall—

''(i) require the defendant to deposit, in the registry of the district court, any amount of the restitution that is due;

''(ii) require the defendant to post a bond or other security to ensure payment of the restitution that is due; or

''(iii) impose additional restraints upon the defendant to prevent the defendant from transferring or dissipating assets.

''(C) No order described in subparagraph (B) shall restrain the ability of the United States to continue its investigation of the defendant's financial circumstances, conduct discovery, record a lien, or seek any injunction or other relief from the court.''.

SEC. 1103. IMPOSITION OF CRIMINAL FINES AND PAYMENT DIRECTIONS.

Subsection 3572(d) of title 18, United States Code, is amended to read as follows:

''(d) PAYMENT.—

''(1) IN GENERAL.—The court shall order that any fine or assessment imposed be due in full immediately upon imposition.

''(2) EFFORTS TO MAKE PAYMENT.—The court shall—

''(A) direct the defendant to make a good-faith effort to satisfy the fine and assessment in the shortest time in which full payment can be reasonably made, and to refrain from taking any action that conceals or dissipates the defendant's assets or income;

''(B) direct the defendant to notify the court of any change in residence; and

''(C) order the defendant to notify the United States Attorney for the district in which the defendant was sentenced of any change in residence, and of any material change in economic circumstances that might affect the defendant's ability to pay restitution.

''(3) GOOD FAITH.—Compliance with all payment directions imposed by paragraphs (5) and (6) shall be prima facie evidence of a good faith effort under paragraph (2)(A), unless it is shown that the defendant has concealed or dissipated assets;

''(4) ACCESS TO INFORMATION.—Notwithstanding any other provision of law, for the purpose of enforcing a fine or assessment, a United States Attorney may receive, without the need for a court order, any financial information concerning the defendant obtained by a grand jury, the United States Probation Office, or the Bureau of Prisons.

''(5) PAYMENT SCHEDULE.—

''(A) IN GENERAL.—At sentencing, or at any time prior to the termination of a restitution obligation under section 3613 of this title, the court may—

''(i) impose special payment directions upon the defendant or modify such directions; or

''(ii) direct the defendant to make a single, lump sum payment, or partial payments at specified intervals.

''(B) PERIOD OF TIME.—The period of time over which scheduled payments are established for purposes of this paragraph shall be the shortest time in which full payment can reasonably be made.

''(C) REPATRIATION.—The court may direct the defendant to repatriate any property that constitutes proceeds of the offense of conviction, or property traceable to such proceeds.

''(D) SURRENDER.—In ordering restitution, the court may direct the defendant to surrender to the United States any interest of the defendant in any non-exempt asset.

''(E) THIRD PARTIES.—If the court directs the defendant to repatriate or surrender any property in which it appears that any person other than the defendant may have a legal interest—

''(i) the court shall take such action as is necessary to protect such third party interest; and

''(ii) may direct the United States to initiate any ancillary proceeding to determine such third party interests in accordance with the procedures specified in section 413(n) of the Controlled Substances Act (21 U.S.C. 853(n)).

''(F) EXCLUSIVITY OF REMEDY.—Except as provided in this section, no person may commence an action against the United States concerning the validity of the party's alleged interest in the property subject to reparation or surrender.

''(G) PRESERVATION OF PROPERTY.—The court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property for payment of the fine or assessment.

''(6) CONSIDERATIONS.—In determining whether to impose or modify special payment directions, the court may consider—

''(A) the need to satisfy the fine or assessment;

''(B) the financial ability of the defendant;

''(C) the economic circumstances of the defendant, including the financial resources and other assets of the defendant, and whether any of those assets are jointly controlled;

''(D) the projected earnings and other income of the defendant;

''(E) any financial obligations of the defendant, including obligations to dependents;

''(F) whether the defendant has concealed or dissipated assets or income; and

''(G) any other appropriate circumstances.

''(7) USE OF RESOURCES.—Any substantial resources from any source, including inheritance, settlement, or other judgment shall be applied to any fine or assessment still owed.

''(8) NOMINAL PAYMENTS.—If the court finds that the economic circumstances of the defendant do not allow the immediate payment of any substantial amount of the fine or assessment imposed, the court may direct the defendant to make nominal payments of not less than $100 per year toward the fine or assessment imposed.

''(9) INMATE FINANCIAL RESPONSIBILITY PROGRAM.—Court-imposed special payment directions shall not limit the ability of the Attorney General to maintain an Inmate Financial Responsibility Program that encourages sentenced inmates to meet their legitimate financial obligations.

''(10) ENFORCEMENT.—

''(A) IN GENERAL.—The ability of the Attorney General to enforce the fines and assessment ordered under paragraph (1) shall not be limited by an appeal, or the possibility of a correction, modification, amendment, adjustment, or reimposition of a sentence, unless the court expressly so orders, for good cause shown and stated on the record.

''(B) EXCEPTIONS.—Absent exceptional circumstances, as determined by the court, an order limiting enforcement of a fine or assessment shall—

''(i) require the defendant to deposit, in the registry of the district court, any amount of the fine or assessment that is due;

''(ii) require the defendant to post a bond or other security to ensure payment of the fine or assessment that is due; or

''(iii) impose additional restraints upon the defendant to prevent the defendant from transferring or dissipating assets.

''(C) OTHER ACTIVITIES.—No order described in subparagraph (B) shall restrain the ability of the United States to continue its investigation of the defendant's financial circumstances, conduct discovery, record a lien, or seek any injunction or other relief from the court.

''(11) SPECIAL ASSESSMENTS.—The requirements of this subsection shall apply to the imposition and enforcement of any assessment imposed under section 3013 of this title.''.

SEC. 1104. COLLECTION OF UNPAID FINES OR RESTITUTION.

Section 3612(b) of title 18, United States Code, is amended to read as follows:

''(b) INFORMATION TO BE INCLUDED IN JUDGMENT; JUDGMENT TO BE TRANSMITTED TO THE ATTORNEY GENERAL.—

''(1) IN GENERAL.—A judgment or order imposing, modifying, or remitting a fine or restitution order of more than $100 shall include—

''(A) the name, social security account number, mailing address, and residence address of the defendant;

''(B) the docket number of the case;

''(C) the original amount of the fine or restitution order and the amount that is due and unpaid;

''(D) payment orders and directions imposed under section 3572(d) and section 3664(f) of this title; and

''(E) a description of any modification or remission.

''(2) TRANSMITTAL OF COPIES.—Not later than 10 days after entry of the judgment or order described in paragraph (1), the court shall transmit a certified copy of the judgment or order to the Attorney General.''.

SEC. 1105. ATTORNEY'S FEES FOR VICTIMS.

(a) ORDER OF RESTITUTION.—Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following:

''(B) reimburse the victim for attorneys' fees reasonably incurred in an attempt to retrieve damaged, lost, or destroyed property (which shall not include payment of salaries of Government attorneys); or''; and

(D) in subparagraph (C), as so redesignated by this subsection, by inserting ''or (B)'' after ''subparagraph (A)'';

(2) in paragraph (4)—

(A) by inserting ''(including attorneys' fees necessarily and reasonably incurred for representation of the victim, which shall not include payment of salaries of Government attorneys)'' after ''other expenses related to participation in the investigation or prosecution of the offense''; and

(B) by striking ''and'' at the end;

(3) in paragraph (5), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(6) in any case, reimburse the victim for reasonably incurred attorneys' fees that are necessary and foreseeable results of the defendant's crime (which shall not include payment of salaries of Government attorneys).''.

(b) MANDATORY RESTITUTION TO VICTIMS OF CERTAIN CRIMES.—Section 3663A(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following:

''(B) reimburse the victim for attorneys' fees reasonably incurred in an attempt to retrieve damaged, lost, or destroyed property (which shall not include payment of salaries of Government attorneys); or''; and

(D) in subparagraph (C), as so redesignated by this subsection, by inserting ''or (B)'' after ''subparagraph (A)'';

(2) in paragraph (3), by striking ''and'' at the end;

(3) in paragraph (4)—

(A) by inserting ''(including attorneys' fees necessarily and reasonably incurred for representation of the victim, which shall not include payment of salaries of Government attorneys)'' after ''other expenses related to participation in the investigation or prosecution of the offense''; and

(B) by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(5) in any case, reimburse the victim for reasonably incurred attorneys' fees that are necessary and foreseeable results of the defendant's crime (which shall not include payment of salaries of Government attorneys).''.

Subtitle B—Preservation of Assets for Restitution

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the ''Preservation of Assets for Restitution Act of 2007''.

SEC. 1202. AMENDMENTS TO THE MANDATORY VICTIMS RESTITUTION ACT.

(a) IN GENERAL.—Chapter 232 of title 18, United States Code, is amended by inserting after section 3664 the following:

''§ 3664A. Preservation of assets for restitution

''(a) PROTECTIVE ORDERS TO PRESERVE ASSETS.—

''(1) IN GENERAL.—Upon the Government's ex parte application and a finding of probable cause to believe that a defendant, if convicted, will be ordered to satisfy an order of restitution for an offense punishable by imprisonment for more than 1 year, the court—

''(A) shall—

''(i) enter a restraining order or injunction;

''(ii) require the execution of a satisfactory performance bond; or

''(iii) take any other action necessary to preserve the availability of any property traceable to the commission of the offense charged; and

''(B) if it determines that it is in the interests of justice to do so, shall issue any order necessary to preserve any nonexempt asset (as defined in section 3613) of the defendant that may be used to satisfy such restitution order.

''(2) PROCEDURES.—Applications and orders issued under paragraph (1) shall be governed by the procedures under section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e)) and in this section.

''(3) MONETARY INSTRUMENTS.—If the property in question is a monetary instrument (as defined in section 1956(c)(5)) or funds in electronic form, the protective order issued under paragraph (1) may take the form of a warrant authorizing the Government to seize the property and to deposit it into an interest-bearing account in the Registry of the Court in the district in which the warrant was issued, or into another such account maintained by a substitute property custodian, as the court may direct.

''(4) POST-INDICTMENT.—A post-indictment protective order entered under paragraph (1) shall remain in effect through the conclusion of the criminal case, including sentencing and any post-sentencing proceedings, until seizure or other disposition of the subject property, unless modified by the court upon a motion by the Government or under subsection (b) or (c).

''(b) DEFENDANT'S RIGHT TO A HEARING.—

''(1) IN GENERAL.—In the case of a preindictment protective order entered under subsection (a)(1), the defendant's right to a post-restraint hearing shall be governed by paragraphs (1)(B) and (2) of section 413(e) of the Controlled Substances Act (21 U.S.C. 853(e)).

''(2) POST-INDICTMENT.—In the case of a post-indictment protective order entered under subsection (a)(1), the defendant shall have a right to a post-restraint hearing regarding the continuation or modification of the order if the defendant—

''(A) establishes by a preponderance of the evidence that there are no assets, other than the restrained property, available to the defendant to retain counsel in the criminal case or to provide for a reasonable living allowance for the necessary expenses of the defendant and the defendant's lawful dependents; and

''(B) makes a prima facie showing that there is bona fide reason to believe that the court's ex parte finding of probable cause under subsection (a)(1) was in error.

''(3) HEARING.—

''(A) IN GENERAL.—If the court determines that the defendant has satisfied the requirements of paragraph (2), it may hold a hearing to determine whether there is probable cause to believe that the defendant, if convicted, will be ordered to satisfy an order of restitution for an offense punishable by imprisonment for more than 1 year, and that the seized or restrained property may be needed to satisfy such restitution order.

''(B) PROBABLE CAUSE.—If the court finds probable cause under subparagraph (A), the protective order shall remain in effect.

''(C) NO PROBABLE CAUSE.—If the court finds under subparagraph (A) that no probable cause exists as to some or all of the property, or determines that more property has been seized and restrained than may be needed to satisfy a restitution order, it shall modify the protective order to the extent necessary to release the property that should not have been restrained.

''(4) REBUTTAL.—If the court conducts an evidentiary hearing under paragraph (3), the court shall afford the Government an opportunity to present rebuttal evidence and to cross-examine any witness that the defendant may present.

''(5) PRETRIAL HEARING.—In any pretrial hearing on a protective order issued under subsection (a)(1), the court may not entertain challenges to the grand jury's finding of probable cause regarding the criminal offense giving rise to a potential restitution order. The court shall ensure that such hearings are not used to obtain disclosure of evidence or the identities of witnesses earlier than required by the Federal Rules of Criminal Procedure or other applicable law.

''(c) THIRD PARTY'S RIGHT TO POST-RESTRAINT HEARING.—

''(1) IN GENERAL.—A person other than the defendant who has a legal interest in property affected by a protective order issued under subsection (a)(1) may move to modify the order on the grounds that—

''(A) the order causes an immediate and irreparable hardship to the moving party; and

''(B) less intrusive means exist to preserve the property for the purpose of restitution.

''(2) MODIFICATION.—If, after considering any rebuttal evidence offered by the Government, the court determines that the moving party has made the showings required under paragraph (1), the court shall modify the order to mitigate the hardship, to the extent that it is possible to do so while preserving the asset for restitution.

''(3) INTERVENTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) or paragraph (1), a person

other than a defendant has no right to intervene in the criminal case to object to the entry of any order issued under this section or otherwise to object to an order directing a defendant to pay restitution.

''(B) EXCEPTION.—If, at the conclusion of the criminal case, the court orders the defendant to use particular assets to satisfy an order of restitution (including assets that have been seized or restrained pursuant to this section) the court shall give persons other than the defendant the opportunity to object to the order on the ground that the property belonged in whole or in part to the third party and not to the defendant, as provided in section 413(n) of the Controlled Substances Act (21 U.S.C. 853(n)).

''(d) GEOGRAPHIC SCOPE OF ORDER.—

''(1) IN GENERAL.—A district court of the United States shall have jurisdiction to enter an order under this section without regard to the location of the property subject to the order.

''(2) OUTSIDE THE UNITED STATES.—If the property subject to an order issued under this section is located outside of the United States, the order may be transmitted to the central authority of any foreign state for service in accordance with any treaty or other international agreement.

''(e) NO EFFECT ON OTHER GOVERNMENT ACTION.—Nothing in this section shall be construed to preclude the Government from seeking the seizure, restraint, or forfeiture of assets under the asset forfeiture laws of the United States.

''(f) LIMITATION ON RIGHTS CONFERRED.—Nothing in this section shall be construed to create any enforceable right to have the Government seek the seizure or restraint of property for restitution.

''(g) RECEIVERS.—

''(1) IN GENERAL.—A court issuing an order under this section may appoint a receiver under section 1956(b)(4) to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, that have been restrained in accordance with this section.

''(2) DISTRIBUTION OF PROPERTY.—The receiver shall have the power to distribute property in its control to each victim identified in an order of restitution at such time, and in such manner, as the court may authorize.''.

(b) CONFORMING AMENDMENT.—The section analysis for chapter 232 of title 18, United States Code, is amended by inserting after the item relating to section 3664 the following:

''Sec. 3664A. Preservation of assets for restitution.''.

SEC. 1203. AMENDMENTS TO THE ANTI-FRAUD INJUNCTION STATUTE.

Section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''or'' at the end; and

(B) by inserting after subparagraph (C) the following:

''(D) committing or about to commit a Federal offense that may result in an order of restitution;''; and

(2) in paragraph (2)—

(A) by striking ''a banking violation'' and all that follows through ''healthcare offense'' and inserting ''a violation or offense identified in paragraph (1)''; and

(B) by inserting ''or offense'' after ''traceable to such violation''.

SEC. 1204. AMENDMENTS TO THE FEDERAL DEBT COLLECTION PROCEDURES ACT.

(a) PROCESS.—Section 3004(b)(2) of title 28, United States Code, is amended by inserting after ''in which the debtor resides.'' the following: ''In a criminal case, the district court for the district in which the defendant was sentenced may deny the request.''.

(b) PREJUDGMENT REMEDIES.—Section 3101 of title 28, United States Code, is amended—

(1) in subsection (a)(1) by inserting after ''the filing of a civil action on a claim for a debt'' the following: ''or in any criminal action where the court may enter an order of restitution''; and

(2) in subsection (d)—

(A) by inserting after ''The Government wants to make sure [name of debtor] will pay if the court determines that this money is owed.'' the following:

'' 'In a criminal action, use the following opening paragraph: You are hereby notified that this [property] is being taken by the United States Government [the Government], which says that [name of debtor], if convicted, may owe as restitution $ [amount]. The Government says it must take this property at this time because [recite the pertinent ground or grounds from section 3101(b)]. The Government wants to make sure [name of debtor] will pay if the court determines that restitution is owed.' '';

(B) by inserting after ''a statement that different property may be so exempted with respect to the State in which the debtor resides.]'' the following:

'' '[In a criminal action, the statement summarizing the types of property that may be exempt shall list only those types of property that may be exempt under section 3613 of title 18.]' ''; and

(C) by inserting after ''You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.'' the following:

'' 'If this Notice is issued in conjunction with a criminal case, the district court where the criminal action is pending may deny your request for a transfer of this proceeding.' ''.

(c) ENFORCEMENT.—Section 3202(b) of title 28, United States Code, is amended—

(1) by inserting after ''a statement that different property may be so exempted with respect to the State in which the debtor resides.]'' the following:

'' '[In a criminal action, the statement summarizing the types of property that may be exempt shall list only those types of property that may be exempt under section 3613 of title 18.]' ''; and

(2) by inserting after ''you want the proceeding to be transferred.'' the following:

'' 'If this notice is issued in conjunction with a criminal case, the district court where the criminal action is pending may deny your request for a transfer of this proceeding.' ''.

Subtitle C—Environmental Crimes Restitution

SEC. 1301. SHORT TITLE.

This subtitle may be cited as the ''Environmental Crimes Restitution Act of 2007''.

SEC. 1302. IMMEDIATE AVAILABILITY OF RESTITUTION TO VICTIMS OF ENVIRONMENTAL CRIMES.

Section 3663(a)(1)(A) of title 18, United States Code, is amended by striking ''or section 5124, 46312, 46502, or 46504 of title 49,'' and inserting ''paragraph (2) or (3) of section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319(c)), section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)), section 9(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1908(a)), section 1423 or subsection (a) or (b) of section 1432 of the Safe Drinking Water Act (42 U.S.C. 300h–2 and 300i–1), subsection (d) or (e) of section 3008 of the Solid Waste Disposal Act (42 U.S.C. 6928), paragraph (1) or (5) of section 113(c) of the Clear Air Act (42 U.S.C. 7413(c)), or section 46312, 46502, or 46504 of title 49,''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. KLOBUCHAR. Mr President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 19, 2007, a 9:30 a.m., in open session to receive testimony on the Department of Defense's management of costs under the Logistics Civil Augmentation Program (LOCGAP) contract in Iraq.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Thursday, April 19, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building. The purpose of this hearing is to discuss the importance of basic research to U.S. competitiveness in science.

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

COMMITTEE ON FINANCE.

Ms. KLOBUCHUR. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 19, 2007, at 10 a.m., in 2125 Dirksen Senate Office Building, to hear testimony on ''Grains, Cane, and Automobiles: Tax Incentives for Alternative Fuels and Vehicles''.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. KLOBUCHAR, Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, April 19, 2007, at 9 a.m. for a hearing titled ''Dangerous Exposure: The Impact of Global Warming on Private and Federal Insurance.''

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

COMMITTEE ON THE JUDICIARY

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct hearing on ''Department of Justice Oversight'' on Thursday, April 19, 2007 at 9:30 a.m., in Hart Senate Office Building room 216.

Witness

The Honorable Alberto Gonzales, Attorney General, United States Department of Justice, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 19, 2007 at 2:30 p.m. to hold a hearing.

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

SPECIAL COMMITTEE ON AGING

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, April 19, 2007 from 10 a.m. to noon in Dirksen 562 for the purpose of conducting a hearing.

Agenda

Biodentical Hormones.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security be authorized to meet on Thursday, April 19, 2007 at 2 p.m. for a hearing entitled, ''The Road Ahead: Implementing Postal Reform.''

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

SUBCOMMITTEE ON STRATEGIC FORCES

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces be authorized to meet in open and closed sessions during the session of the Senate on Thursday, April 19, 2007, at 2:30 p.m., to receive testimony on military space programs in review of the defense authorization request for fiscal year 2008 and the future years defense program.

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

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

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

PROGRAM

Mr. DURBIN. Madam President, we will return tomorrow in session to discuss the competitiveness bill now pending and to have debate only and then consider amendments, and we hope to vote on it early next week.

As far as our meeting this week in the Senate, we are able to point to the passage of the court security bill, which is an important piece of legislation. Unfortunately, it is a bill that took 2 days, and it should have taken 20 minutes. During the course of 2 days, we had a general debate about budget deficits and a debate which started and ended without a vote on splitting up the Ninth Circuit. It was time for some Members to bring up issues of importance to them, but I would suggest we have a limited amount to show for our activity this week because of activities on the other side of the aisle.

Twice we were stopped in efforts to call up important legislation. We wanted to have the reauthorization of the intelligence agencies in America so that they are prepared to deal in the most effective way in fighting terrorism. Unfortunately, there was resistance from the Republican side of the aisle, and we weren't able to do so. The bill had to be pulled from debate on the floor and put back on the calendar for another day. Then we wanted to move to the Medicare prescription Part D Program. Those of us on the Democratic side think it is important to have a debate as to whether Medicare can offer less expensive, more affordable drugs to seniors and disabled people. The pharmaceutical companies don't like this idea. The current system is very profitable for them. They have mounted a very expensive campaign to stop any suggestion of changing Medicare prescription Part D. It would have been a lively debate, an important debate, followed closely by many seniors and their families but, unfortunately, once again, the Republican minority, within their rights, stopped us from moving to that important debate.

So for two very substantive issues, we were stopped this week from the kind of progress which I think people expect us to make. Even if we disagree between the parties, there should be a spirit of cooperation here, at least when it comes to honest debate in a reasonable period of time and then an up-or-down vote and then move on, but we couldn't reach that point this week. Sadly, the only bill that passed was the Court Security Act, as important as it is. It should have passed very quickly without controversy. It took us 2 days.

Now we have a very important bill before us, which I think is long overdue. I wish to thank Senator ALEXANDER from Tennessee and Senator BINGAMAN for being the lead sponsors on this bill. I hope the debate tomorrow will lead to some amendments the beginning of next week and then to passage. America needs to maintain the competitive edge in so many parts of our economy, particularly when it comes to manufacturing, and this bill could be very positive.

UNANIMOUS-CONSENT AGREEMENT—S. 761

Mr. DURBIN. Madam President, I ask unanimous consent that on Friday, April 20, at 10:30 a.m, the Senate proceed to the consideration of Calendar No. 70, S. 761, the America COMPETES Act, and that during Friday's session there be debate only with no amendments in order to the bill; further, that on Tuesday, April 24, during consideration of S. 761, Senator COBURN be recognized to speak for 1 hour.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, and after consultation with the Republican leader, pursuant to Public Law 106–286, appoints the following Members to serve on the Congressional-Executive Commission on the People's Republic of China: the Senator from Nebraska (Mr. HAGEL), the Senator from Kansas (Mr. BROWNBACK), the Senator from Oregon (Mr. SMITH), and the Senator from Florida (Mr. MARTINEZ).

AMENDING THE ETHICS IN GOVERNMENT ACT OF 1978

Mr. DURBIN. Madam President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from further consideration of H.R. 1130, and that the Senate then proceed to its consideration.

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

The assistant legislative clerk read as follows:

A bill (H.R. 1130) to amend the Ethics in Government Act of 1978 to extend the authority to withhold from public availability a financial disclosure report filed by an individual who is a judicial officer or judicial employee, to the extent necessary to protect the safety of that individual or a family member of that individual, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, without intervening action or debate.

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

The bill (H.R. 1130) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR FRIDAY, APRIL 20, 2007

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. Friday, April 20; that on Friday following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each; that at 10:30 the Senate begin consideration of S. 761, the America COMPETES Act, as provided for under a previous order.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Madam President, if there is no further business today, I ask unanimous consent that the Senate adjourn under the previous order.

There being no objection, the Senate, at 4:45 p.m., adjourned until Friday, April 20, at 10 a.m.