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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JACK REED, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God who rules the raging of the sea, You have created us for Your glory. Today help us to see You more clearly, love You more dearly, and follow You more nearly.

Bless our Senators in their labors. Unite them in their efforts to find common ground and to work for the good of the Nation. May they seek creative ways of living a life of service that honors You. Guard them from danger and keep them from sin. As You work out Your plan for humanity, inspire our lawmakers with a joy that makes all difficulties seem worthwhile. Spare them from desiring success that focuses on things that pass away and ignores the things that last eternally. Let Your praise fill their hearts today and always.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED 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 please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 17, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will be in a period of morning business for 1 hour, the first half controlled by the Republicans, the second half under the majority's control. Following morning business, the Senate will resume consideration of the ethics bill, S. 1. Last night, the Senate invoked cloture on an amendment strengthening the gift and travel restrictions. I understand that several second-degree amendments to the amendment are now pending. It is my understanding there are four. I anticipate that we will be in a position to dispose of any germane second-degree amendments later today and then we will dispose of the underlying amendment. Once the Senate has concluded action on the gift travel amendment and any amendments in relation thereto, there will be a cloture vote on the substitute amendment on which cloture was filed last Friday.

I said yesterday, and I say today, we are going to work through this bill as quickly as we can. We were able to get through the first part of the ethics legislation in good fashion. It is my understanding, once we move to the substitute, if cloture is invoked on that, there are about 24 amendments that are germane as of last night. There were a few other amendments filed. I don't know if they are germane. I have been told by staff that 30, 40 percent of those amendments Senators BENNETT and FEINSTEIN will agree to accept. The others we will take a look at and see if they are campaign finance related and try to work through them the best we can. I am also in contact with my distinguished colleague, the Republican leader, to see if he feels that there are other amendments we need to vote on, and we are working on that. Even if they are not germane, if the distinguished minority leader and I have some belief that they will help movement of this bill, I would be happy to work with him in that regard.

We are going to be in recess today for our respective party conferences from 12:30 to 2:15 p.m. If we need to use the whole 30 hours, it would be about 10:30 tonight before we could dispose of the amendment—something like that.

RECOGNITION OF THE MINORITY LEADER

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

AMENDMENTS POSTCLOTURE

Mr. MCCONNELL. Mr. President, I will be consulting with my colleagues on the Republican side throughout the morning and at lunch on the issues raised by the majority leader with regard to the disposition of the pending amendments. As he indicated, some of them will be germane postcloture. I will be able to inform the majority

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

leader after lunch what other amendments we would hope to have an opportunity to vote on. I share his view that we ought to wrap this bill up as soon as reasonably possible. We will be working toward that end throughout the day.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the minority and the second half of the time under the control of the majority.

The Senator from Kansas.

IRAQ

Mr. BROWNBACK. Mr. President, I thank the leaders for the time this morning.

I recently returned from a trip looking into what is taking place in the war on terrorism. I was in Afghanistan in Kabul and also went to the Afghanistan-Pakistan border, had a brief meeting in Pakistan with our Ambassador and military leadership in Pakistan and also in Kuwait. I then went from there to Iraq. I was in Baghdad for a period of 24 hours plus. I went to Irbil in northern Iraq in the Kurdish region, met with Barzani, head of the Kurdish region, and traveled to Ethiopia to the current front, the expanded front in the war on terrorism, saw what the Ethiopians are doing in Somalia. I met with the Prime Minister of Ethiopia, Meles Zenawi, about what he is doing in Somalia. I had a very good meeting with him and also with our military commanders in that region, with the recent strikes we have done against terrorism in southern Somalia and work we have done with the Ethiopians.

All of this was very informative. There is a mixture of news to report as to what is taking place in the war on terrorism. There are some very positive things happening, particularly the recent events in Somalia, what the Ethiopians are pushing for, and some very positive things happening in Afghanistan, some difficulties we are still having with Pakistani leadership going after some of the threats on the Pakistan-Afghanistan border.

Northern Iraq is booming, the Kurdish area. Investment is flowing. There are cranes and people are building. Baghdad is in great difficulty.

I, also, wish to talk about my suggestions for the route forward. I think the President, in his address, was saying he is proposing a route forward, and if others might oppose or have a different view, all I ask is that you put forward a proposal yourself. That is fair. That is what we ought to do. We are all in this, and we need to see the route forward.

There is good news in Iraq, certainly. We have 140,000 of America's best and brightest working hard every day. I flew on troop transport planes in and out of various places with the troops and met and visited with them along the way. They are impressive. Their dedication and courage and commitment is impressive to feel. It is inspiring. It is inspiring to see. I have a niece and nephew who have signed up to join the Marines. So they are going into this as well. I am proud of them, as is the whole family.

The irrepressible spirit of our soldiers—from new recruits to veterans of multiple—is inspiring. I even saw a father-son team from Kansas in Kuwait. They are enthusiastic, determined, and we depend on them for the success we will achieve in Iraq. I know firsthand it is not just a good sound bite to say we have the best Armed Forces in the world. There is simply no other place in the world that can boast of so many courageous, committed, and talented volunteers so willing to make sacrifices, whenever the country calls upon them. They continue to deserve our great respect and admiration for performing so ably under such difficult circumstances. And the circumstances are that.

Baghdad still feels similar to an occupation zone. I was physically present in Baghdad for about 24 hours. It is hard to say that I saw the city. I left with an enduring image of concrete barriers and convoys of SUVs. I last visited Baghdad in March 2005. The environment is no better than it was at that period of time. Three mortar rounds exploded in the green zone while I was there meeting with the Iraqi Vice President. No one was harmed. They were launched from somewhere way out, but still they hit. It shows how insecure the city remains.

We all wish the situation would get better, but I am particularly disappointed. I have had a long-term interest in Iraq. When I first came to the Senate in 1996, I served on the Foreign Relations Committee and chaired the Middle East Subcommittee that held some of the first hearings on what to do about Saddam Hussein's regime. I carried the Iraq Liberation Act on the floor of the Senate that was signed into law by President Bill Clinton. I helped get the initial $100 million for the Iraqi National Congress. I, also, attended the first INC meeting with Senator Bob Kerrey of Nebraska. We both went to New York City to meet with the opposition about what to do about Saddam Hussein. I, also, attended the first Iraqi National Congress meeting in London. I have been committed to a free, safe, and secure Iraq from the very beginning.

During my meetings last week, I found less reason for optimism. Sunni leaders blame everything on the Shia, and the Shia leaders likewise blame everything on the Sunnis. The Kurdish leadership pointed out that the Sunnis and Shia only meet when the Kurds call the meeting. All of this suggests that, at the present time, the United States seems to care more about a peaceful Iraq than the Iraqis do. If that is the case, it is difficult to understand why more U.S. troops would make a difference.

One other bright spot was my visit to the northern part of the country, the Kurdish region. The security situation is stable and business is booming, as some number of people moving out of Iraq are moving into northern Iraq into the Kurdish region. The Kurds are demonstrating what is possible for the rest of Iraq when violence recedes. The Kurds are pragmatic. They are worried about committing Kurdish forces to Baghdad. I asked Brazani, would he commit Kurdish forces for the peace in Baghdad? He declined to do so. They don't want to get caught in the middle of a sectarian fight. If Iraqi Kurds feel this way, why should we feel any differently? Simply put, the Iraqis have to resolve these sectarian differences. We cannot do it for them.

This does not mean we should pull out of Iraq and leave behind a security vacuum or safe haven for terrorists. I do not support that alternative. It does mean that there must be a bipartisan agreement on our military commitment to Iraq. We cannot fight a war with the support of only one political party, and it does mean that the parties in Iraq—Sunni, Shia, and Kurds—must get to a political equilibrium. I think most people agree that a cut-and-run strategy does not serve our interests, nor those of the world, nor those of the region, nor those of the Iraqi people.

So I invite my colleagues all around, particularly on the other side of the aisle, to indicate what level of commitment they can support. We need to come together in Congress, and as a nation, on a strategy that will make real progress in Iraq and gain as much support as possible from the American people. Only a broadly supported, bipartisan strategy will allow us to remain in Iraq for the length of time necessary to ensure regional stability and to defeat the terrorists. That is our objective. Make no mistake, we may need to be in Iraq for some period of time, as we are in Bosnia, as we were in Europe, as we still remain in Korea. Iraqis should patrol their own streets, but we must continue to hunt down the terrorists. We must balance the aggressive moves by Iran, operating inside of Iraq, which seeks to exploit Iraq for its own gain.

These missions will take time to achieve on our part. It is vital we get a bipartisan way forward on Iraq as soon as possible. I invite people on the other side of the aisle to put forward their proposals. As we refine our military posture, we should also enlist the support of Iraq's neighbors, through a diplomatic initiative similar to the recommendations of the Baker-Hamilton Commission. Although I don't support all of those initiatives, I thought they had some good ideas, particularly engaging Iraq's neighbors. Each of Iraq's

neighbors can benefit from a peaceful Iraq, and they can assist us in reaching a political equilibrium among Iraq's various groups. These include Iran and Syria, which are clearly meddling in Iraq but whose cooperation will be necessary for any political solution in Iraq to be relevant for the long term.

To be successful, such a diplomatic initiative will require a great amount of attention and hard work. Thus, I recommend Secretary Rice and Vice President CHENEY go to Iraq and practice shuttle diplomacy. They should lay the groundwork for a meeting of leaders from all three major Iraqi groups to take place outside of Iraq. This kind of a meeting could be similar to the Dayton Accords that helped resolve the conflict in Bosnia. It would allow for intense, sustained discussions aimed at a durable, long-term political settlement amongst the Iraqis. One potential political settlement could involve a three-State, one-country formula. Each of Iraq's major groups would have its own autonomous region with Baghdad as a federal city.

Each group can manage its own affairs while preserving Iraq's territorial integrity. This is something the Iraqi Constitution allows, that the Kurdish people are practicing, and that the Iraqi leaders, I believe, should pursue to get to a political equilibrium. We have made our share of mistakes in Iraq. Still, we have invested the lives of more than 3,000 of our best and brightest for our Nation's future.

The mission for which they died is not yet complete. We still need political equilibrium if we are to achieve a stable, united Iraq that can be an ally in the war on terrorism. We must win in Iraq, and we will. We must win for the future of the region and for the future of the world and for the future of Iraq. We must win for the future of America. That victory will require more than bullets; it will require political arrangements inside Iraq and around Iraq to end the sectarian violence and move toward a peaceful future for the Iraqi people and stability for the region. We are in a tough time, but I believe we have solutions that can work.

I yield the floor.

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

THE INTELLIGENCE COMMUNITY'S PERSPECTIVE ON IRAQ

Mr. BOND. Mr. President, I thank my colleague from Kansas, who made the point well that we cannot afford to lose in Iraq. I thought my colleagues, and maybe those who may be interested—if anybody is paying attention and watching the floor—may be interested to hear what the intelligence community said in public. It is rare we have public hearings in the Intelligence Committee, but once a year at least we have the worldwide threat hearing.

Last Thursday, we had that hearing and we spent about 5½ hours. It was very informative and mostly dealt with Iraq. Present were the Director of National Intelligence, Ambassador Negroponte; Director Hayden of the CIA; Director of the DIA General Maples; Mr. Foote from the State Department INR; and FBI Director Robert Mueller. Much of the questioning was about what is going on in Iraq. I think the consensus of the intelligence community was that while things have not gone well, the new commitment by Prime Minister Maliki and the rest of his Government—not just the Shia Prime Minister but the Kurds and the Sunnis—was to take over and take ownership of ending the insurgency in Iraq. That gave us the best hope of achieving a peaceful solution that would leave Iraq a stable country—not perfect by any means, with no guarantee of success, but this was the opportunity to get the three major elements in Iraq—the Shia, Sunnis, and the Kurds—to come together on what we believe will be and should be a long-term solution.

Frankly, one of the real problems we have had has been the reluctance of the Iraqi Government to let us go in and eliminate Shia militia, such as the Moqtada al-Sadr Mahdi army. This has been a serious problem. The American forces have been held back. Now it is our understanding—and the intelligence community believes what they have told the policymakers in the executive branch—that this is now the best chance, because they realize time is running out, that while our commitment was strong to Iraq, it is not an unending one, infinite.

They are going to have to take control if they don't want to see their country descend into chaos. So there was a lot of talk about the pros and cons of the policy the President announced to turn over the responsibility to the Iraqi military, for ending the insurgency in Baghdad, and to send our troops into the Al Anbar province to deal with radical Islamists, such as al-Qaida, who continue to stir up problems and who we believe were responsible for the bombing of the Golden Mosque in Samara, which escalated the insurgency.

So I asked another question and the answers, I thought, were very telling. They were not covered in the media. I asked what if we decided now or within 2 or 3 months to withdraw and turn it over to the Iraqi Government, and the consensus was uniform and frightening.

Admiral Negroponte said:

> And I think the view pretty much across the community is that a precipitous withdrawal could lead to a collapse of the government of that country, and a collapse of their security forces, because we simply don't think that they are ready to take over, to assume full control of their security responsibilities.
>
> We think that that is a goal that can be achieved on a gradual basis and on a well-planned basis. But to simply withdraw now, I think, could have catastrophic effects. And I think that's a quite widely held view inside of Iraq itself.

Later, I went back and asked what it would mean in terms of the worldwide terrorist threat of al-Qaida. Director Negroponte responded:

> I think in terms of al-Qaida's own planning, if you look at the letter that Zawahiri wrote to Zarqawi last year about establishing in Iraq a sort of beachhead for the expansion of al-Qaida's ideology throughout the Islamic world, establishing the caliphate, it would be the very sanctuary for international terrorism that we are seeking to avoid.

In other words, the No. 2 man under Osama bin Laden, Zawahiri, wrote to the notorious, infamous butcher Zarqawi, who had beheaded Americans and others on television, to tell him to cool it; we are trying to establish a basis for al-Qaida to operate out of Iraq. This would be, in Zawahiri's and bin Laden's own words, establishing the range of the caliphate. What they mean by that is to establish a Taliban style of government, such as we saw in Afghanistan, on a regionwide and ultimately a global basis.

I asked General Maples about the impact of withdrawal, precipitous or immediate, or politically, a timetable withdrawal, determined by what we want in Washington, rather than what is available on the ground. He said:

> . . . I believe that a failure in Iraq would empower the jihadist movement. It would give that base of operations from which the jihadist movement would expand. And it's consistent with the goals of al-Qaida in Iraq to establish that Islamic state, and then to expand it into the caliphate.

He went on to say there would be regional impacts and that there would be a tremendous economic impact. He cited hydrocarbons and, obviously, we know Iraq is very rich in oil reserves, and it would make oil reserves available to fund the activities of al-Qaida and the international radical Islamist terrorist movements. He also said it would have an impact on the world market on oil, driving up the power of oil. He concluded by saying it would give Iran the power to expand its evil empire, which President Ahmadi-Nejad is urgently trying to expand not only in the Middle East but throughout Latin America.

I think probably the best summary of the intelligence community estimates of the impact of the choices—and we are talking about choices—is there is nothing good in terms of choices. One option has been put forward by President Bush. I happen to believe it is the best available option to support the Iraqis who have committed to end the insurgency, to bring the Sunnis into a government that would share in the oil revenues and take responsibility for ending the insurgency, while our troops go after the external forces, the terrorists coming in from other countries and joining the al-Qaida movement.

I asked General Hayden to give me a concise statement of his view and the view of the intelligence community on the second option, which would be to

withdraw now, or to set a short timetable deadline in 2 or 3 months. I will read what he said:

Yes, sir, Senator. When I went before the Iraq Study Group, I prefaced my remarks by saying I think I'll give a rather—I'm going to be giving a rather somber assessment of the situation in Iraq. But before I do that, I said, let me tell you. If we leave under the current circumstances, everything gets worse.

At that point, I commended him for being a master of understatement. He went on to say:

Three quick areas. More Iraqis die from the disorder inside Iraq. Iraq becomes a safe haven, perhaps more dangerous than the one al-Qaida had in Afghanistan. And finally, the conflict in Iraq bleeds over into the neighborhood and threatens serious regional instability.

I said, well, what would be the threat to the U.S. homeland? How does that affect us in Washington, in Rhode Island, Missouri, Kansas, New York, Los Angeles, and elsewhere? He said:

The immediate threat comes from providing al-Qaida that which they are attempting to seek in several locations right now, be it Somalia, the tribal area of Pakistan or Anbar province—a safe haven to rival that which they had in Afghanistan.

I have my views on this. This is the overwhelming consensus of the intelligence community. There are no great options, but the best option, they believe, is to provide American troops to support what the Government of Iraq has pledged to do, and that is to end the insurgency, to stop the Shia death squads, to cut the Sunnis in on a fair share of the Government, and take responsibility not only for clearing but for controlling the areas in Baghdad that have been the problem. So I think as we talk about the options available, it is vitally important that we listen to the intelligence community and their best assessments of what happens if we follow the President's plan or if we choose a course of continuing to do what we have been doing, without assisting the Iraqis to take control of their Government, or if we cut and run.

I ask unanimous consent that the transcripts which I cited be printed in the RECORD.

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

SSCI OPEN HEARING: CURRENT AND PROJECTED NATIONAL SECURITY THREATS

JANUARY 11, 2007

NEGROPONTE (responding to a question from Sen. Bond): And I think the view pretty much across the community is that a precipitous withdrawal could lead to a collapse of the government of that country, and a collapse of their security forces, because we simply don't think that they are ready to take over, to assume full control of their security responsibilities.

We think that that is a goal that can be achieved on a gradual basis and on a well planned basis. But to simply withdraw now, I think could have catastrophic effects. And I think that's a quite widely held view inside of Iraq itself.

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NEGROPONTE: I think, in terms of Al Qaida's own planning, if you look at the letter that Zawahiri wrote to Zarqawi last year about establishing in Iraq a sort of a beachhead for the expansion of Al Qaida's ideology throughout the Islamic world, establishing the caliphate, it would be the very sanctuary for international terrorism that we are seeking to avoid,

BOND: General Maples?

MAPLES: Sir, I'd follow up on that statement by the ambassador, because I truly believe that a failure in Iraq would empower the jihadist movement. It would give that base of operations from which the jihadist movement would expand. And it's consistent with the goals of Al Qaida in Iraq to establish that Islamic state, and then to expand it into the caliphate.

I also think that there, of course, will be very significant regional impacts, both in terms of stability to other countries in the region.

There will be economic impacts with respect to, in particular, hydrocarbons and the effect that that could have, particularly if those resources were in the hands of jihadists. And . . .

BOND: In other words, they could get the profit off of the high price of oil.

MAPLES: Absolutely. And then I would follow with one last, and that is the empowerment—further empowerment—of Iran within the region.

BOND: General Hayden?

GEN. HAYDEN: Yes, sir, Senator. When I went before the Iraq Study Group, I prefaced my remarks by saying I think I'll give a rather—I'm going to be giving a rather somber assessment of the situation in Iraq. But before I do that, I said, let me tell you. If we leave under the current circumstances, everything gets worse. And . . .

BOND: You have a masterful way of understating it.

HAYDEN: Three very quick areas. More Iraqis die from the disorder inside Iraq. Iraq becomes a safe haven, perhaps more dangerous than the one Al Qaida had in Afghanistan. And finally, the conflict in Iraq bleeds over into the neighborhood and threatens serious regional instability.

BOND: Any threat do you see—what threat to the United States homeland?

HAYDEN: The immediate threat comes from providing Al Qaida that which they are attempting to seek in several locations right now, be it Somalia, the tribal area of Pakistan or Anbar province—a safe haven to rival that which they had in Afghanistan.

Mr. BOND. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. MCCASKILL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Madam 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 Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 310 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

IRAQ

Mr. DURBIN. Madam President, the issue that is paramount in the minds of many Americans is the war in Iraq. It is a consuming issue for us because we know that as we stand in the safety of the Senate Chamber or in our homes across America, at the same moment in time, 144,000 American soldiers are risking their lives. Sadly, some are giving their lives almost on a daily basis. Many are injured and come home to face a different life than they ever imagined.

The cost of this war, of course, starts with the human accounting. Over 3,013 American soldiers have died as of today, 23,000 have returned injured, 6,600 seriously injured, with double amputations, blindness, or traumatic brain injury of a serious nature.

This morning's Wall Street Journal, in an article by David Rogers, talks about the real cost of this war in dollar terms. Many of us have used the numbers of $380 billion, $400 billion, and some have come to the conclusion that the number is really much higher and that when you account for our obligations to our veterans and rebuilding the military after this war, it will range in the hundreds of billions of dollars more. This will affect our Nation. It will affect the quality of our life. It will affect our spending on basics, whether it is the education of our children, the health of our citizens, building the infrastructure so our economy can expand, or creating higher education opportunities so that the 21st century can be an American century, as the 20th century was.

This war has taken its toll. It isn't the first war that has been controversial in our history. Some of us are old enough to remember another war not that long ago. It was October 19, 1966, on the floor of the U.S. Senate, across the aisle, when a Senator from the State of Vermont, George Aiken, rose to speak. George Aiken gave a speech about the war in Vietnam. It is one that has been quoted many times since. He said a lot about the war at that moment. Some of the things he said are interesting in a historical context.

Senator Aiken said, in October of 1966, about the Vietnam war:

The greater the U.S. military commitment in south Vietnam, however, the less possibility that any south Vietnamese government will be capable of asserting its own authority on its own home ground or abroad. The size of the U.S. commitment already clearly is suffocating any serious possibility of self-determination in south Vietnam for the simple reason that the whole defense of that country is now totally dependent on the U.S. armed presence.

Of course, Senator Aiken went on to say that we should declare victory and start bringing our troops home. He said:

Such a declaration should be accompanied not by announcement of a phased withdrawal, but by the gradual redeployment of

U.S. military forces around strategic centers and the substitution of intensive reconnaissance for bombing.

This unilateral declaration—

Senator Aiken said—

—of military victory would herald the resumption of political warfare as the dominant theme in Vietnam.

He closed by saying:

Until such a declaration is made, there is no real prospect for political negotiations.

When Senator Aiken took the floor and gave that speech in October of 1966, we began that year with fewer casualties in Vietnam than we have already incurred in Iraq. Around 2,800 American lives had been lost in Vietnam at the beginning of 1966. But 1966 was a bloody year in Vietnam, and by the end of that year, we had lost 8,400 soldiers as Senator Aiken gave his speech. Had we followed his advice, what a difference it might have made. By the end of that Vietnam war, we hadn't lost 8,000, we had lost 58,193 troops.

The President's call for increasing the number of American soldiers who will be serving and fighting in Iraq is a grim reminder of the cost of escalation. Instead of assessing where we are today in honest terms, the President is continuing a strategy which has failed. He has conceded that point. The President no longer says we are winning the war in Iraq. He concedes we have made serious mistakes—mistakes which all of us know have cost us dearly in human life and in the cost of this war.

Now we face the reality of our politics in this town. In 2 weeks, things have changed pretty dramatically here in Washington. If you haven't noticed, with the hearings on Capitol Hill with the Democratic Congress, there is a different tenor, there is a different approach. Before, over the last 6 years, the President has had a compliant and supine Congress, afraid to ask hard questions about this war. That has changed. And the encouraging thing is that the hearings before the Foreign Affairs Committee last week showed that not only is the Democratic majority speaking out with important and relevant questions, but now our Republican colleagues are joining us in what should be a national and bipartisan chorus. This is a moment of accountability when this President and the administration will have to answer for policy decisions. It was a Republican Senator last week who made a statement in that Foreign Affairs Committee, which sadly I have to agree with, when he said that our invasion of Iraq was the greatest strategic foreign policy blunder in recent memory. I think it may be one of the worst mistakes in the history of our country, one we will pay for in years to come.

Now I watch carefully for the reaction in Iraq as we are preparing to send more soldiers, and I am waiting for signs and signals and statements from the al-Maliki government that they understand this is a new day, and I am still waiting. Until they are prepared to eliminate the militias, whether they are going to disband them or destroy them, there can be no security on the ground in Iraq. I read the statements by our soldiers and the media where they say the Iraq Army and the Iraq police force is a dead horse and we are not going to get anywhere by kicking it. If that is a fact, then 21,000 American soldiers' lives won't make a difference. That is the reality of what we face.

In the coming days ahead, very soon after we finish this debate on ethics legislation, we are going to move into a more serious and open debate on the war in Iraq. Initially, there will likely be a markup in one of the committees on a resolution. It will come to the floor, and we will consider it. I sincerely hope that, like the Foreign Affairs Committee meeting of last week, it is a bipartisan resolution because I will tell you, the sentiment about this war is strongly bipartisan or nonpartisan across this country.

First and foremost, there are some basics we should make clear. No. 1, how much we respect and admire and will stand behind our troops. These men and women in uniform, the best and bravest, have done everything we have asked them to do—in fact, many times with displays of heroism—and they have done more than we could ever expect from any human being. They have been there. They have unflinchingly responded to the call to arms and have served us so well. Their families stay home with worry and prayer, hoping they will come back safely. For those soldiers and their families, the first thing said is thank you, thank you from a grateful nation for all you have given to this country and continue to give.

Secondly, we won't turn our backs on these soldiers. Whether it is a matter of the equipment they need now to be safe in Iraq and to come home to their families with their missions completed or, if they come home with a need, whether it is through the Veterans' Administration or for college education or for some help in their lives, we need to be there. They were there for us; we need to be there for them. That almost goes without saying.

But I wish to make it clear from the Democratic side, and I am sure I speak for my colleagues on the other side of the aisle, we will never shortchange our troops. We will never shortchange their safety. For those who suggest any disagreement with foreign policy of this administration somehow is going to be at the expense of our troops, they are just plain wrong. In the final analysis, we will keep our word to our soldiers.

The other point I would like to make, though, is if we expect this to end and end well, it can only end with a political solution in Iraq driven by Iraqi leadership. We cannot superimpose a democracy on Iraq. They have to come to this clear understanding that their future is in their own hands. We can help them aspire to this goal, but ultimately they have to take the difficult, painful steps moving toward it. That means, of course, putting an end to the sectarian violence.

For 14 centuries now, the people of the Islamic faith have had a disagreement about who were the rightful heirs to their great Prophet Muhammad. We cannot resolve 14 centuries of this sectarian debate and violence in one little country with more American soldiers. This is something which will have to be resolved if Iraq decides their future will be a democracy. They have to treat all Iraqis in a fair and honest way instead of favoring one sect over another. They have to bring an end to violence, whether it is inspired by Sunnis or Shias or others. Whatever the inspiration, it has to come to an end.

The militias that now control parts of Baghdad and parts of Iraq have to come to an end as well. You can't have private armies in a country and expect the national army to have the strength to control the situation. We need to see the police forces in Baghdad and other places really emerge as professionals. When I was there in October, the reports were very disappointing. It was said that if you went to a police station, you could decide right off the bat whether it was going to be a Sunni or Shia police station and then decide how they would react to crime committed by their own. That has to end. We can't change that by sending American soldiers into battle. We can't change that with American lives and American injuries. Only the Iraqis can change that.

As Senator Aiken said 40 years ago now:

The unilateral declaration of military victory would really herald the resumption of political warfare in south Vietnam.

We need to move this to a political level, and that is where I think the President's recommendations last week are so wanting. He still is in the mindset to believe that enough American soldiers can somehow change the politics of Iraq. That is never going to happen. It has to come from the Iraqi people.

So we face a challenge—a challenge which we accept—to have an honest, nonpartisan, productive, and positive debate on our foreign policy in Iraq. Those of us who disagree with the President really stand in an awkward position in this regard. I sincerely hope the President is right. I hope 21,000 American soldiers change the whole contour of the debate and the future of Iraq. I don't believe they will, but I want this to end and end well, and I don't care who takes credit for it. But I believe—sincerely believe—that the only way to convince the Iraqis of their responsibility is for us to start bringing American troops home, as Senator Aiken called for in Vietnam in 1966 with 8,000 American lives lost, and that we start the phased redeployment of our troops. Had America, had Congress, had the President in 1966 followed the

suggestions of the Senator from Vermont, 50,000 American lives might have been spared. By the end of the Vietnam war, almost 3,000 Illinoisans had given their lives in Vietnam. Some were my buddies in high school, my friends with whom I had grown up. I still remember to this day and wonder, if the Senate at that moment in time had made the right decision, a decision Senator Aiken had called for, whether they might be alive today. That is the reality of war, and it is the reality of these foreign policy decisions.

ETHICS REFORM

Our business before the Senate now is the Senate ethics reform bill. We have a big task ahead of us. The leadership has made it clear to Senators on both sides of the aisle that we are going to finish this bill this week. It could mean long sessions, as Senator REID said earlier today. It could mean we are in late in the night, perhaps even on the weekend, but we want to get this important part of our business behind us. The culture of corruption, the climate of corruption which has been on Capitol Hill over the last several years has to come to an end.

There will always be Members of the House and Senate who can think of another way to improve the way we do business. Each of us has our own ideas. I was fortunate, as I said before on the floor of the Senate, to start my Senate and public career with two extraordinary men, Senators Paul Douglas and Paul Simon of Illinois, who tried to set new standards of ethical conduct in national service. Back when I was fresh out of law school and penniless, I went to work for Lieutenant Governor Paul Simon, who insisted that every member of his staff make a complete income disclosure every year and a complete net worth disclosure.

My first disclosure brought real embarrassment to me and my wife because we had nothing and with student debts would have qualified for bankruptcy under most circumstances. We didn't file bankruptcy, but those annual disclosures were embarrassing until we finally passed a point where we had a few meager possessions and were on the positive side of the ledger.

I have continued to do that every year. I make the most detailed disclosure I can in my financial statement, not categories of wealth or income but actual dollar amounts. I have done it every single year. I know it serves up to my critics a ready menu of things on which to attack me. That's OK. I want to make it clear that in the time I have been in public service, the decisions I have made—good, bad, whether you agree with them or not—have not been driven by any desire to come away from this experience wealthy.

I have not imposed that on my colleagues here, or suggested it by way of amendment, that they do a detailed income disclosure, put their income tax returns with that disclosure, and a net worth statement each year. But I feel comfortable doing it. I am glad I got started. Now that my family is beyond the embarrassment of those early disclosures when we had nothing, they have come to accept it every year as just a routine. It is a small thing, but it is voluntary on my part, and I hope that others, if they see the need, will accept voluntary changes in the way they approach this to demonstrate their commitment to ethics in public service.

The amendment before us by Senator REID, Senator HARRY REID, our majority leader, is one that deals with the use of corporate airplanes. That has been a source of some embarrassment and question before. I believe that Senators REID and MCCONNELL have shown real leadership in moving this amendment forward. We will consider some changes to it during the course of our debate but, once again, it is a step in the right direction.

Finishing this, we will move to the minimum wage bill and then to a debate on Iraq and then probably to the stem cell issue, so we have quite an agenda before us. Our friends in the House are benefited by something known as the House Rules Committee, which can expedite the process. The Senate doesn't work that way. We have a unanimous consent process which is slow, ponderous, deliberate, and, for Members of the House, absolutely maddening. It will take us longer.

At the end of the day, though, I hope we end up with a good work product for the American people.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam 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.

LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to provide greater transparency in the legislative process.

Pending:

Reid amendment No. 3, in the nature of a substitute.

Reid modified amendment No. 4 (to amendment No. 3), to strengthen the gift and travel bans.

DeMint amendment No. 12 (to amendment No. 3), to clarify that earmarks added to a conference report that are not considered by the Senate or the House of Representatives are out of scope.

DeMint amendment No. 14 (to amendment No. 3), to protect individuals from having their money involuntarily collected and used for lobbying by a labor organization.

Vitter/Inhofe further modified amendment No. 9 (to amendment No. 3), to prohibit Members from having official contact with any spouse of a Member who is a registered lobbyist.

Leahy/Pryor amendment No. 2 (to amendment No. 3), to give investigators and prosecutors the tools they need to combat public corruption.

Gregg amendment No. 17 (to amendment No. 3), to establish a legislative line item veto.

Ensign amendment No. 24 (to amendment No. 3), to provide for better transparency and enhanced congressional oversight of spending by clarifying the treatment of matter not committed to the conferees by either House.

Ensign modified amendment No. 25 (to amendment No. 3), to ensure full funding for the Department of Defense within the regular appropriations process, to limit the reliance of the Department of Defense on supplemental appropriations bills, and to improve the integrity of the congressional budget process.

Cornyn amendment No. 26 (to amendment No. 3), to require full separate disclosure of any earmarks in any bill, joint resolution, report, conference report or statement of managers.

Cornyn amendment No. 27 (to amendment No. 3), to require 3 calendar days' notice in the Senate before proceeding to any matter.

Bennett (for McCain) amendment No. 28 (to amendment No. 3), to provide congressional transparency.

Bennett (for McCain) amendment No. 29 (to amendment No. 3), to provide congressional transparency.

Lieberman amendment No. 30 (to amendment No. 3), to establish a Senate Office of Public Integrity.

Bennett/McConnell amendment No. 20 (to amendment No. 3), to strike a provision relating to paid efforts to stimulate grassroots lobbying.

Thune amendment No. 37 (to amendment No. 3), to require any recipient of a Federal award to disclose all lobbying and political advocacy.

Feinstein/Rockefeller amendment No. 42 (to amendment No. 3), to prohibit an earmark from being included in the classified portion of a report accompanying a measure unless the measure includes a general program description, funding level, and the name of the sponsor of that earmark.

Feingold amendment No. 31 (to amendment No. 3), to prohibit former Members of Congress from engaging in lobbying activities in addition to lobbying contacts during their cooling off period.

Feingold amendment No. 33 (to amendment No. 3), to prohibit former Members who are lobbyists from using gym and parking privileges made available to Members and former Members.

Feingold amendment No. 34 (to amendment No. 3), to require Senate campaigns to file their FEC reports electronically.

Durbin amendment No. 36 (to amendment No. 3), to require that amendments and motions to recommit with instructions be copied and provided by the clerk to the desks of the majority leader and the minority leader before being debated.

Cornyn amendment No. 45 (to amendment No. 3), to require 72-hour public availability of legislative matters before consideration.

Cornyn amendment No. 46 (to amendment No. 2), to deter public corruption.

Bond (for Coburn) amendment No. 48 (to amendment No. 3), to require all recipients

of Federal earmarks, grants, subgrants, and contracts to disclose amounts spent on lobbying and a description of all lobbying activities.

Bond (for Coburn) amendment No. 49 (to amendment No. 3), to require all congressional earmark requests to be submitted to the appropriate Senate committee on a standardized form.

Bond (for Coburn) amendment No. 50 (to amendment No. 3), to provide disclosure of lobbyist gifts and travel instead of banning them as proposed.

Bond (for Coburn) amendment No. 51 (to amendment No. 3), to prohibit Members from requesting earmarks that may financially benefit that Member or immediate family member of that Member.

Nelson (NE) amendment No. 47 (to amendment No. 3), to help encourage fiscal responsibility in the earmarking process.

Reid (for Lieberman) amendment No. 43 (to amendment No. 3), to require disclosure of earmark lobbying by lobbyists.

Reid (for Casey) amendment No. 56 (to amendment No. 3), to eliminate the K Street Project by prohibiting the wrongful influencing of a private entity's employment decisions or practices in exchange for political access or favors.

Sanders amendment No. 57 (to amendment No. 3), to require a report by the Commission to Strengthen Confidence in Congress regarding political contributions before and after the enactment of certain laws.

Bennett (for Coburn) amendment No. 59 (to amendment No. 3), to provide disclosure of lobbyist gifts and travel instead of banning them as proposed.

Bennett (for Coleman) amendment No. 39 (to amendment No. 3), to require that a publicly available Web site be established in Congress to allow the public access to records of reported congressional official travel.

Feingold amendment No. 63 (to amendment No. 3), to increase the cooling off period for senior staff to 2 years and to prohibit former Members of Congress from engaging in lobbying activities in addition to lobbying contacts during their cooling off period.

Feingold amendment No. 64 (to amendment No. 3), to prohibit lobbyists and entities that retain or employ lobbyists from throwing lavish parties honoring Members at party conventions.

Feingold/Obama amendment No. 76 (to amendment No. 3), to clarify certain aspects of the lobbyist contribution reporting provision.

Feingold amendment No. 65 (to amendment No. 4), to prohibit lobbyists and entities that retain or employ lobbyists from throwing lavish parties honoring Members at party conventions.

Bennett (for Lott) amendment No. 78 (to amendment No. 4), to only allow official and officially related travel to be paid for by appropriated funds.

Bennett (for Lott) amendment No. 79 (to amendment No. 4), to only allow official and officially related travel to be paid for by appropriated funds.

Bennett modified amendment No. 81 (to amendment No. 4), to permit travel hosted by preapproved 501(c)(3) organizations.

Obama/Feingold amendment No. 41 (to amendment No. 3), to require lobbyists to disclose the candidates, leadership PACs, or political parties for whom they collect or arrange contributions, and the aggregate amount of the contributions collected or arranged.

Nelson (NE)/Salazar amendment No. 71 (to amendment No. 3), to extend the laws and rules passed in this bill to the executive and judicial branches of government.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, we, as Members of Congress, owe it to the American people to conduct ourselves in a way that reinforces, rather than diminishes, the public's faith and confidence in Congress. An informed citizenry is essential to a thriving democracy. And, a democratic Government operates best in the disinfecting light of the public eye. With this bill, we have an opportunity to balance the right of the public to know with its right to petition Government; the ability of lobbyists to advocate their clients' causes with the need for truthful public discourse; and the ability of Members to legislate with the imperative that our Government must be free from corrupting influences, both real and perceived. We must act now to ensure that the erosion we see today in the public's confidence in Congress does not become a collapse of confidence.

I am pleased with the progress we have been making on this bill. We have been having a good debate on a range of proposals to further improve this bill, including requirements to reign in wasteful spending such as by more fully disclosing earmarks and granting the President's enhanced recision authority. We have recognized the need for increased disclosure and more timely reporting of lobbyists' activities. And, I am pleased that we are considering an amendment—one that I fully support—to require Members of Congress who use corporate aircraft to reimburse the full charter rate for a flight, instead of simply paying the cost of a first-class ticket, as required under the current rules. These are all solid proposals, but we need to do more.

Madam President, on this issue of the first-class airfare, I don't think there is a more dramatic example of the difference between we Members of Congress and the average American citizen. No American citizen can today call up a corporation and say: Please let me use your airplane, and, by the way, I am only going to pay first-class airfare. Nothing is more egregious. There are worse abuses that go on around here, but there is no more egregious an example than the ability of a Member of Congress, who many times has oversight of the corporation that provides the aircraft, taking advantage of a situation where they only have to pay first-class airfare, with a difference of sometimes tens of thousands of dollars. It is remarkable.

We need to reform earmarking beyond mere disclosure requirements. We need to curtail this practice, which cost American taxpayers $64 billion in FY 2006, and I have offered an amendment to help do that. Above all, we need to ensure the enactment and enforcement of comprehensive lobbyist, ethics and earmark reforms. That is why we need to establish an Office of Public Integrity to help provide enforcement measures for the reforms that we are advocating. We can pass all the rules changes we want but unless we back them up with a tough enforcement mechanism, they are useless.

On the issue of earmarks, Madam President—and I obviously have a long record of being opposed to these egregious examples of porkbarreling—I think that it is important for us to recognize that there are two ways we can address earmarking. One is to eliminate them and the other is to watch them grow. Over the previous 20 years, I have watched them grow and grow and grow and grow.

I was intrigued by getting a call from an administration official who said the President is for cutting them in half. That is like saying we want to cut half of the drug dealers in America. There is an addiction in Congress to porkbarreling, and we have to cure the addiction or it will continue to grow.

It is because of this need that I am pleased to again join my colleagues, Senators LIEBERMAN and COLLINS, in cosponsoring an amendment to create an Office of Public Intergrity to investigate complaints of ethical violations by Senators, staff, or officers of this Chamber. Headed by a Director appointed by the President pro tem of the Senate upon the joint recommendation of the majority and minority leaders, the Office of Public Integrity would investigate complaints of rules violations filed with or initiated by the office. To ensure swift action, within 30 days of receiving a complaint, the office would be required to make an initial determination whether to dismiss or investigate it. Although a determination by the office to investigate may be overridden by the Select Committee on Ethics, the amendment stipulates that this can occur only if the Ethics Committee overrides the decision by a two-thirds vote and makes this vote public.

To assist it in its investigation, the Office of Public Integrity would be empowered to issue subpoenas, take statements, and compel the attendance of witnesses. If, after investigation, the Director of the office determines that there is probable cause that a violation occurred, he or she must inform the Ethics Committee, which again, can decide not to proceed on a complaint, but only upon a two-thirds vote that must be made public. If the Ethics Committee does not overrule the office's determination of probable cause, the office shall present the case to the Ethics Committee which shall vote on whether the subject of the investigation violated any rules or other standards. Again, this vote must be made public. If the Ethics Committee finds there was a violation, the Director of the Office of Public Integrity shall recommend appropriate sanctions and whether the matter should be referred to the Department of Justice for investigation.

For 2 years, the Committee on Indian Affairs which I chaired at the time, investigated the actions of Jack Abramoff and Michael Scanlon, and

brought to light their efforts to manipulate the political process. If there is a silver lining to the Abramoff affair, it is that it helped to compel Congress to reassess the rules that govern our dealings with lobbyists and others who seek to influence us, and to do so through the eyes of the public, not through our own jaundiced perspectives. Frankly, I also believe the American public sent a clear message that business as usual in an unacceptable proposition. That is what drives our amendment today.

Again, I point out that we investigated in the Senate Committee on Indian Affairs Mr. Abramoff and his connection, frankly, with both sides of the Capitol. There was never an Ethics Committee investigation. It was the Justice Department that finally had to take action. There was ample evidence of misbehavior in violation of the rules of both Houses, and here we are with people in jail and, as far as I know, the Ethics Committee never ruled on their behavior. So when I hear people say the Office of Public Integrity would somehow cause us embarrassment, are we not embarrassed by what already happened? Are we not embarrassed that Members of Congress violated their oath of office to the degree that they are in jail and the investigation continued on the part of the Justice Department?

I say to the opponents of this amendment, in a perfect world, maybe you are right. In the world that we live in today, you are not right. We owe the American public a better system than the one that has been in place for the past several years.

While strengthening the Senate rules regarding disclosure, gifts, meals, travel and post-employment lobbying is necessary and overdue, it is also of little importance if the rules are not enforced. Instances of apparent violations of congressional rules by Members and staff who were the beneficiaries of Mr. Abramoff's largesse were widely reported. Press accounts of luxury trips, high-priced tickets to sporting events, meals at expensive restaurants, and other gifts suggest that there had been flagrant, if not widespread, violations of our rules, and that these violations had been occurring for some time.

As the columnist and scholar Norman Ornstein has observed, Congress has ''regularly struggled with its constitutional responsibility to police itself, sometimes verging on partisan vendettas—what we called in the 1980s and 1990s 'the criminalization of partisan differences'—but more often erring on the side of doing nothing, or as little as humanly possible, to deal with ethical violations.''

At a time when the public is demanding change, the Senate needs to more aggressively enforce its own rules. We should do this not just by making more public the work that the Senate Ethics Committee currently undertakes, but by addressing the conflict that is inherent in any body that regulates itself. By creating, as this amendment would do, a new office with the capacity to conduct and initiate investigations, and a perspective uncolored by partisan concerns or collegial relationships, I believe we can address this long-standing structural problem.

This amendment strikes a good balance by keeping with the Select Committee on Ethics the final decisions on whether to conduct an investigation, whether a violation has occurred, and whether to refer the matter to the Department of Justice, while adding an independent voice to the process to ensure that the reputation of the institution is not sacrificed for the understandable concern for the reputation of one's friends and colleagues.

The Office of Public Integrity would not only assist in performing existing investigative functions, but would also be charged with the new function of approving or denying requests for travel by Members and staff. The purpose of this pre-clearance is to ensure that the trips serve a legitimate Governmental interest, and are not substantially recreational in nature. I believe that the Office of Public Integrity would be an appropriate entity to conduct these reviews.

I urge the majority and minority leaders to allow an up or down vote on this amendment. The American public is watching.

I urge my colleagues to support the amendment offered by Senator LIEBERMAN.

Madam President, there are many organizations that are observing our activities. I think, as I said earlier, we can be pleased at some of the progress we are making. But this would be a seminal vote. This will be an indication that we are really serious, if we are really serious, about making sure that decisions made by the Ethics Committee are untainted by personal relationships or by other factors. I think it is long overdue.

I want to point out again that in the exit polling from the 2006 election there were two major issues that affected the voters' opinion and vote. One, as we all know, was the war in Iraq. The other was the issue of ''corruption in Washington.''

The American public are very dissatisfied with the way Congress conducts its business. I have seen polls in the low twenties and even in the high teens of their approval rating of Congress. They don't think we conduct our business in an honest and straightforward manner, and they believe the special interests have way too much influence in determining both our priorities and the outcome of legislation.

I believe the Lieberman amendment can go a long way toward restoring the very badly tarnished image of the Congress of the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 9

Mr. VITTER. Madam President, I rise to take a few minutes to urge my Senate colleagues to carefully study and support my amendment to ban spouses of sitting Members of the Senate from lobbying any Member of the Senate or any Senate staff person.

This is a very important debate. It goes to the heart of rebuilding confidence of the American people in our institutions—Senate, House, all of Congress, all of the Federal Government.

As we all know, we have seen scandal after scandal over several years, certainly involving both parties, that has, for obvious and good reason, rocked people's confidence.

At the heart of almost all of these scandals is a very simple, basic issue and that is public officials using their public position to enrich themselves, to enrich their family, and, of course, the public interest being sold down the road.

That is at the heart of this debate, and that concern is at the heart of my amendment. Again, my amendment—we will vote on this later this week—says very simply: No spouse of a sitting Member of the Senate can lobby the Senate, can lobby that Senator, can lobby that Senator's office, can lobby any Senator, can lobby any Senate office, can lobby any Senate committee.

Again, I don't think this is a peripheral issue. I think it goes to the heart of the matter: People using public office to enrich themselves, to enrich their families.

For the same reason, I thought it was important that we prohibit family members from going on the campaign payroll. Unfortunately, that was voted down. I think this is even more in need of strong action because certainly lobbying connections were at the heart of so many of the scandals that got us to this debate.

There are two big problems, two big conflicts we are talking about that this amendment can largely solve. One is for certain lobbyists to have undue influence. That is clearly an issue with regard to lobbying of spouses of sitting Members of the Senate.

The underlying bill would prohibit those spouses from lobbying their spouse Member, that office. That is fine. But clearly, any Senate spouse is going to have an enormous advantage in terms of access and influence to other Senators and other Senate offices. Imagine if a spouse lobbyist walks in the door and his or her spouse happens to be the chair of a committee on which the Member she is lobbying sits. That is a pretty significant power relationship right in the midst of that lobbying. Clearly, there is that real danger of undue influence and access.

There is a second problem too. In my opinion, the second problem is even

bigger than the first, and that is for a special interest, for a monied interest, to have a mechanism to write a big check straight into the family bank account of a sitting Senator, to directly and dramatically increase the income, the personal wealth of a sitting Senator. That absolutely happens whenever you are going to allow spouses of sitting Senators to lobby.

Again, that I think is an even bigger issue and certainly has been front and center in terms of a number of problems and scandals that have come up and reported fully in the media in the last couple of years on both sides of the aisle.

In that regard, I ask unanimous consent that this recent article about the problem, about that very issue in the Washington Post be printed in the RECORD.

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

[From the Washington Post, Jan. 17, 2007]

LAWMAKERS' LOBBYING SPOUSES AVOID HILL REFORMS

(By John Solomon)

When Sen. Byron L. Dorgan (D–N.D.) rose to the Senate floor last summer and passionately argued for keeping the federal estate tax, he left one person with an interest in retaining the tax unmentioned.

The multibillion-dollar life-insurance industry, which was fighting to preserve the tax because life insurers have a lucrative business selling policies and annuities to Americans for estate planning, has employed Dorgan's wife as a lobbyist since 1999.

A few months earlier, Sen. Elizabeth Dole (R–N.C.) had pleaded for restraint as she urged colleagues to avoid overreacting to the news that the Bush administration had let a United Arab Emirates company take over operations at six U.S. ports. At the same time, her husband, Robert J. Dole, a former senator and presidential nominee, was registered to lobby for that company and was advising it on how to save the deal from the political firestorm.

At least half a dozen congressional spouses have jobs as registered lobbyists and several more are connected with lobbying firms, but reining in the practice to prevent potential conflicts or the appearance of them has not been a priority among congressional leaders. Even modest proposals such as banning wives and husbands from lobbying their spouses or using their spouses' floor privileges for lobbying have gone nowhere.

Democrats made ethics reform a major issue in last fall's congressional elections, but the ethics package the House approved earlier this month didn't address the issue and neither did the one proposed by Senate Democrats. Last week, however, Sen. David Vitter (R–La.) proposed banning spouses of senators from lobbying any part of the chamber. The lone exception is for spouses who were lobbying at least one year before their husband or wife was elected.

The Senate is scheduled to vote on the legislation as soon as today. Senate Majority Leader Harry M. Reid (D–Nev.) called Vitter and said he would support the proposal with one caveat: It should exempt spouses who are already lobbyists.

''As long as it is not retroactive, Senator Reid supports efforts to ban spouses of sitting members from lobbying in the future,'' spokesman Jim Manley said. Vitter said he will not support Reid's proposal. ''I think this goes to one of the fundamental issues in this whole debate and that is officeholders using their office to increase their personal and family income. It doesn't get any more basic than that,'' Vitter said.

Massie Ritsch of the Center for Responsive Politics, a nonpartisan group that studies political donations and ethics in Washington, said that if senators decide that a lobbying ban is necessary, it makes no sense to exempt current spouses.

''If there is a problem here, it is that family members can get access to lawmakers that other people don't. And if they exempt the current spouses, then they are making it all the more exclusive. Those family members will seem all the more special.''

Vitter's legislation does not apply to the House. It also does not address lawmakers' siblings and children, another growth area in lobbying. Vitter said he wanted to make the plan broader but was not assured of a vote, so he scaled it back to Senate spouses.

Elected to the Senate in 2004, Vitter took an initial foray into ethics reform more than a year ago, proposing the spousal lobbying ban as well as the end of large tribal donations like those seen in the Jack Abramoff lobbying scandal. But his plans went nowhere when his own party was in charge.

Vitter had garnered scrutiny during the scandal when it was learned that, as a House member in 2002, he had written a letter opposing a casino for an Indian tribe that rivaled Abramoff's clients. Vitter had taken donations from Abramoff's tribal clients but had refunded the money. He said he always has opposed gambling.

With Democrats in control of Congress and promising broad ethics reform, Vitter tried again. Last week the Senate rejected another of his proposals—one to end the practice of lawmakers hiring relatives and paying them with Senate office, campaign or political action committee money.

Typically, according to their offices, those senators with lobbyist-spouses do not let their spouses lobby them or their staff personally. The rest of the Senate and Congress, however, is usually fair game.

Robert Dole's office said that while he registered to lobby for DP World, he never contacted the Senate and instead focused on giving advice. Nonetheless, his work during the political firestorm over port security helped earn his firm $320,000 in the first half of 2006, records show.

Kimberly Olson Dorgan is registered as a lobbyist for the American Council of Life Insurers and worked on several issues, including the estate tax. She now has moved into an executive job. Barry Piatt, a spokesman for Byron Dorgan, said that the senator long opposed repealing the estate tax, that his position was consistent with that of most Democrats and that his wife's job had no bearing.

Piatt noted that Dorgan once was at odds with his wife's lobby when he supported exempting income under $10 million from the estate tax.

Though the Dorgans built a voluntary wall between them, it doesn't extend to the senator's reelection campaign. His wife's lobbying group gave the senator's campaign $2,000 from its political action committee in 2004. And other life insurers have donated tens of thousands of dollars to Dorgan's campaign, Federal Election Commission records show.

Among the other senators with lobbyist wives are Ted Stevens (R–Alaska) and Kent Conrad (D–N.D.).

Catherine A. Stevens has been a registered lobbyist for the Washington firm of Mayer, Brown, Rowe & Maw, whose past clients include media giant Bertelsmann AG and the famed King Ranch in Texas, lobbying records show. She did not return calls to her office seeking comment.

Lucy Calautti, Conrad's wife and a former chief of staff to Dorgan, is registered to lobby for Major League Baseball's commissioner's office, which paid her firm at least $360,000 in the first half of 2006, according to the most recent lobbying reports on record with the Senate. She did not return calls to her office seeking comment. Conrad spokesman Chris Thorne said that the senator and his wife have a firm rule prohibiting her from lobbying his Senate office and staff.

On the House side, Abigail Blunt, the wife of House Minority Whip Roy Blunt (R–Mo.), has lobbied for years for Altria Group, the parent company for Kraft Foods and tobacco firm Philip Morris. The couple were married in 2003 and decided about a year ago that Abigail would no longer lobby any part of the House, Blunt's office said yesterday. And Jennifer LaTourette, the wife of Rep. Steven C. LaTourette (R–Ohio), has been registered in recent years to lobby for several interests, including health-care companies and Cleveland's port authority.

Other congressional spouses have ties to lobbying even though they aren't formally registered in Washington. Ray Hutchison, the husband of Sen. Kay Bailey Hutchison (R–Tex.), works at the Vinson & Elkins firm, whose lobbying clients have included corporate giants such as 7-Eleven, Goldman Sachs and Halliburton.

Senate Democratic Whip Richard J. Durbin's wife, Loretta Durbin, runs a lobbying firm called Government Affairs Specialists. But Durbin's office said she limits her lobbying to their home state of Illinois and recuses herself from any federal matters that could affect her husband's work in the Senate.

Mrs. FEINSTEIN. Madam President, will the Senator yield for a question?

Mr. VITTER. Certainly.

Mrs. FEINSTEIN. It is my understanding, initially, the Senator's amendment had a grandfather clause. Does it now contain that grandfather clause?

Mr. VITTER. No, it does not. I appreciate the question. In developing this amendment, we dealt with a lot of different ideas and a lot of different versions. I mistakenly filed a version with the grandfather clause in it. That was never my intent, in terms of filing an amendment in this Congress and in this debate. As soon as I learned that from my staff, I amended the amendment, and so it does not contain that grandfather clause.

My thinking is very simple. If it is wrong, it is wrong. If it is a conflict, it is a conflict. If it is a problem, it is a problem. And because somebody has been doing it for a few years doesn't right the wrong.

I do have an exception, which is different from a grandfather clause. I bent over backward to try to meet every reasonable argument. The exception says: If the spouse lobbyist was a lobbyist a year or more before the marriage or a year or more before the Member's first election to Congress, that is a bit of a different situation that is allowed.

I can make an argument for even doing away with that exception, but I tried to bend over backward for what I considered any legitimate argument.

Mrs. FEINSTEIN. Madam President, may I ask a second question?

Mr. VITTER. Certainly.

Mrs. FEINSTEIN. So anyone who doesn't meet the specific confines of the Senator's bill would be forced to lose their job; is that correct?

Mr. VITTER. No, it is not correct, for the following reason: My amendment, first of all, applies only to Senate spouses lobbying the Senate. It doesn't apply to the House, it doesn't apply to Federal agencies, it doesn't apply to State legislatures. It doesn't apply to all sorts of other things. To be quite honest and direct, I would like to have it apply more broadly to all of Congress, but to make my amendment germane, I have to forgo that.

I think that is a direct answer to the Senator's question.

Mrs. FEINSTEIN. Madam President, I thank the Senator.

Mr. SALAZAR addressed the Chair.

Mr. VITTER. Madam President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I wish to emphasize what I stated to the distinguished Senator from California. I tried to meet every legitimate argument. I bent over backward with regard to that issue. Specifically, I point out that the exception in my amendment that says, quite simply, if the spouse lobbyist was a lobbyist a year or more prior to the marriage or a year or more prior to the Member's first election to the House or Senate, then that is an exception, and they can continue lobbying.

Every other case is a real problem, a real conflict, and specifically I don't think a grandfather clause that protects folks who are doing it now is appropriate. If it is wrong, it is wrong. If it is a conflict, it is a conflict. If it poses real ethical questions—that is true whether one has been doing it for 10 years or whether one starts tomorrow—I urge all the Senate to reject that grandfather clause.

The message of a grandfather clause is simple: Yes, we are going to get serious about ethics, as long as it doesn't do anything in practice, as long as it doesn't affect our friends.

I don't think that is the right policy. I don't think that is the right message.

I urge all my colleagues, Republicans and Democrats, to support this amendment. The American people are watching this debate. They have seen the leadup to this debate. They have seen the scandals. They have seen the rhetoric in the campaigns, and they are wondering: Is this going to be real or is this going to be a farce?

We have had some votes, quite frankly, that are leading folks to believe this is a lot of show, a lot of sound and fury with nothing behind it. I hope we can prove those cynics wrong, but I have to admit, I am quickly becoming one of those cynics.

I believe this vote is going to say a lot about how serious we are. If there is a vote on the grandfather clause issue, that is going to say a lot about whether we are going to act when it has a consequence in this body or just act when it doesn't affect anybody in this body as it stands now.

Madam President, I urge all my colleagues to look at the amendment, support the amendment, certainly resist any grandfather clause which would be horrible policy, and send a very simple message to the American people. I look forward to a fuller debate on the issue and a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 71

Mr. SALAZAR. Madam President, I rise today to speak in support of amendment No. 71, which was offered and cosponsored by myself and Senator BEN NELSON from Nebraska. The essence of the amendment we offered last night is to try to make sure that as we move forward with ethics reform in Washington, DC, a spotlight not just be on the Senate or the House of Representatives but that the ethics standards we are moving forward with in this legislation, which will be a hallmark piece of legislation for Washington and for our Nation's Government, that those same kinds of high ethical standards should also apply to the senior executive officials of the executive branch of Government, as well as to the judicial branch of Government.

The essence of our amendment is to say, as we clean up Washington, DC, that we ought not to stop simply by cleaning up the affairs of the Congress; that what we ought to do is adopt a set of ethical standards that will also apply to the executive branch and to the judicial branch of Government.

As we move forward with that principle, what we have tried to do in this amendment is very simple. Let me discuss three important aspects of this legislation.

First, our amendment would apply to the gift and travel ban—which will become the rules of this Senate on passage of this bill—to senior and very senior executive and judicial branch personnel. After passage of this bill, we in the legislative branch will operate under a stringent set of rules which will ban gifts and travel from lobbyists, among other things. Currently, executive branch personnel can, with few exceptions, accept gifts, except from a few so-called prohibited sources. Simply put, there is no reason why lobbyists should be able to give gifts—no matter how small—to senior employees of the executive and judicial branches.

Second, the amendment would ban all executive branch personnel from lobbying their former agency for 1 year after leaving Government service. Currently, the revolving door rules in the executive branch apply only to senior and very senior personnel. That means junior employees of any executive branch agency are permitted to go directly from a Government job to a position of lobbying their former office. That, in my view, is an unethical thing to do. Meanwhile, here in the Senate, all Members and staff are subject to at least some form of a revolving-door rule, and the bill we are debating would strengthen those rules for the Senators as well as for staff. Simply put, there is no reason the executive branch personnel, no matter how junior, should be permitted to lobby their former office immediately upon leaving Government service.

Third, the amendment would require senior and very senior executive branch personnel to disclose to the Office of Government Ethics any negotiation for private employment within 3 business days. The bill we are now debating would require Senators and senior Senate staff to disclose to the Ethics Committee that they are negotiating for private employment within 3 business days. There is no principled reason this rule should not apply equally to senior executive branch employees as well.

This is a narrowly drafted attempt to apply some of the key provisions of this bill to other branches of Government. It is based on both principle and practical concerns. The principle is that ethics rules should apply uniformly across the Government of the United States. The practical concern is that key Government personnel should not accept any gifts from parties seeking action by the Government, that all legislative and executive employees should adhere to minimum revolving-door standards, that senior officials should not negotiate for future employment in secret, and that negotiations should be fully disclosed.

I support Senator NELSON's amendment, and I urge my colleagues in the Senate to accept this amendment as we move forward in an effort to try to clean up Washington, DC. At the end of the day, this is much more than just about dealing with the ethics issues of the Senate and the House of Representatives; this should be an effort from all of us to send a loud and clear signal to the people of America that we are taking ethics seriously and that we are going to bring a new standard of conduct, a new standard of ethics across all the branches of our Nation's Government.

Madam President, I yield the floor, and I note 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 that the order for the quorum call be rescinded.

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

Mrs. FEINSTEIN. Madam President, I would like to ask a couple of questions about the Vitter-Inhofe amendment, amendment No. 3. I think it is one thing if the amendment is prospective and doesn't affect people. I think it is another thing when it is retroactive. I believe our side would accept

the amendment if it were, in fact, prospective.

The amendment has a complicating factor in addition to that; that is, there is a prohibition against any official contact with any spouse of a Member who is a registered lobbyist under the Lobbying Disclosure Act. That is not any lobbying contact, it is official contact. Now, what is official contact? Does this mean the spouse, if he or she happens to have been a lobbyist for a substantial period of time, cannot attend the Supreme Court dinner which just took place? That could be interpreted as an official contact. Is it an official contact if the individual calls the scheduler of her husband's or his wife's office and asks for some information on the schedule? I am surprised—and I didn't know this—that this amendment has the words ''official contact.'' You can be sure that even if it said: Well, it is not an official contact, that someone will make the argument: Oh yes, it is an official contact if you attend the Supreme Court dinner with your spouse.

Again, I would repeat, this is retroactive legislation. We know it affects people in this body who have worked, helped support their families. I don't recall another time when we have enacted this kind of legislation.

So it concerns me, and it concerns me if it is overly repressive, such as using the words ''official contact.'' I am puzzled as to why, when the majority leader offered that if it had a grandfather clause, we would accept it, it wasn't taken, unless the intent is essentially to sever people from their ability to have anything to do with this body, whether it is simply as a spouse or as a professional.

So I have some concerns about this amendment, and I wanted to take this opportunity to express them, and hopefully the author will respond.

Mr. VITTER. Will the Senator yield?

Mrs. FEINSTEIN. I certainly will.

Mr. VITTER. I thank the distinguished Senator from California for those points and questions. Let me respond to each one.

First, I think what you said, literally at the very beginning of your comments, says it all. You said this would be fine if it didn't affect anyone, but it does. This would be window dressing if it didn't affect anyone, if it did not do anything. But, yes, it does. And it should.

Mrs. FEINSTEIN. Will the Senator yield, please?

Mr. VITTER. I will be happy to, after I finish my comment.

Mrs. FEINSTEIN. Because I said ''presently employed,'' if I may, through the Chair. To clarify that, I said anybody ''presently employed.'' We know it affects people. We know it would affect people in the future. We also know it affects people presently employed.

Mr. VITTER. Reclaiming my time, the point is, yes, it is a great vote as long as it doesn't affect anyone here, as long as it doesn't affect anyone in the body now, as long as it doesn't affect any spouse.

I disagree. If it is a conflict, it is a conflict. If it is a problem, it is a problem. Having done it in the past doesn't cure the conflict, doesn't cure the problem. I think demanding that a grandfather clause be attached to this is the height of cynicism. We are going to reform things as long as it doesn't affect us. I think that is bad policy and I certainly think it is a very negative message to send to the American people—although it may be a rather clear message about what this debate and exercise is all about.

In terms of the question about official contact, I think that is very clear because it is in the context of the lobbyist disclosure law. It is in the context of lobbyist contact. However, if the Senator continues to believe it is not clear and wants to offer any clarifying language, I would look at that and work with the Senator. I will be happy to work on clarifying language. Obviously, no one wants to prohibit spouses from going to the Supreme Court dinner or anything else. I think that is a relatively—I don't think it is a problem. But even if you think it is one, I believe it is an easy problem to solve.

Mrs. FEINSTEIN. If the Senator will yield for a moment.

Mr. VITTER. Certainly.

Mrs. FEINSTEIN. Through the Chair, on line 5, if you substituted ''lobbying'' for ''official,'' I think that would do it.

Mr. VITTER. I will be happy to look at that and respond to that suggestion. Certainly, if there is any ambiguity there, and I don't think there is, I will be eager to clarify it and work on it.

Mrs. FEINSTEIN. I thank the Senator.

Mr. VITTER. Again, I think this goes to the heart of the matter. I think this grandfather clause issue goes to the heart of the matter. Are we going to do something that ''doesn't affect anybody,'' that doesn't matter in terms of people here and now and make a big show of it or are we going to make a difference and stop practices that the huge majority of the American people think are a real problem?

I hope we are going to do the latter. I hope we are going to be real and substantive and not go through a PR exercise, and I think the American people are watching to find out. I think this, among other votes, will be a clarifying moment.

I thank the Senator for her questions and I look forward to continuing the discussion.

I yield the floor.

Mrs. FEINSTEIN. Madam President, if I may, I thank the Senator. Perhaps our staffs can get together directly and take a look at this. I appreciate it.

RECESS

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

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. CLINTON).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I ask unanimous consent I be permitted to proceed as in morning business.

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

TRIBUTE TO NANCY STETSON

Mr. KERRY. Madam President, one of the best things about the Senate and the character of this place and the opportunity it provides all of us is we are privileged to work with people as our experts on our committees and our aides who, even more than many of us, dedicate decades to this institution and to the causes that bring them to public service.

They do it selflessly, never seeking the headlines but always trying to shape those headlines, making contributions that are most often left in the unwritten history of this institution and of the country.

The fact is, though, as my colleagues know, it is these individuals and their commitment that really writes that history and makes an unbelievable contribution to the country as a whole.

One such person I have had the privilege of working with for the entire time I have been here, for 22-plus years. No one is a more dedicated, harder working, more idealistic, passionate, and effective example of that special kind of public service than Dr. Nancy Stetson of the Senate Foreign Relations Committee, who is retiring this year after over 25 years of remarkable service—groundbreaking service, really—to the Senate.

As a young and idealistic doctoral student, Nancy first came to Washington to work on her thesis and to ask the question whether a single legislator could make a difference in the shaping of American foreign policy. Her subject was Senator ''Scoop'' Jackson and the long record that he amassed in the Cold War through the legislation that to this day bears his name, the Jackson-Vanik waiver.

Nancy found that on Capitol Hill, despite the Historians' fixation on the rise and fall of the imperial Presidency, one Senator can make a lasting impact on America's role in the world. But it has really been for her role to the Senate Foreign Relations Committee and to me personally that I want to pay her tribute today.

She began working for Senator Pell from her beloved home State of Rhode Island and, then, of course, for Chairman BIDEN. I really inherited her in a sense from Senator Pell because when we came into the majority in 1986, Senator Pell was a chairman who believed in delegating responsibility. I was then the chairman of one of the subcommittees that had jurisdiction over the

State Department budget and a number of issues that sort of brought Nancy to me.

So there she was, one Senate staffer with a lot more knowledge on how the committee and the Senate worked than I had. She was committed, dogged, and determined to make this kind of impact or to affect the life of a Senator life who was trying to make that impact.

So I ask my colleagues to consider the legacy of this remarkable staff person. Among her many proud accomplishments as a senior aide on the Senate Foreign Relations Committee was the South Africa sanctions bill and the normalization of relations between America and Vietnam that culminated in the signing of the United States-Vietnam trade agreement in the last Congress.

I am also particularly proud of Nancy's work as the principal architect of the Vietnam Education Foundation and the Vietnam Fulbright Program. These are two programs that we worked on during the 1990s together, but it was really her sense of the possible and her willingness to do a lot of the detail work that helped to bring them to maturity.

Working with a very close friend of mine, a Vietnam veteran from Massachusetts, we helped to shape, and she helped to shape, what is now the largest Fulbright program of the U.S. Government, the program with Vietnam. We have students from Vietnam studying at Harvard in Massachusetts and likewise professors and others going from Harvard to Vietnam to help train their new technicians and leaders of the future.

I think Nancy and I both believed for the years we spent in a war that became so controversial and tore this country apart—which set out as our goal to transform a country, Vietnam—that this was the best way to complete that task; that the war in a sense had not ended, and there was a way to try to ultimately make peace with Vietnam, with ourselves, and build a new future for that country and for ours.

This Vietnam Education Foundation and this Fulbright program have been instrumental in helping us to do that. And today, Vietnam is simply a transformed, extraordinarily different country. It was an innovative policy, and it was a master stroke of public diplomacy for which Nancy deserves enormous credit. Without her vision and her perseverance, we would not be able to talk today, in foreign policy, in terms that say that Vietnam is not just a war but a country. It became a country because of this kind of effort and this kind of outreach in the consciousness of Americans.

We have a relationship today that we could have never imagined when so many of us were in uniform so many years ago. It is no exaggeration to say that entire effort of normalization also was part of Nancy's craftsmanship. And I will talk about that in a moment.

In addition to the normalization with Vietnam, Nancy contributed enormously to global health issues and to some of the most significant policies of any industrialized country against diseases of poverty. Her work on malaria, TB, and AIDS, where she fought to significantly increase the U.S. contribution to the Global AIDS Fund, were among her proudest accomplishments. People across the world today literally owe their lives to Nancy's work.

I remember when we began that effort, Senator Helms was then chairman, and a lot of people said: You are never going to get anything through this committee. Well, with slow and steady work, we not only got it through the committee, we got Senator Helms, to his credit, to be one of the principal cosponsors of this effort.

Together with Senator Frist, we drafted the first original comprehensive plan on AIDS that passed the Senate and which became the centerpiece of how we are approaching particularly Sub-Sahara and Africa today, but really our global efforts to try to deal with this scourge that is growing, I might say notwithstanding those efforts, for lack of global initiative and effort to focus on it.

Over the last 22 years in the Senate, Nancy Stetson and I traveled to many parts of the world. We went to Latin America, to Central America, to East Asia, to the Middle East, to dozens of countries on more trips than I can count. And I will tell you something. Nancy has the ability to win the ''Amazing Race,'' for those of you who have ever seen it. She secured meetings with heads of state, Nobel Prize winners, and unsung health advocates in some of the poorest countries of the world.

She pulled me and other staffs through the wilds of Myanmar, negotiated travel to remote areas of Vietnam, handled the logistical complexities of visiting Indonesia, Cuba. She gave up weekends, holidays, and vacations. And on trips she would stay up into the night, preparing for a press conference or a speech or a policy statement, and convincing the hotel business centers to open at 2 a.m. in Hanoi or Bangkok.

She gave up her 50th birthday. We celebrated it in New Delhi. It is hard to overstate the long hours, the incredible effort, the passion, and the personal sacrifice that Nancy has put into working for me and for her country.

She was indefatigable, and I am incredibly grateful. I might add that on occasion there were some very tricky moments in Vietnam when we were trying to open prisons and open the history centers in order to resolve the issue of POW–MIA, and it required some delicate negotiations. For American soldiers to be reentering Vietnamese prisons and communities by helicopter was an emotional leap for the Vietnamese to make. Nancy built wonderful relationships with leaders, with those people who could make those doors open. And, indeed, they did. I am grateful to her for that.

She was incredibly loyal, brilliant, blunt, honest, absolutely smart as a tack, and wiley. She always asked the questions that needed to be asked of me. Time and time again, when I failed to ask the right question before a witness at our committee, I could always expect that tap on the shoulder and the passing of a note, a reminder from Nancy of what really should have been said or really should have been asked.

Part prosecutor, part conscience, part intellectual, on matters of foreign policy, I was proud to think of her as an alter ego. And I hope that in some of my better moments, if there were a few, she thought the same of me.

She could step in as a surrogate Senator at the drop of a hat, and I mean that literally. When a massive fire took the lives of six of our firefighters in Worcester, MA, immediately—I was in Asia at the time in Myanmar and about to meet with Aung San Suu Kyi—and I immediately canceled all my meetings and flew back to be in Worcester. But Nancy stayed there and soldiered on and went to my meetings for me. In Burma, meeting with dissident Aung San Suu Kyi, she was herself living out her own commitment on the diplomatic stage with poise and with courage and with intelligence that I think is a credit to the Senate.

Nancy's first love was Africa. She started her career focusing on it. Many years later, she returned to work on the devastating health issues plaguing the continent now. She had a knack for seeing reality quicker than most. She was never swept up by the headlines or the political sales pitch.

She was prescient in seeing the disastrous path that has played out in Iraq for what it is and for helping me to devise a policy going forward. She has never been afraid to act on her conscience.

Nancy is headed now to Massachusetts to become the vice president for health policy at the New England Health Care Institute. Her Senate family will miss her more than we can ever properly express. Even as we wish her good luck and much happiness in her new endeavor, I hope she knows she is not going to escape my badgering e-mails or 3 a.m. phone call from Baghdad or Amman to mine her thoughts.

I have worked with Nancy longer and probably more closely than I have worked with just about anyone in my time in the Senate. As I mentioned, we traveled the world together. Although she may not realize it—I may not have said it in so many words in those long flights to Asia or back, or during the many long hours and late nights here in the Senate—I know in my heart I could not have done it without her energy, without her drive, her grit, her tough-mindedness, and her loyalty.

She has worked long and hard without ever getting the credit she rightly

deserves for the amazing things she accomplished in her time in the Senate. So I just want to say thank you to this special woman for her contributions to this institution and to our country.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I ask unanimous consent to speak as in morning business.

Mr. BENNETT. Madam President, may I inquire as to how long this presentation will be?

Ms. STABENOW. No more than 10 minutes.

Mr. BENNETT. I have no objection.

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

The Senator from Michigan.

Ms. STABENOW. I say thank you very much to my distinguished colleague from Utah managing the floor.

PRESCRIPTION DRUGS

Ms. STABENOW. Madam President, I felt it was important today to come to the floor and speak about the efforts of the House of Representatives to lower the cost of prescription drugs for our seniors. There has been a measure passed that will require that the Secretary of Health and Human Services negotiate prices. It sounds like something that is pretty straightforward and common sense: to negotiate the very best price for our seniors and people with disabilities.

I know my distinguished colleague and friend, the now-ranking member of the Finance Committee, has spoken about his objection to that approach. I think it is important that we also have voices speaking out about why we believe this makes sense for Medicare, for taxpayers, for our seniors, and for the disabled.

The facts really bear out that this makes sense. We are not talking about whether we do research and development on new breakthrough drugs versus being able to get prices that are affordable for our seniors. There is an ample way to be able to do both. In fact, we, as taxpayers, provide a tremendous amount of the money that is currently being spent on R&D, and it is important we know we can afford the medicine that we are helping to pay to have developed.

A report by Families USA, released last week, looked at the prices of prescription drugs most commonly used by our seniors. The conclusion could not have been more clear. The report compared the prices the private Medicare Part D plans charge now and the prices charged by the Department of Veterans Affairs, the VA, which negotiates, as we all know, for the best price on behalf of America's veterans. The report showed, again, what we have been seeing over the past year. The lowest drug prices charged by the private Part D plans are significantly higher than the prices obtained by the VA.

Among the top 20 most used drugs, the median difference between the lowest Part D plan and the lowest VA plan is 58 percent; 58 percent difference between what the VA is able to do for veterans and taxpayers versus what is happening under the Medicare Part D plan. In other words, for half of the drugs our seniors need most, the highest price charged by the private drug plans is almost 60 percent higher. That makes no sense. I hope we will act to change that.

It can be a lot worse, however. When we look at half of the top 20 drugs, the highest price charged by a private plan is twice as high as the average price through VA for the lowest priced drugs. Seniors and people with disabilities who get their drugs through Medicare are forced to pay more because the law actually prohibits the Secretary of Health and Human Services from negotiating the best price. It is not only that they are trying and are not able to do it; the law that was passed prohibits them from doing that. That does not make sense.

We have all heard from seniors, from families, from people with disabilities across the country trying to wade through all of the private plans and the complexities and dealing with the doughnut hole, and so on. We know that, in fact, one of the reasons that there is that gap in coverage is that we are not using the purchasing power of the Federal Government through Medicare to get the best price so that our dollars and the dollars of the people on Medicare are stretched as far as possible to help people get the medicines they need.

Mr. BENNETT. Will the Senator yield for a question?

Ms. STABENOW. I am happy to.

Mr. BENNETT. Is the Senator aware of the fact that there are well over 1 million veterans who have moved to Medicare Part D rather than the veterans plan because they find that the restricted formulary in the veterans plan has made it impossible for them to get the drugs they want? And one of the reasons the VA plan is cheaper is because they are rationing drugs? Is the Senator aware of the fact that many veterans have, in fact, moved to Medicare Part D for that reason?

Ms. STABENOW. Yes, reclaiming my time, I am aware that, in fact, there are veterans who have moved to the Medicare system. One of the reasons the House bill that passed did not include a national formulary was because of those kinds of concerns. We are not talking about that. We are talking about the ability to negotiate to get the best price. I would also say, though, from the VA's standpoint, that there are millions of veterans who are getting much better prices as a result of the fact that they can negotiate the best price for veterans. We are working to find that balance to provide a choice so that you can get the specific prescription drug that you need but at the same time be able to get the best price. I don't know why we wouldn't want to do that. It makes absolutely no sense not to do that.

We are seeing huge differences on prescription drugs that are commonly used by our seniors. Let me give an example. Zocor, which is a drug many seniors use for keeping their cholesterol levels under control, the lowest VA price is about $127 a month. But people under Medicare are paying $1,486. We are talking about a difference of over 1,000 percent. If you account for an aggressive R&D budget, if you account for differences, there is a lot of wiggle room when you are talking about a 1,000-percent difference in price between someone going through the VA and someone going through Medicare. I don't understand why we would not say to the Secretary of Health and Human Services: We want you to negotiate a better price for Zocor.

There were 7.5 million veterans enrolled in the VA health system in 2005. The administration estimated that over 29 million seniors were enrolled in private plans last year. So there are four times more seniors enrolled in Medicare than there are people under the VA system. And I do not understand—to me it defies logic—why we would not give them the same negotiating power.

I would also like to give the Secretary a chance to negotiate a better price for Protonix, a drug that is commonly used to treat heartburn. The lowest VA price for Protonix for a year is $214.52. Seniors paying the lowest private Part D price have to pay $934 more to get their heartburn treated. Again, that makes no sense. Older Americans are forced to pay 435 percent more for Protonix because the Secretary is forbidden from negotiating prices on behalf of our seniors. When we look at what is happening, the claim that private plans could actually negotiate a better price under Medicare but also under Medicaid has not borne truth.

The Wall Street Journal, the New York Times, and expert testimony before the Finance Committee last week all indicated that, in fact, drug prices are now higher for these individuals, those who were before on Medicaid and now on Medicare. These are our poorest seniors and people with disabilities. Our seniors are being charged more than veterans for the same drugs and our poorest seniors are not getting the price break we had anticipated. It doesn't make sense to me why we would be paying more and why prices would have gone up once Medicare came into place for prescription drugs, why prices have gone up rather than down.

There are two arguments that I am hearing all the time. One is that we can't possibly rigorously negotiate for lower prices for seniors and people with disabilities because we will see prices go down so much that the companies will not be able to conduct research and development on breakthrough drugs. At the same time, we hear also that negotiating would not make a difference; it would not lower prices. It is

impossible to argue both of those positions at the same time. If negotiating will, in fact, not lower prices, then it certainly can't affect R&D expenses. But yet both of those assertions are being made at the same time.

We are all committed. This Congress last year appropriated $29 billion for research and development through NIH. And I know the distinguished Chair has been involved in advocating for those efforts as well as for Medicare. The fact that we have put into place $29 billion of taxpayers' money indicates our commitment to R&D and to work with the industry. The research that is done through that effort is available free of charge to the industry. They are able to take that information. They are able to deduct as a business expense their R&D efforts, and they get a 10-percent tax credit for R&D efforts on top of that for breakthrough drugs, all of which I support. We then give about an 18-year patent to protect a company from a particular drug. They have to be able to recoup their costs and not have full competition from the private marketplace or from generic drugs. I, also, support that.

All we are asking—all the people of the country are asking, particularly our seniors and disabled—is that when one gets through with the process they have invested in, they should be able to afford to buy the medicine. Medicine that is not affordable is not available, and health care today is becoming more and more a question of treatment through medicine.

I am hopeful we will move quickly. I know the chairman of the Finance Committee has held a hearing. We are grateful for that. I am hopeful we will move forward together on a bill that will mirror what the House of Representatives has done in order to say that the Secretary should negotiate the best price for medicine for our seniors, for people with disabilities, and certainly for the taxpayers who are paying a substantial amount for this benefit.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. I ask unanimous consent to speak as in morning business.

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

Mr. COLEMAN. Madam President, I would like to respond to my colleague from Michigan. I wish to talk a little bit about the minimum wage, but I would love to debate drug rationing. And that is what we are going to get to. That is what we are talking about. We are talking about adopting the VA system. For those seniors out there listening, you have a limited list of drugs which are available. And by the way, you get them through the VA. You get about 80 or 90 percent through mail order, the rest at the VA, where my dad goes. I think he, also, may have an addition tied into Part D. I have seniors in Minnesota who like to go to the local pharmacy. I am struggling and fighting every day to keep rural pharmacies alive. You want to put a stake through the heart of rural pharmacies, of small business, talk about doing what the House is talking about. We will have that debate another day.

Americans and Minnesotans like choice. Under Medicare Part D, the poorest of the poor are dual eligibles, and it is a program that is working. Most of the seniors in my State who have Medicare Part D are pretty happy. We have some challenges with the doughnut hole. But going to a system of limited choice, limited options and somehow saying that that is going to be better than a system where you have millions of consumers and, in effect, the bargaining goes on every day, if you don't like one plan, you can go to the next, this plan has cost us less money. It is giving great choices. Our challenge is to keep our rural pharmacies alive. This is not going to make that any better.

MINIMUM WAGE INCREASE

Mr. COLEMAN. Madam President, I wish to talk about a bipartisan effort to increase the minimum wage. Last week, the House overwhelmingly passed legislation to increase the current minimum wage from $5.15 to $7.25 an hour. We will have a chance to deal with that in the Senate. We are going to get a better bill out of the Senate. We are going to have some small business protection which is important. But we do need to increase the minimum wage.

I have long supported increasing the minimum wage. I strongly believe that Congress should ensure that the benefits of our strong economy go to everybody. My State of Minnesota is 1 of 29 that have sought to ease the burden for minimum wage workers by increasing the minimum wage above the Federal minimum wage. But it is well past time that Congress acted.

It has taken more than 9 years to finally reach the point where we will be increasing the minimum wage, and it is about time. As a result of congressional inaction, the Federal minimum wage is actually at a 50-year low, when we factor in inflation. That is simply not fair. It is not fair for our minimum wage workers who must deal with the ever-rising cost of day-to-day living.

There are some who argue that the vast majority of those receiving the minimum wage don't come from poor families. They claim that those receiving the minimum wage are middle income families, young, and work part time. I don't think the facts support that proposition. If Congress increases the minimum wage to $7.25, we are talking about helping about 50 percent of the workers who come from poor and low-income families. We are talking about helping out those Minnesotans who work in the nearly 230,000 low-wage jobs who would benefit from an increase. We are talking about 40 percent of hourly workers who are making $5.15 or less who are uninsured.

Congress needs to find bipartisan solutions to reduce the ranks of the uninsured. We need to act to improve health care accessibility and affordability for all Americans, not the least of which are low-wage workers. It is important to make the point that these same uninsured Americans are also the ones who will benefit most from a hike in the minimum wage.

While I support increasing the minimum wage, I, also, support targeted small business protection. I want to see the hit of an increase in the minimum wage lessened. It is no good to increase the minimum wage if you are going to take away somebody's job. You have to look at the impact on small business.

I am a former mayor, a member of the Small Business Committee. I understand the importance of small business to our economy. I believe that America's future is tied to the growth of small business. Small businesses become big businesses, but they have to start small. They need the kind of protection we are talking about, bipartisan relief.

I have introduced legislation—and apparently a bill will come out of committee—that will provide some protection. I want to make sure a couple other things are in there, such as increasing expensing for small business. My small business owners tell me this is important. Under this sort of expensing, businesses can take an immediate depreciation deduction of up to $112,000 on taxes for qualified business purchases. This is important to do the right kind of protection and ensure that businesses can continue to hire workers and continue to grow and expand.

I applaud the Finance Committee today for passing small business relief. I think it includes an extension of increased expensing and a 15-year straight-line cost recovery period for qualified leasehold and restaurant improvements. I am not going to get into the nitty-gritty, but we are making progress. That is good.

I wish to comment on one other aspect of the minimum wage debate that is not included in the bill out of the Finance Committee. It is called the tip credit. Although this is somewhat of a technical issue, at the end of the day this is about jobs, plain and simple.

So what is tip credit? With tip credit, employers can count a certain part of their employees' tips toward meeting their employees' minimum wage. Tip credit has long been on the books. Labor laws recognize it. I know the State of New York has tip credit. I think there are 7 of the States that do not have a tip credit; 43 States have it. Again, labor laws recognize it, tax laws recognize it. It is an issue that impacts about 10,000 Minnesota businesses and their workers—mostly in the hospitality industry, such as restaurant workers. Those are important businesses. They are gathering places in the community. They are the cornerstone of many of the communities.

They form an important part of the State's tax base. The restaurants and those folks employed there are active in the community. They sponsor the local youth teams and support schools and neighborhood projects. Restaurants are where Little Leaguers celebrate victories, families celebrate special occasions, and tourists spend good money, as in my State of Minnesota. This is a way of life which is increasingly under threat. Minnesota is one of seven States that do not have tip credit. My hospitality industry is at a competitive disadvantage with respect to those States which surround us which allow for tip credit. Those in the hospitality industry in our border areas are in competition with other States.

Minnesota has a minimum wage of $6.15 an hour. That is a good thing, but it is not the case in our neighboring States. I think if we look at the other chart, for instance, Wisconsin has an even higher minimum wage. Ours is $6.15 an hour, with a tip credit of $4.17. In Wisconsin, an employer pays a minimum hourly cash wage of $2.33 and can apply $4.17 of their employees' tips toward meeting the minimum wage of $6.50. The employers in Wisconsin, Iowa, South Dakota, and North Dakota in the hospitality industry can pay employees less. There is a lower cost of doing business, which puts my employers at a competitive disadvantage. We are at risk of losing jobs in these areas.

As I have always said, the best welfare program is a job program and a housing program. Consider dining out in the border town of Moorhead, MN. Just across the river in Fargo, ND, there are more than 50 national chains, and there is only 1 in Moorhead.

Operating on an unfair playing field with North Dakota and Wisconsin, hospitality establishments have to make tough decisions, such as raising prices, cutting the workforce, reducing employee hours or, worse, shutting down in the State. Peggy Rasmussen, the owner of Countryside Café in Hamel, is seriously considering closing down her business because of this tip credit issue. When businesses such as Peggy's shut down, their workers are left behind and so, too, are our communities.

This is a fundamental question of fairness. Forty-three States have tip credit. All of Minnesota's neighbors have tip credit. Minnesota does not.

I wish to make it clear that any change in the tip credit law is not going to result in a lowering of this wage for Minnesotans. Anything we do needs to be prospective. I want to defend our restaurant employees. This is what they are making. Over time, we can equalize some of the disadvantage. We can do it in a way that doesn't support a tip credit that would lessen a worker's minimum wage.

As we increase the minimum wage, which I have consistently said is the right thing to do, let's also ensure that States such as Minnesota can operate on a more level playing field with the rest of the 43 States that have the tip credit. Without the tip credit, Minnesota's hospitality businesses and workers will continue to be hurt.

Throughout my time in the Senate, I have sought to improve the living standards of America's hard-working families. Increasing the minimum wage is one way to do so. I look forward to voting with my colleagues from both sides of the aisle to increase the minimum wage.

It is my hope that the minimum wage proposal will also allow for tip credit, which is critical to the future of Minnesota's businesses and workers, which is, in the end, about fairness and, most importantly, about keeping jobs in the States that need them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

HONORING THE PUBLIC SERVICE OF TED TOTMAN

Mr. GRASSLEY. Madam President, I rise to pay tribute to a staff person, Ted Totman, who will retire this week after 23 years of public service as a professional staff member in the U.S. Senate. I didn't know it back then, but when Ted took a job for me in 1983 on the Subcommittee on Aging of the Committee on Labor and Human Resources, I had hired someone who would be one of my closest, most trusted, and longest serving advisers.

Ted was a professional staff member for the Subcommittee on Aging from May 1983 to February 1985. He was staff director during my chairmanship of that subcommittee from April 1985 to January 1987. Ted played a major role in developing and passing the 1984 Older Americans Act amendments and was a forward-looking, successful advocate for more attention to Alzheimer's disease, including expanding the number of Alzheimer's disease research centers, increasing funding for Alzheimer's disease research, and increasing funding for the care of people with Alzheimer's disease. Ted also worked to help obtain funding for two statistical centers on aging in the Census Bureau.

For the next 10 years, from January 1987 to January 1997, Ted served as a legislative assistant in my office, where he was responsible for Medicare, Medicaid, Social Security retirement and disability policy, private pensions, and veterans issues. He was the leading staff member in the Congress for rural health initiatives. He worked to call attention to regional disparities in Medicare provider reimbursement which disadvantage rural providers, requested and achieved a major Office of Technology Assessment study on the problems of delivering health care in rural areas, and supported the Medicare Dependent Hospital Program and the EACH/RPCH hospital program. Ted's staff leadership helped to secure landmark amendments in the 1995 Finance Committee reconciliation bill to ensure geographic equity in Medicare managed care and to reform Medicare's reimbursement for nonphysician primary care providers. In addition, Ted spent countless hours helping Iowans navigate the Federal health care programs.

In January 1997, I became, because of seniority, chairman of the Senate Special Committee on Aging. I asked Ted to be staff director. For the next 3 years, Ted led the committee's work that focused on preparing for the retirement of the baby boom generation and rural health issues. The committee staff developed legislation on aging policy issues, including Medicare, Social Security retirement, and private pensions, most of which was referred to the Committee on Finance, where I was also a member. Legislative initiatives included bills on Medicare dependent hospitals, consumer protections for participants in Medicare managed-care plans, and the program of all-inclusive care for the elderly, and that comes under the acronym we all recognize as the PACE Program. Staff developed and helped enact the Balanced Budget Act in 1997, provisions that provided greater reimbursement equity to managed-care plans that operated in rural communities. As staff director, Ted also led the pursuit of an active oversight and investigative agenda, including a pivotal review of the quality of care in nursing homes and the management of the oversight of quality of care in the nursing homes by the Health Care Financing Administration. Let me say for the distinguished Presiding Officer, the previous administration helped us very much get that through so that we now are adequately enforcing overview of nursing homes, as one example.

Ted helped to raise the profile of many issues of importance not only to older Americans but to our society as a whole.

In January of 2001, I became chairman of the Senate Committee on Finance, and Ted was there again to provide valuable leadership. When I asked him to stay on, at a time he was thinking of retiring, as deputy staff director, he was an integral part of the success of the committee's work during the next 6 years and oversaw staff work on major initiatives, including the Medicare Modernization Act of 2003, the health provisions of the Deficit Reduction Act, the PRIDE Act, and the authorization of the Safe and Stable Families legislation.

Once again, Ted helped to ensure an active oversight program that focused on fraud and abuse in the health care system, problems in the process by which the Food and Drug Administration approves medications and devices, the quality of care in nursing homes, and the management by the Centers for Medicare and Medicaid Services of the survey and certification system for nursing homes. That was an ongoing issue back, as I referred to, when I was chairman of the Committee on Aging.

Ted's work on the staff of the Finance Committee is so highly respected that the members signed a resolution expressing gratitude and respect for Ted's service and dedication.

In addition to his 23 years of service in the U.S. Senate, Ted worked for 5 years for the U.S. Department of Health and Human Services and served 2 years in the military.

In the Senate, Ted's policy acumen and understanding of the complexities of the legislative process, insight into the executive branch of Government, political wit, as well as his strong work ethic and intellectual honesty and his evenhandedness and personal generosity have made him remarkably effective and universally regarded.

Ted is a true public servant who was committed in his work to the people of Iowa and of this great country. I am grateful for his loyalty and applaud his legacy of accomplishment. Ted has made a positive difference in the lives of so many Grassley staff members, and his daily presence will be greatly missed by all of us. We wish Ted well and look forward to continuing our friendship with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I see my neighbor from across beautiful Lake Champlain, the State of New York, here. If the managers of the bill have no objection, I will speak for 4 or 5 minutes about a matter that has just come up. There has been a lot of interest in it.

I ask unanimous consent to speak for up to 7 minutes as in morning business.

Mr. BENNETT. I have no objection if we can add to that that following the presentation of the Senator from Vermont, I will be recognized.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Is there objection?

Without objection, it is so ordered.

THE FISA PROGRAM

Mr. LEAHY. Madam President, earlier today, I spoke with the Attorney General of the United States. He is going to be testifying before the Senate Judiciary Committee tomorrow morning. We anticipate it will be for much of the day. He wished to inform me, as he did Senator SPECTER, of some changes in the so-called FISA Program. I have been very critical of the administration's actions through the National Security Agency—their wiretapping of Americans, wiretapping of people throughout the country, and apparently doing so without obtaining any warrants.

Interestingly enough, the information about this spying on Americans came not from our administration reporting it either through the Intelligence Committee or the Judiciary Committee or the appropriate committees involved; it came out because, like so many other things we find out about, we read about it first in the newspaper.

Apparently, the administration has decided not to continue this warrantless spying program on Americans, but instead to seek approval for all wiretaps from the Foreign Intelligence Surveillance Court. I say this based on the letter sent to us. This is public; this is not a classified matter. The law has required for years that they do it this way.

I welcome the President's decision not to reauthorize the NSA's warrantless spying program because, as I have pointed out for some time, and as other Senators on both sides of the aisle have pointed out, the program was, at very best, of doubtful legality.

Since this program was first revealed, I have urged this administration to inform Congress of what the Government is doing and to comply with the checks and balances Congress wrote into law in the Foreign Intelligence Surveillance Act.

We know we must engage in all surveillance necessary to prevent acts of terrorism, but we can and we should do it in ways that protect the basic rights of all Americans, including the right to privacy.

The issue has never been whether to monitor suspected terrorists—everybody agrees with that; all Americans do. The question is whether we can do it legally and with proper checks and balances to prevent abuses. Providing efficient but meaningful court review is a major step toward addressing those concerns.

I continue to urge the President to fully inform Congress and the American people about the contours of the Foreign Intelligence Surveillance Court order authorizing the surveillance program and of the program itself. Only with meaningful oversight can we assure the balance necessary to achieve security with liberty.

I ask unanimous consent that a copy of a letter from the Attorney General, dated January 17, addressed to me and Senator SPECTER, which indicates copies to numerous other people, be printed in the RECORD.

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

THE ATTORNEY GENERAL,
Washington, DC, January 17, 2007.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. ARLEN SPECTER,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SPECTER: I am writing to inform you that on January 10, 2007, a Judge of the Foreign Intelligence Surveillance Court issued orders authorizing the Government to target for collection international communications into or out of the United States where there is probable cause to believe that one of the communicants is a member or agent of al Qaeda or an associated terrorist organization. As a result of these orders, any electronic surveillance that was occurring as part of the Terrorist Surveillance Program will now be conducted subject to the approval of the Foreign Intelligence Surveillance Court.

In the spring of 2005—well before the first press account disclosing the existence of the Terrorist Surveillance Program—the Administration began exploring options for seeking such FISA Court Approval. Any court authorization had to ensure that the Intelligence Community would have the speed and agility necessary to protect the Nation from al Qaeda—the very speed and agility that was offered by the Terrorist Surveillance Program. These orders are innovative, they are complex, and it took considerable time and work for the Government to develop the approach that was proposed to the Court and for the Judge on the FISC to consider and approve these orders.

The President is committed to using all lawful tools to protect our Nation from the terrorist threat, including making maximum use of the authorities provided by FISA and taking full advantage of developments in the law. Although, as we have previously explained, the Terrorist Surveillance Program fully complies with the law, the orders the Government has obtained will allow the necessary speed and agility while providing substantial advantages. Accordingly, under these circumstances, the President has determined not to reauthorize the Terrorist Surveillance Program when the current authorization expires.

The Intelligence Committees have been briefed on the highly classified details of these orders. In addition, I have directed Steve Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, and Ken Wainstein, Assistant Attorney General for National Security, to provide a classified briefing to you on the details of these orders.

Sincerely,

ALBERTO R. GONZALES,
Attorney General.

Mr. LEAHY. Madam President, I was a prosecutor for 8 years. I enjoyed being a prosecutor. But I also was well aware that we acted within checks and balances. Courts had their role, prosecutors had their role, defense attorneys had their role. It only worked when everybody did what they were supposed to, including the executive.

I was also a prosecutor and on the board of the National District Attorneys Association at the time of COINTELPRO, a program of spying on Americans who disagreed with the war in Vietnam, and even, we found out later, spying on Martin Luther King because he was speaking so radically as to suggest that we might actually want equality between people, no matter what their color might be, in this country.

Our Government was spying on people who objected to war. Our Government was spying on people who wanted integration in America. I don't want us to go back to that point.

I shudder to think what might have happened if J. Edgar Hoover had had all the electronic capabilities we have today. The only way we stop this—it makes no difference if we have a Democratic or Republican administration—the only way we stop it is with the checks and balances we have built in.

FISA and the Foreign Intelligence Surveillance Court came about because of illegal spying on Americans who were not committing any unlawful act, but were simply questioning what their Government was doing. Many of us

worry that has happened now. We have seen, for example, that the Department of Defense has had surveillance, has even recorded movies, of Quakers protesting war. Quakers always protest wars.

Madam President, I ask for 2 additional minutes, under the same agreement.

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

Mr. LEAHY. They always do this. We heard in the press that there has been surveillance of Vermonters who protested the war. I can save them money. Turn on C–SPAN. I do it all the time on the Senate floor, if they want to find a Vermonter who may protest the war.

The question here is a greater one. What right does our Government—our Government, which is there to serve all of us—have to spy on individual Americans exercising their rights? Of course, go after terrorists, but to go after terrorists, you can do it within the law.

The distinguished occupant of the chair, the Presiding Officer, is also a former prosecutor. She knows how we have to go to court and follow the law for search warrants or anything else. In this area of foreign intelligence, we have made it very easy and very quick for the government to go before special courts, FISA courts. Let's do that, because when this administration or any administration says they are above the law, they don't have to follow the law, they can step outside the law, they don't have to follow checks and balances, then I say all Americans, no matter what your political leaning might be, all Americans ought to ask why are they doing this, why are they doing this. Because it doesn't in the long run protect us, not if we let them take away our liberties.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007—Continued

AMENDMENT NO. 20

Mr. BENNETT. Madam President, I have an amendment, No. 20, which I have offered and which I believe we will be voting on at some point, if not today then tomorrow. I rise to discuss the amendment and to share with my fellow Senators comments that have been made about the amendment by those groups in the Nation that would be most affected by it.

My amendment is very simple. It is a single sentence. It strikes section 220 of the underlying bill. So the whole focus of this discussion has to be on section 220 and what is it and what does it do and why do I think it should be stricken.

If I can go back to the history of this bill, back to the Senate-passed bill we dealt with in the previous Congress, I can tell you where section 220 came from. It was an attempt to deal with what the press has labeled ''the astroturf groups.'' That is a little bit hard to understand.

What does astroturf have to do with anything here? There are grassroots lobbyists and then there are groups the press has decided are phony groups pretending to be grassroots lobbyists. And it is these phony groups that they have labeled ''astroturf lobbyists'' and they think something ought to be done about it.

Here is the theoretical definition of an astroturf lobbyist: An astroturf lobbyist is someone who gets paid, presumably by a large organization—a labor union, a corporation, a trade association, whatever it might be—to pretend there is a groundswell of grassroots support or opposition for or to a particular piece of legislation. So this hired gun, if you will, sends out letters, e-mails, faxes—whatever it is—to stir up phony grassroots support for or against the particular piece of legislation.

The idea was that this hired gun, this individual who does this is, in fact, a lobbyist, even though he or she never talks to a Member of Congress, even though he or she may not live in Washington, DC, or even come here, even though he or she has no connection with any Member of Congress or the staff, because he or she is trying to stimulate communications to Congress that have the effect of putting pressure on Congress. He or she is a lobbyist and, therefore, must register, must report who pays him or her, must go through all of the procedures connected with a lobbyist under the Federal Lobbying Disclosure Act.

Put in that narrow context, there may be some justification for section 220.

Now let's step out of that hypothetical context and go to the real world, and we discover that section 220 is pernicious in its effect, which is why it is opposed all across the political spectrum by those who are involved in trying to put pressure on Congress by virtue of communicating with their Members.

On the right-hand side of the slate we have the Eagle Forum, on the left-hand side of the slate, if you will, we have the ACLU, and all across the spectrum we have a number of groups that are saying: Wait a minute, the prohibitions on astroturf lobbyists or grassroots lobbyists, as they are called in the bill, are prohibitions that cut to the heart of the constitutional right of Americans to petition the Government for redress of their grievances.

I have a letter, a copy of which was sent to every Senator, from the ACLU. Knowing what I know about senatorial offices, I think most Senators will not see the letter, so I will quote from it and at the end of my presentation ask unanimous consent that it be printed in the RECORD so that all Senators and their offices can read it.

Here is what the ACLU has to say about this particular provision:

> Section 220, entitled ''Disclosure of Paid Efforts to Stimulate Grassroots Lobbying'' imposes onerous reporting requirements that will chill constitutionally protected activity. Advocacy organizations large and small would now find their communications to the general public about policy matters redefined as lobbying and therefore subject to registration and quarterly reporting. Failure to register and report could have severe civil and potentially criminal sanctions.

If I can end the quote there and insert this fact: When we adopted the Vitter amendment on January 12, we raised that fine to $200,000. Someone who gets his neighbors together and says, let's all write our Congressmen on this issue, and then spends some money doing it, under this provision becomes a paid lobbyist, and if he does not report and register would be fined $200,000 for having done that. The ACLU does not overstate the case when they say this would have a chilling effect on constitutionally protected activity.

If I can go back to the ACLU letter and continue quoting:

> Section 220 would apply to even small, state grassroots organizations with no lobbying presence in Washington. When faced with burdensome registration and reporting requirements, some of these organizations may well decide that silence is the best option.

I guarantee you that if this small organization has a lawyer, the lawyer will advise them that silence is the best option. The lawyer will say: You are exposing yourself to a $200,000 fine if you don't do this right, and if you don't have the capacity to go through all of the paperwork and be sure you do this right, the best thing to do is simply not try to stimulate anybody to write his Congressman or go visit the local congressional office.

Back to the letter from the ACLU:

> It is well settled that lobbying, which embodies the separate and distinct political freedoms of petitioning, speech, and assembly enjoys the highest constitutional protection.

And for every statement they make here, as you will see when you get the letter inserted in the RECORD, the ACLU gives Supreme Court decisions in support of the position, and in many instances they are quoting directly from the Supreme Court opinion and not paraphrasing.

Back to their letter:

> Petitioning the government is—

and this is a subquote from the Supreme Court—''core political speech,''—the ACLU again—

> for which the First Amendment protection is—the Supreme Court—''at its zenith.''

So we are talking about something the Supreme Court has ruled is at the zenith of protected political speech under the first amendment.

Now, back to another Supreme Court position, quoting again from the ACLU:

> Constitutional protection of lobbying is not in the least diminished by the fact that it may be performed for others for a fee. Further—from the Supreme Court—''the First

Amendment protects the right not only to advocate one's cause, but also to select what one believes to be the most effective means of doing so.'' That is from the Supreme Court decision: The right to not only advocate for the cause, but to select what one believes to be the most effective means of doing so.

A grassroots lobbying group decides in its neighborhood that the most effective means of influencing and speaking up on legislation is to send out letters to its membership, or perhaps it may decide the most effective means would be to buy a mailing list and send out letters to the people on the mailing list. As soon as they spend the money to buy the mailing list, there is a paid lobbyist involved, and if the registration is not correct, there is a $200,000 fine against that group, if we leave this provision in the bill as it is.

The ACLU goes on to make other compelling arguments, but I would like to add a few other comments from other sources to show that this is from across the board.

The National Right To Life Committee—not usually associated with the ACLU in most people's minds as being on the same side of an issue—they say:

> Section 220 defines the act of a constituent contacting a Member of Congress as an act of ''lobbying,'' specifically, ''grassroots lobbying.''

And then here is what section 220 has to say, quoting directly from the bill:

> Grassroots lobbying means the voluntary efforts of members of the general public to communicate their own views on an issue to Federal officials, or to encourage other members of the general public to do the same.

Let me stress that, again. This legislation says that grassroots lobbying is defined as members of the general public communicating with their Congressman or encouraging others to do the same.

I thought that is what we were all supposed to do. I was taught in civics class in high school that everyone had the right to do that, without being forced to register and report all of their connections if somebody pays for it. Again, the Supreme Court says, constitutional protection of lobbying is not in the least diminished by the fact that it may be performed for others for a fee. But if you mess up your forms, if you don't file them on time, if somehow they are confusing to you and you have contacted your neighbors or you have purchased a mailing list, whether you are Astroturf or grassroots, you are on the hook for $200,000, as the bill currently stands.

Bradley Smith, who is the former chairman of the FEC, along with Stephen Hoersting, who is Republican Senatorial Committee general counsel, two distinguished lawyers, had this to say on this issue:

> ''Grassroots lobbying'' is merely encouragement of average citizens to contact their representatives about issues of public concern. It is not ''lobbying'' at all, as that phrase is normally used outside the beltway, meaning paid, full-time advocates of special interests meeting in person with Members of Congress away from the public eye. Contact between ordinary citizens and Members of Congress, which is what grassroots lobbying seeks to bring about, is the antithesis of the lobbying at the heart of the Abramoff scandals. It is ordinary citizens expressing themselves. That they are ''stimulated'' to do so by ''grassroots lobbying activities'' is irrelevant. These are still individual citizens motivated to express themselves to Members of Congress.

The Right To Life letter goes on to say:

> Poorly paid, activist employees of such organizations could receive penalties of up to $200,000 per infraction, or even face a threat of criminal prosecution, even if they never set foot in Washington, D.C., or speak to a Member of Congress or congressional staff.

Yes, Senator BENNETT, that is all very well and good, but what about these Astroturf lobbyists? We have to get to that terrible evil. The people who say that, quite frankly, probably have never, ever served in a congressional office or held public office. And if they have, they were pretty unconscious while that was going on.

I first came to this town as a congressional staffer over 40 years ago. I served on the House side; I have served on the Senate side. I have been a lobbyist downtown. Yes, I have been one of these paid professionals, and I reported all of the things I was required to report—went through the whole situation. I was in the executive branch as a lobbyist. We didn't call it that. We pretend the executive branch doesn't lobby the legislative branch, so it is called ''congressional liaison'' or ''congressional relations.'' I was the Director of Congressional Relations at the Department of Transportation. I had exquisite timing. I left just before they had title inflation, and if I had been there a little later, I could say I was an Assistant Secretary.

I understand this. People who have been involved in this understand this. When somebody tries to create a truly phony outburst of public opinion, the people in the front office of a congressional staff recognize it in about 3 nanoseconds. The letters come in. They are all identical. You know they are not stimulated by the position of the people at home. You know they were written by some professional who is taking a fee as an Astroturf lobbyist, if you will. You can see through it in an instant. They all come in, almost always in one of these simulated kinds of campaigns and somebody ruins it. I have seen these postcards, and on one of them is written: Senator, my organization told me to send you this. I hope it is helpful. And you know the person who wrote that doesn't know what is on it.

Sometimes they come in and they say: I don't know anything about this issue, but I am being asked to send you this postcard. I trust your judgment, Senator, and I hope you do the right thing.

There were times when these phony Astroturf kinds of campaigns were so overwhelming in volume that in the office where I was working, we didn't read any of it. You identified it immediately, you put them in a separate mail sack, and you threw them away. I tell people when they come to me and say, What is the best way to influence a Member of Congress, it is to stay away from these people because we are smart enough to see through it.

In order to protect the Congress from these kinds of Astroturf campaigns, do we have to put a potential $200,000 fine on someone who uses his church list to send out a letter and urge people who receive the letter to write their Congressman on a particular issue? Do we have to expose every group, right and left, that does its best to stimulate some kind of interest in an issue to this sort of penalty? What about the Internet? What happens if someone goes on the Internet and urges everybody who sees his blog to write Congress and then makes the mistake of hiring somebody and paying him to write that notice on the blog? Has that not created a lobbyist for hire? Somebody finds out the man who created the message on the blog got paid and files a complaint. I don't know what the lawyers would do with it, whether he would end up paying the $200,000, but I do know what he would run up in legal fees to protect himself against that kind of situation.

This is simply something that has been created by virtue of a perception of the way grassroots works, a perception that is wrong. This should be stricken from the bill. This should not go forward. I speak not from my own experience, not from how I feel after 40 years of contact with this place in one way or another, but I speak for a vast number of groups who are involved in this on the far right, on the far left, on every stage of the political spectrum in between, including those who are strongly for this bill and including those who say we need more transparency, we need to do something about earmarks, we need to do something about the more traditional definition of lobbyists having undue access. People who say we are for the bill, we are for all of these wonderful things, but if you do this, put this in the bill, you are on very shaky constitutional ground.

I have no doubt that if section 220 survives in the bill and ends up in the law, it will be struck down as unconstitutional. But in order to have it struck down, someone will have to file a lawsuit. Someone will have to fund hundreds of thousands and probably millions of dollars to take it through a district court and a circuit court and up to the Supreme Court, although maybe not. I would think any district judge would take one look at this and strike it down. But life being what it is, you can never tell about that. The Supreme Court has spoken often and repeatedly on this issue. The Supreme Court position is very clear. Let's hear them and save the money for the group

that would have to take this to the Supreme Court to try to get it reversed. Let's reverse it in the Senate so it does not ever see the light of day. I urge all of my colleagues to support my amendment that would strike section 220 and reaffirm that the zenith of the Bill of Rights is free speech, the right to petition your Government for redress of your grievances, and the right to peacefully assemble, all of which is involved in grassroots lobbying and none of which should be criminalized as a result of the legislation that we are considering today.

Madam President, I ask unanimous consent to include these letters in the RECORD.

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

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, January 17, 2007.

DEAR SENATOR: On behalf of the ACLU, a non-partisan organization with hundreds of thousands of activists and members, and 53 affiliates nation-wide, we urge you to support Bennett Amendment S.A. 20 to S. 1, the ''Legislative Transparency and Accountability Act of 2007'' when it comes to the floor for a vote. This amendment would strike Section 220 of the underlying bill.

Section 220, entitled ''Disclosure of Paid Efforts to Stimulate Grassroots Lobbying'' imposes onerous reporting requirements that will chill constitutionally protected activity. Advocacy organizations large and small would now find their communications to the general public about policy matters redefined as lobbying and therefore subject to registration and quarterly reporting. Failure to register and report could have severe civil and potentially criminal sanctions. Section 220 would apply to even small, state grassroots organizations with no lobbying presence in Washington. When faced with burdensome registration and reporting requirements, some of these organizations may well decide that silence is the best option.

The right to petition the government is ''one of the most precious of the liberties safeguarded by the Bill of Rights.'' When viewed through this prism, the thrust of the grassroots lobbying regulation is at best misguided, and at worst would seriously undermine the basic freedom that is the cornerstone of our system of government.

It is well settled that lobbying, which embodies the separate and distinct political freedoms of petitioning, speech, and assembly, enjoys the highest constitutional protection. Petitioning the government is ''core political speech,'' for which First Amendment protection is ''at its zenith.''

Constitutional protection of lobbying is not in the least diminished by the fact that it may be performed for others for a fee. Further, ''the First Amendment protects [the] right not only to advocate [one's] cause but also to select what [one] believe[s] to be the most effective means of doing so.'' In Meyer, the Court emphasized that legislative restrictions on political advocacy or advocacy of the passage or defeat of legislation are ''wholly at odds with the guarantees of the First Amendment.''

Where the government seeks to regulate such First Amendment protected activity, the regulations must survive exacting scrutiny. To satisfy strict scrutiny, the government must establish: (a) a compelling governmental interest sufficient to override the burden on individual rights; (b) a substantial correlation between the regulation and the furtherance of that interest; and (c) that the least drastic means to achieve its goal have been employed.

A compelling governmental interest cannot be established on the basis of conjecture. There must be a factual record to sustain the government's assertion that burdens on fundamental rights are warranted. Here, there is little if any record to support the contention that grassroots lobbying needs to be regulated. Without this record, the government will be unable to sustain its assertion that grassroots lobbying should be regulated.

The grassroots lobbying provision is troubling for other reasons as well. First, the provision seems to assume Americans can be easily manipulated by advocacy organizations to take actions that do not reflect their own interests. To the contrary, Americans are highly independent and capable of making their own judgment. Whether or not they were informed of an issue through a grassroots campaign is irrelevant—their action in contacting their representative is based on their own belief in the importance of matters before Congress.

Second, it appears groups such as the ACLU may end up having to report their activities because of the grassroots lobbying provisions. A ''grassroots lobbying firm'' means a person or entity that is retained by one or more clients to engage in paid efforts to stimulate grassroots lobbying on behalf of such clients and receives income of, or spends or agrees to spend, an aggregate of $25,000 or more for such efforts in any quarterly period. ''Client'' under existing law includes the organization that employs an in-house staff person or person who lobbies. If, for example, the ACLU hires an individual to stimulate grassroots lobbying on behalf of the ACLU and pays that individual for her efforts in amounts exceeding $25,000, it appears that individual could be considered a grassroots lobbying firm, and have to register and report as such. The fact the ACLU employs that individual appears to be irrelevant to this provision. Unless this is the type of activity that the provision is intended to reach, there is no substantial correlation between the regulation and the furtherance of the government's alleged interest in regulating that activity.

Groups such as the ACLU could also be affected because of the definitions of ''paid efforts to stimulate grassroots lobbying'' employed in Section 220. For example, the ACLU maintains a list of activists who have signed up to be notified about pending issues in Congress. Not all of those activists are ''dues paying'' members who would be exempt from consideration for ''paid efforts to stimulate grassroots lobbying.'' Additionally, since there are 500 or more such individuals, sending out an action alert to ACLU activists could be deemed ''paid'' communication and subject to registration and quarterly reporting.

Because the grassroots lobbying provision is unsupported by any record of corruption, and because the provision is not narrowly tailored to achieve the government's asserted interest, the provision is constitutionally suspect. Requiring groups or individuals to report First Amendment activity to the government is antithetical to the values enshrined in our Constitution. If our government is truly one ''of the people, for the people, and by the people,'' then the people must be able to disseminate information, contact their representatives, and encourage others to do so as well.

Sincerely,

CAROLINE FREDRICKSON,
Director, Washington Legislative Office.
MARVIN JOHNSON,
Legislative Counsel.

NATIONAL RIGHT TO LIFE COMMITTEE, INC.,
Washington, DC, January 16, 2007.

Re Support Bennett Amendment No. 20 to avoid radical effects of Section 220 of S. 1 (substitute amendment)

DEAR SENATOR: The National Right to Life Committee (NRLC) urges you to support the Bennett Amendment (No. 20), which would strike Section 220 from the pending substitute amendment to S. 1. Because of the chilling effect that Section 220 could have on grassroots activism, NRLC may include any roll call on the Bennett Amendment in our scorecard of key votes for the 110th Congress.

While supporters of Section 220 say that it would only require ''disclosure'' of certain big-dollar lobbying campaigns, the actual language of Section 220 would place unprecedented burdens on issue-oriented citizen groups from coast to coast that seek to motivate the public on matters of federal policy. Any local activist who runs afoul of the new requirements could be subjected to crushing civil penalties, raised from $50,000 to $200,000 per infraction by adoption of the Vitter Amendment No. 10 on January 12, and even to intimidation by threat of the new criminal penalty of up to 10 years in prison created by Section 223 of the substitute bill. The net effect would be to chill activities that are essential to the healthy functioning of a representative system of government.

The reach of Section 220 would be far more expansive and drastic than has been acknowledged by any of the sponsors or advocacy-group backers of the provision. Some of the sweeping effects are clearly intended (if not acknowledged) by the provision's backers, but others may be the result of poor draftsmanship or poor understanding of the way Section 220 would alter the structure of the existing Lobbying Disclosure Act (2 U.S.C. Chapter 26).

CONSTITUTIONAL PRINCIPLE

Before discussing the specific regulatory burdens that would be imposed by Section 220, it is necessary to describe the pernicious premise that is at the heart of the proposal: Section 220 defines the act of a constituent contacting a member of Congress as an act of ''lobbying,'' specifically ''grassroots lobbying.'' In our view, petitioning elected representatives is at the very heart of representative democracy, is granted the highest degree of protection by the First Amendment, and ought to be encouraged rather than restricted and regulated. Yet Section 220 would enact into law a mind-set that encouraging citizens to contact their federal representatives is a type of influence-peddling, inherently suspect, and the proper subject for scrutiny regarding exactly how citizens were motivated to exercise their constitutional right to petition.

(We refer here to definition 17 in Section 220: ''GRASSROOTS LOBBYING. The term 'grassroots lobbying' means the voluntary efforts of members of the general public to communicate their own views on an issue to Federal officials or to encourage other members of the general public to do the same.'' Note that this definition is so expansive that it covers not only verbal and written communications sent by a constituent to an officeholder, but also such activities as holding placards at public demonstrations, submitting letters for publication in local newspapers, or offering comments on an officeholder's position on a call-in radio program.)

Bradley Smith, former chairman of FEC, and Stephen Hoersting, former Republican Senatorial Committee general counsel, last year explained in detail why ''grassroots lobbying'' should be protected from Congressional scrutiny and regulation (see ''Let the

Grassroots 'Lobbying' Grow,'' www.nationalreview.com/comment/smith_hoersting_200602210809.asp), They wrote:

''`Grassroots lobbying' is merely encouragement of average citizens to contact their representatives about issues of public concern. It is not 'lobbying' at all, as that phrase is normally used outside the beltway, meaning paid, full-time advocates of special interests meeting in person with members of Congress away from the public eye. . . . Contact between ordinary citizens and members of Congress, which is what 'grassroots lobbying' seeks to bring about, is the antithesis of the 'lobbying' at the heart of the Abramoff scandals. It is ordinary citizens expressing themselves. That they are 'stimulated' to do so by 'grassroots lobbying activities' is irrelevant. These are still individual citizens motivated to express themselves to members of Congress.''

We agree. We urge you to support the Bennett Amendment in order to reject the root concept that communications from constituents are a form of ''lobbying,'' or that what motivated a constituent is a proper subject for governmental inquiry—be it a mailing from an advocacy group, or a newspaper editorial, or a franked newsletter, or a conversation at a local gym.

SECTION 220—TWO DISTINCT WEBS OF NEW REGULATION

Beyond the fundamental constitutional objection, it is vital that you understand the actual legal effects of Section 220, which have been grossly understated (and are probably poorly understood) by many of the provision's supporters.

Section 220 would create many legal hazards for grassroots-based, actvist-staffed organizations throughout the country.

Section 220 creates two separate and distinct new webs of regulation. (These have been confused or conflated in some materials circulated by both supporters and opponents of the provision.) First, Section 220 greatly expands the universe of persons who must register and file detailed reports (henceforth, quarterly) as federal ''lobbyists,'' because Section 220 redefines ''lobbying activities'' to include ''paid efforts to stimulate grassroots lobbying.'' This would include many employees of state and local right-to-life organizations who are paid only small amounts and who seldom engage in true lobbying of members of Congress or their staffs. Second, Section 220 creates a new category, the ''grassroots lobbying firm,'' defined so broadly that even a single individual, employed by a state or local advocacy group and paid a nominal amount, could be forced to register as a ''grassroots lobbying firm'' if the organization purchased a single full-page ad in a newspaper on a federal legislative issue.

The primary impact of these regulations would not fall primarily on well-heeled ''K Street'' lobbyists or on professional public relations firms, which supporters of Section 220 claim are their targets. Most professional Washington lobbying firms and their vendors are well-equipped to deal with complex regulations—they can hire extra lawyers, bookkeepers, and support staff, and bill their clients for the additional expenses required to keep track of their centralized ''grassroots lobbying activities.''

The real burdens of Section 220 would fall on the thousands of low-paid employees of thousands of issue-oriented citizen groups across the land, of every ideological stripe, who try to motivate members of the general public to communicate with members of the U.S. Senate and House regarding pending legislation. If Section 220 is enacted, the activist will learn that she must register with the federal government as a ''lobbyist'' and file quarterly reports detailing her efforts to stimulate ''grassroots lobbying,'' of any dollar amount, if (1) she is paid any sort of salary, (2) spends more than 20 percent of her time on such grassroots activities, (3) presents the motivating communications to more than 500 persons who are not paying members of the organization, and (4) has communicated with a congressional office or Executive Branch official more than once during a calendar quarter (for example, by sending an e-mail or making a phone call advising a Senate office of the organization's position on a pending vote).

REGISTRATION/REPORTING BY ''GRASSROOTS LOBBYISTS'' WHO SPEND $1

Some defenders of Section 220 say that these requirements would apply only if the activist is an employee of an organization that spends more than $10,000 in a calendar quarter on such ''grassroots lobbying activity.'' Regrettably, they are mistaken—that may have been the intent, but it is not the language of Section 220. There is indeed a $10,000 minimum (per three-month period) threshold in the bill (which amends the $24,500 semi-annual threshold that applies under the current Lobbying Disclosure Act), but Section 220(b)(1) explicitly removes ''paid efforts to stimulate grassroots lobbying'' from the scope of this exemption. In other words, Section 220 creates an exception to the exemption. This means that under Section 220, even $1 per quarter spent to ''stimulate'' citizens to communicate with their representatives in Congress triggers the registration and reporting requirement, for an individual who meets the other four numbered criteria in our previous paragraph. (Note: The $10,000 minimum discussed here applies to registration as a ''lobbyist,'' and should not be confused with the $25,000 threshold that applies to the ''grassroots lobbying firm,'' the new entity created by Section 220, which is discussed on the final two pages of this letter.)

Some defenders of Section 220 also claim that the registration requirement would apply only to individuals or firms that are already required to register because they engage in extensive direct lobbying with members of Congress or congressional staff. In this, too, they are mistaken: Section 220(a)(1) explicitly adds ''paid efforts to stimulate grassroots lobbying'' to the list of activities that trigger the federal registration and reporting requirement Therefore, if a local issue-activist group has an employee who has spent any money to encourage more than 500 private citizens (not members of the organization) to write letters to their representatives, has spent 20% of his time on such activity, and has made as few as two contacts to congressional or Executive Branch offices urging action on a pending issue, that employee would be trapped by the registration and reporting requirements.

Defenders of Section 220 emphasize that communications to members of an organization (for example, members of a labor union) are exempt. But the First Amendment does not merely guarantee the right to communicate with those who pay dues for the privilege of receiving such communications. Even a small single-issue organization may have a large e-mail alert list (for example), made up of individuals who fall outside of the Section 220 definition of ''membership'' because they do not make contributions, but nevertheless have a strong desire to be kept informed of congressional legislative activities. In addition, the group may at times feel the need to reach out to the general public—for example, by purchasing an ad in a daily newspaper—to urge citizens to speak out on a timely issue.

''GRASSROOTS LOBBYING FIRM'' REGULATION WEB

The second and distinct web of regulation created by Section 220 applies to a new category of regulated entity, the so-called ''grassroots lobbying firm.'' Defenders of Section 220 talk about this provision in ''terms of so-called Astroturf'' operations, as if it applied to professional advertising or public relations firms, but the actual language is far more sweeping. Section 220 defines a ''grassroots lobbying firm'' as ''a person or entity'' [emphasis added] who is paid, by a ''client,'' to stimulate ''grassroots lobbying'' (as defined in Section 220), and who receives, spends, or agrees to spend $25,000 or more in a quarter for such activities. ''Client'' is defined in the existing law to include an organization that employs an in-house staff person who engages in ''lobbying activities,'' a definition that Section 220 would expand to include activities to motivate grassroots contacts to members of Congress.

(It is important to note that this $25,000-per-quarter threshold applies only to the new ''grassroots lobbying firm'' provision of Section 220, and not to the separate requirement that one engaged in ''paid efforts to stimulate grassroots lobbying'' must register and report as a ''lobbyist.'' As we have already explained, the lobbyist registration requirement is not confined by any dollar threshold with respect to ''paid efforts to stimulate grassroots lobbying.''

Thus, under Section 220, the executive director (for example) of a state or local affiliate of National Right to Life, even if she is part-time and paid only a nominal amount, and even if she seldom or never interacts directly with congressional offices, could be forced to register as a federal ''grassroots lobbying firm'' and file detailed reports on a quarterly basis, if she on behalf of the organization (the ''client'') spends more than $25,000/quarter on encouraging the general public to contact their federal elected representatives. Since a single full-page ad in a major metro newspaper typically costs more than $25,000, many part-time citizen activists would find themselves legally defined as ''grassroots lobbying firms.'' Note that in this scenario, it is not the organization that Section 220 defines as a ''grassroots lobbying firm,'' but the individual staff person as described. Also, note that this new regulation of ''grassroots lobbying firm(s)'' is not constrained by the language that limits the existing Lobbying Disclosure Act requirement to register as a ''lobbyist'' to persons who make at least two direct ''lobbying contacts'' and who spend more than 20% of their paid time on lobbying activities during a reporting period. Those limitations apply only to the Act's definition of ''lobbyist,'' and not to the new language of Section 220 defining ''grassroots lobbying firm.''

The ''grassroots lobbying firm'' provision of Section 220 has one additional side effect which has not been understood, or at least has not been acknowledged, by its supporters: The $25,000 threshold is an aggregate figure for a vendor, not a threshold that applies to each issue-oriented client organization. We illustrate the implications by the following scenario: In Anytown, 15 citizen-activist groups, none of which has any paid staff or engages in any direct contacts with members of Congress or congressional staff, all hire the same vendor to mail to various lists of citizens urging them to communicate with their elected representatives on different timely issues. No organization pays more than $2,000 for the use of any list, but the aggregate amount collected by the vendor for mailings to all lists exceeds $25,000 in a three-month period. Under Section 220, this local vendor would be required to register as

a ''grassroots lobbying firm'' and to report the details of his mailing activities for all 15 of his ''clients,'' even a group that merely paid $50 for the use of a list.

CONCLUSION

In summary, Section 220 is a poorly drafted provision. If enacted, it will disrupt the constitutionally protected activities of thousands of issue-oriented citizen groups from coast to coast, chill free speech by citizen activists on the issues of the day, and become a textbook example of the Law of Unintended Consequences.

We urge you to prevent these consequences by supporting the Bennett Amendment No. 20, which will strike Section 220 from the substitute to S. 1. Thank you for your consideration of our strong views on this issue.

Sincerely,

DOUGLAS JOHNSON,
NRLC Legislative Director.
SUSAN MUSKETT, J.D.,
Congressional Liaison.

JANUARY 16, 2007.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: As leaders of advocacy organizations active on a broad variety of issues, we write to express our strong concerns regarding certain proposals that are being advanced that would establish, for the first time, congressional oversight of grassroots activity that is intended to encourage members of the public to communicate with Members of Congress about pending legislative matters—so-called ''grassroots lobbying.''

We take no issue with proposals that may be legitimate responses to allegations of certain unethical actions by Members of Congress, congressional staff and lobbyists. But nothing in those allegations provide any justification whatsoever for the notion that incumbent Members of Congress should seize authority to scrutinize and regulate the constitutionally protected efforts of groups such as ours to alert citizens regarding legislative developments in Congress and to encourage them to communicate their views to their elected representatives. That citizens are ''stimulated'' to contact their representatives by so-called ''grassroots lobbying activities'' is irrelevant. Newspaper editorials, op-eds, grassroots advertisements and e-mail alerts are all ways to influence people to contact their elected representatives on an issue. Just as it would be unconstitutional to monitor the press because of their influence over their readership, the First Amendment also protects the right of the people to ''petition the government for a redress of grievances.'' To monitor motivation as to why a citizen would contact Members on an issue is attacking that First Amendment right.

A prominent example of the type of provisions that we strongly oppose are found in the Legislative Transparency and Accountability Act of 2007 (S.1). We strongly oppose Section 220 of this legislation and any other proposals along these lines.

Section 220 requires ''grassroots lobbying firms'' to report to Congress within 45 days of agreeing to provide services related to grass roots lobbying (including filing of quarterly reports listing disbursements made in connection with such activities).

Section 220 exempts communications of an organization to its members from direct application of these requirements, but the bill ensures that all private contractors and vendors which we retain to help communicate with the general public, in order to encourage these citizens to contact their elected representatives in Congress, would be subject to the burdensome recordkeeping and reporting requirements. Moreover, since these activities must be reported according to when they are arranged (even before communications to the public actually occur), they would in effect require that we provide our opposition on any given issue with detailed information about the scope and location of our planned grassroots efforts.

Reasoned attempts to address the concerns emerging from Congressional scandals should not be used as an excuse for incumbent officer-holders to encroach upon our most basic Constitutional liberties. Therefore, we urge you to strongly oppose any legislative proposals that would establish federal oversight over grassroots lobbying activities. We fully support Amendment 20 to S. 1 filed by Senator Robert Bennett which would strike the section relating to disclosure of paid efforts to stimulate grassroots lobbying.

Respectfully,
Family Research Council
Focus on the Family
Family Protection Lobby
The Family Action Council of Tennessee
American Family Association
Illinois Family Institute
The Family Research Institute of Wisconsin
Free Market Foundation
Christian Civic League of Maine
The Center for Arizona Policy
Corner Institute of Idaho
South Dakota Family Policy Council
Georgia Family Council
The Minnesota Family Council
Mississippi Center for Public Policy
Men's Health Network
Family Leader Network
National Council for Adoption
Institute on Religion and Public Policy
Catholic Family & Human Rights Institute
American Association of Christian Schools
National Rifle Association
Coalition for Marriage and Family
Judicial Action Group
Coalitions for America
American Shareholders Association
Americans for Tax Reform
American Values
Catholic Exchange
Traditional Values Coalition
Tradition, Family, Property, Inc.
Family Resource Network/Teen Pact
Grassfire.org Alliance
Eagle Forum
Concerned Women for America
Christian Coalition of America
Fidelis
Citizens for Community Values
Population Research Institute
Home School Legal Defense Association
Southern Baptist Ethics & Religious Liberty Commission
Advance USA
Americans United for Life
Massachusetts Family Institute

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

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I would like to make a very few comments in response to the ranking member's comments, and then I know the Senator from Pennsylvania would like to speak on another matter, so I ask unanimous consent that he be recognized.

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

Mrs. FEINSTEIN. Thank you very much. I know that Senator LIEBERMAN is going to speak on the specific provisions of section 220 in the base bill, S.1, at a later time. However, I would like to share with this body what I understand to be the facts. If I understand correctly what is attempted in the underlying bill, the goal is to compel disclosure, registration and reporting for those companies, individuals or organizations that say, We have a cause, this is the cause; we want to establish a grassroots lobbying organization. They go and hire organizations to get going and spent more than 25,000 a quarter. They say go ahead and organize a movement, but nobody ever knows who they are or who funds them. This is called astroturf lobbying. Some people refer these groups as ''sham'' or ''front'' organizations. I am not going to say they necessarily are, but they have been referred to as such. They seek to influence legislation through mass media, using campaign and issue ads, letters, phone calls, think-tank public policy papers, and public polls.

The problem is, these organizations are hired guns funded by undisclosed special interest corporations and public policy firms. They conduct grassroots organization lobbying efforts which are often very misleading or in some cases, deceptive. For example, an oil company hires a sham organization to promote the benefits of alternative fuels to big oil, or a cigarette company hires a front group to lobby for smoke-free environment—or whatever the popular cause may be. They go out to organize, make lobby contacts, and conduct other lobby activities on specific issues. Unlike genuine grassroots groups that tend to be money poor but people rich, astroturf campaigns are typically people poor and money rich.

Section 220 of the base bill contains the provisions on disclosure of paid efforts to stimulate grassroots lobbying. I am the first one to say these provisions could be more clearly written. Nonetheless, the section's goal is to close the loophole in current law that allows these groups to engage in lobbying contacts without any public disclosure or reporting whatsoever—like the paid lobbying contacts and efforts of Jack Abramoff and Ralph Reed.

The bill recognizes this increased type of lobbying—paid efforts to stimulate grassroots lobbying—and creates new disclosure and reporting rules for such activities. It makes clear that efforts by an organization to contact its own members as part of a grassroots lobbying campaign are not covered and are unaffected by these provisions unless some outside group paid the organization to do so.

The bill also requires a $50,000 quarterly threshold as a precondition of registration. This means that small and truly local efforts are not covered.

I do not agree with the comments made by the ranking member about this section 220. Non-profits will continue to be able to lobby under current

tax law that requires threshold disclosure and reporting. However, private sector groups and their paid lobbyists are not currently required to disclose, register or report and therefore would be under section 220. So this is the differentiation between the two groups.

The provisions would create a balanced playing field by opposing a sham grassroots lobbying operation while protecting legitimate grassroots lobbying organizations. This in essence is the purpose. If it does survive consideration here, we will take another look at it in conference with respect to narrow definitions, registration and the reporting trigger thresholds. I do believe if somebody goes out and creates one of these groups, pours a lot of money into it and then hires people for grassroots lobbying purposes, then this group should be required to disclose and report so the public knows exactly who the group is and who is financing the group. Is it an undisclosed oil company or is it really a legitimate Citizens for Alternative Fuels to Oil? I think that it is important to determine the credibility and legitimacy of these organizations involved in grassroots lobbying.

I know the ACLU is opposed to it. The ACLU is a group that has been around for a long time. I don't see them being affected by this at all because they would be covered under this other section of the law. I offer these comments in the interests of the purpose of section 220 in this legislation, which I think is bona fide, helpful, and overdue. Thank you, Madam President.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I have a question of my distinguished friend from Pennsylvania. It is my understanding he is going to speak next; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Madam President, my request is to speak for about 10 minutes.

Mr. REID. My only question was how long he is going to speak. I will come back after that time. I appreciate the Senator allowing me to ask that question.

Mr. BENNETT. Madam President, may I make a quick response to the Senator from California before we hear from the Senator from Pennsylvania? I will not take more than a minute or two.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. I simply want to make this point with respect to the threshold that causes people to come under the provisions of the bill. There is, indeed, a $10,000 minimum for a 3-month period threshold in the bill, but section 220(b)(1) explicitly removes ''paid efforts to stimulate grassroots lobbying'' from the scope of this exemption. In other words, $1 per quarter spent to stimulate citizens to communicate with their representatives in Congress triggers the registration and reporting requirement for an individual who meets the other four numbered criteria.

I agree with the Senator from California. This is very badly drafted and needs an awful lot of work, which is why I think the best thing to do with it is simply strike it.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

NEW FOREIGN SURVEILLANCE POLICY

Mr. SPECTER. Madam President, I thank my colleagues for yielding this time. I have sought recognition to express my approval—I am glad to see that the Attorney General of the United States, in telephone calls to Senator LEAHY and myself and now in letters, has advised that there is a new procedure to have the requests for wiretaps on al-Qaida members submitted to the Foreign Intelligence Surveillance Court. On December 16, the New York Times broke the story that there were wiretaps going on under a Presidential order without complying with the customary requirement that probable cause be established and submitted to the court, which would authorize the issuance of a warrant, to authorize the wiretap.

On that day, Friday, we were in the final stages of floor debate on the PATRIOT Act, and the disclosure that morning that there were warrantless recordings going on was quite a shock and quite a problem, because I was managing that bill in my capacity as chairman of the Judiciary Committee.

I said on the floor at that time that there was a clear-cut violation of the Foreign Intelligence Surveillance Act, which provides that the Act is the exclusive way for having a wiretap for foreign intelligence surveillance. The President has sought to justify the surveillance under his article II inherent powers. That raises a complicated issue, which can only be determined by the courts by weighing the invasiveness of the wiretapping—invasiveness into privacy—contrasted with the importance of national security.

Most of last year found this item as the No. 1 priority of the Judiciary Committee and my No. 1 priority as chairman. We had a series of hearings, four hearings. I introduced legislation to try to bring the program at that time under the Foreign Intelligence Surveillance Act.

The administration had refused to disclose the details of the program to the Judiciary Committee. They maintained that attitude consistently up until today. They finally did submit it, after a lot of pressure, to the Intelligence Committees—first a subcommittee of the Senate Intelligence Committee, then when the House resisted only a subcommittee, it was finally submitted to the full committees—really it was only submitted when the time came for the confirmation of General Hayden for Director of the CIA.

I have not been privy to what was disclosed to the Intelligence Committee, but based on my chairmanship of that committee during the 104th Congress, I have some doubts as to the adequacy of the disclosure. I know when I was chairman, the chairman was supposed to be informed about those classified and secret programs, but that was in fact not the case.

When the matter later moved into litigation and the Federal court in Detroit declared the surveillance program unconstitutional, and then the appeal was taken to the Sixth Circuit, I introduced substitute legislation—S. 4051 last year, and I've reintroduced it already this year—which would have provided for expedited review in the Federal courts and mandatory review by the Supreme Court. The bill also would have required individualized warrants for calls originating in the United States, because the administration had disclosed that, if there were changes made in the Foreign Intelligence Surveillance Act, there could be a warrant for all outgoing calls but not incoming calls because there were so many.

I am glad to see that we may now have all of that resolved. We are not sure. I want to know the details of this program.

Senator LEAHY has already spoken on the subject today and has put into the RECORD a letter that he and I received today from the Attorney General. The key parts are as follows:

> I am writing to inform you that on January 10, 2007, a Judge of the Foreign Intelligence Surveillance Court issued orders authorizing the Government to target for collection international communications into or out of the United States where there is probable cause to believe that one of the communicants is a member or agent of al Qaeda or an associated terrorist organization. As a result of these orders, any electronic surveillance that was occurring as part of the Terrorist Surveillance Program will now be conducted subject to approval of the Foreign Intelligence Surveillance Court.

That language says there will be probable cause established. I think we need to know more about the procedures for the determination of probable case, whether it is on individualized warrants or it is a group program. We will need to know more about the determination of an individual being an agent of al Qaeda, and we will need to know more about what is meant by an associated terrorist organization, to see that probable cause has been established under the customary standards.

The letter from the Attorney General goes on to say:

> In the spring of 2005—well before the first press account disclosing the existence of the Terrorist Surveillance Program—the Administration began exploring options for seeking such FISA Court approval.

It would have been my hope that the Attorney General, in our oversight hearings, where he was called and asked about this program, would have made that disclosure. A lot of time and effort went into the Judiciary Committee hearings and went into the

drafting of legislation. I personally met with the President last July 11 and secured his agreement to submit this program to the Foreign Intelligence Surveillance Court. For a variety of reasons, which I shall not detail now, that legislation did not move forward.

Then, as I've noted, there was substitute legislation when the Federal court in Detroit declared the program unconstitutional and the matter came before the Sixth Circuit.

The Attorney General's letter says, as is appropriate, that the program will have ''the speed and agility necessary to protect the Nation'' from terrorist attack—and that has always been a major concern: that we be protected, but that we be protected with an appropriate balance, so that there not be an intrusive wiretap without the customary court approval.

The Attorney General had advised me that there would be a meeting today, which I am just informed has been canceled, but there needs to be oversight beyond what has been disclosed in this letter. But at least there is a very significant first step. It is regrettable that these steps were not taken a long time ago. I would like to have an explanation as to why it took from the spring of 2005, and at least from December 16, 2005, until now, when there has been such public furor and public concern.

Further, the letter of the Attorney General says:

> Accordingly, under these circumstances, the President has determined not to reauthorize the Terrorist Surveillance Program when the current authorization expires.

It would be my hope that the program is terminated now, since there is an alternative method which the Attorney General has announced. I do not know when the program will expire. They have it in place for 45-day periods. We do not know when the last one started, so we do not know when this one will end. But, with an alternative program in place, it ought to be terminated now—to have the regular procedures for the establishment of probable cause, to protect civil liberties. And, as the Attorney General says, to address concerns in taking care of the protection of the country.

Again, Madam President, I thank my colleagues for yielding the time.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I have been in Government all my adult life. Until I came back here, all my jobs were part time, and I practiced law. I say as sincerely as I can to anyone within the sound of my voice, I am so disappointed in the conversation I had with my Republican counterpart, Senator MCCONNELL, a few minutes ago. I was told that this ethics bill is not going to get the support of the Republicans. They are going to bring this bill down, defeat this bill.

Why? Listen to this. Because they are not going to have a vote on line-item veto. I told the distinguished Republican leader yesterday that we were willing to give the Republicans a vote on this prior to the Easter recess—up-or-down vote. We would have their bill, our bill, two competing votes, with 60 vote margins.

It is very clear what is going on with this bill. Keep in mind, Madam President, that we have had in Washington a culture of corruption. For the first time in 131 years, someone was indicted working in the White House. He is now in trial as we speak. The head of Government contracting appointed by the President, Mr. Safavian, is led from his office in handcuffs for sweetheart deals he had with Abramoff and others.

The majority leader of the House of Representatives was convicted three times of ethics violations in the House within 1 year. And then, of course, he was indicted in Texas on more than one occasion.

A House Member from California is in prison now as we speak for accepting more than $2 million in bribes.

A Congressman now is awaiting trial.

Staff members have been convicted of crimes from the House.

Talk about a culture of corruption, the American people deserve ethics and lobbying reform. That is why I brought to the floor S. 1. It is very clear that the minority does not want a bill. They have tried a number of different things to defeat this bill, offered all kinds of amendments, thinking we would oppose them. We supported those amendments. The only one that was a little blip in the road was a DeMint amendment, but we thought it should be stronger rather than weaker, so we added tax provisions to that. That has now passed.

Line-item veto has nothing to do with ethics and lobbying reform—nothing, zero. If the majority felt so strongly about line-item veto, which I am sure they do, I have agreed to give them a vote. This is a pretext. They could not kill the bill by offering amendments, thinking we would oppose them, so now they have come up with a new idea: We cannot do this because you will not give us a vote on a nongermane, nonrelevant amendment—line-item veto.

Line-item veto has nothing to do with ethics and lobbying reform. If the line-item veto is so important to the minority, why didn't the Republicans get a vote on it last year when they controlled this Chamber? This is very difficult to comprehend.

The bill that is before the Senate was sponsored, for the first time in 30 years, by the two leaders. And then the substitute was sponsored by the two leaders. The two leaders agreed to bring this bill to the floor. Now they are going to bring down the bill that their leader cosponsored?

Mr. DURBIN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield for a question.

Mr. DURBIN. Madam President, I would like to ask the distinguished majority leader if he would recount for us what happened 2 years ago when we faced passage of an ethics reform bill, with an overwhelming bipartisan vote, when the Republicans were in control of the House and Senate.

Mr. REID. They would not take it to conference. We never got it done.

Madam President, this bill is very strong. It is something the American people want. I say to my distinguished counterpart, and all the minority Senators, they are going to vote against cloture on this bill? We hear people say, in passing, here: Well, that is a 30-second spot. Voting against cloture on this is not a 30-second spot. It is a 30-minute spot.

This bill prohibits lobbyists from giving gifts to lawmakers and their staffs. It prohibits lobbyists from paying for trips or taking part in privately funded congressional travel. It requires public disclosure of earmarks. It slows the revolving door by extending to 2 years the ban on lobbying by former Members of Congress.

It makes pay-to-play schemes such as the K Street Project a violation of Senate rules. It makes lobbying more transparent by doubling the frequency of reporting and requiring a searchable electronic database.

It would require for the first time the disclosure of shadowy business coalitions that engage in so-called Astroturf lobbying campaigns. These big companies pay these people to come out and do grassroots stuff. You never know who is paying for it. Under this bill you would.

But even though we have under S. 1, as we introduced it, a lot of good things, it is even stronger because we offered a substitute amendment to make it even stronger. There are new protections to prevent dead-of-night additions to conference reports. We added new rules to say Members may not engage in job negotiations with the very industries they regulate.

There is fuller discloser by lobbyists. We ensure proper evaluation of tickets to sporting events. We make sure that Senate gift and travel rules are enforceable against lobbyists. And we toughen criminal penalties for corruption violations of the Lobbying Disclosure Act.

Since that was offered by me and the distinguished Republican leader, we have had a debate in the Senate that has strengthened the bill even more.

The Senate has adopted other amendments on a bipartisan basis: Senator KERRY's amendment to strip pensions from Members convicted of corruption; Senator SALAZAR's amendment to ensure public access to committee proceedings; and two amendments by Senator VITTER to strengthen enforcement of ethics rules. And I might add, there are other amendments out there waiting to be voted on if, in fact, cloture were invoked on the substitute.

Finally, we voted overwhelmingly to invoke cloture on an amendment to prevent the things that we did before

with airplanes. It strengthens the gift ban even further.

The underlying bill generally prohibits gifts from lobbyists. The amendment I offered broadens the gift ban to prevent gifts from companies and other entities that even hire or retain a lobbyist.

We did an excellent job, I repeat, on the travel. It is common sense. It broadens the provision by generally prohibiting congressional travel paid for by companies and other entities who hire or retain a lobbyist.

The amendment provides exceptions for 1-day participation at events—speech, conference, convention—and for de minimis lobbyist involvement. It requires advanced approval by the Ethics Committee for all privately funded travel, pursuant to guidelines issued by the committee.

Madam President, I believe we have done yeoman's work. I think it is so unfortunate that I have been told that the minority would not support cloture. We will find out. We have a vote scheduled for 12:38 tonight. And if the minority desires, we will certainly agree to an earlier vote. But I have been told we will not get the additional 16 votes required. We need 66 votes on this—66 votes on this.

But I want the world to know that this bill is being brought down not on a matter of principle because there is no one in the Senate I have more respect and admiration for than the Senator from New Hampshire, Senator JUDD GREGG. He is a wonderful man, a fine person, and he believes in this line-item veto. I understand that. But I have told the Republican leader that my friend from New Hampshire or whoever else is interested in this issue can have a full debate on it. We will give them time to do it.

But this is not the place. This is not the place. This has nothing to do—we are going to vote. If cloture were invoked, we would vote on I think it is 16 germane amendments. Those are germane. This is not germane. It falls. This has nothing to do with ethics and lobbying reform.

So I would hope that there would be another view taken of this. This bill is being brought down because people do not want to comply with ethics and lobbying reform. That is what it is all about. All the rest is game playing.

This is a tough bill. It would drastically change the way we do business in Washington for the better. The American public deserves this. I think they are going to demand this. And I think it is a sad day for the American people that this bill is going to be brought down. Because it will. We can only supply 50 votes. That is all we have. And we need 66.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, you are new to the Senate and, therefore, you were not here during this debate last year. But all this sounds quite familiar.

I remember last year we had this very bill on the floor, and our colleagues on the other side were voting against cloture on this very bill last year for the very same reason that we will now vote against cloture on the bill this year, in order to ensure that more amendments are voted upon.

How many times have we heard the distinguished majority leader and the distinguished majority whip remind us that the Senate is not the House. One of the frustrations of being in the majority here is that you have to give the minority votes in order to advance legislation.

No one seriously believes—no one—that Republicans do not want to pass this legislation. That is not credible, I would say to my good friend on the other side of the aisle. We passed it 90 to 8 last year when my party was in the majority. So no amount of spin is going to convince anyone that the Republicans do not want to pass this bill. We do. We want to pass it after a fair process. And having nongermane amendments on legislation in the Senate is about as common as the Sun coming up every 24 hours.

Now, we have been working, in fact, in a bipartisan fashion on this legislation. Our two managers, Senator BENNETT and Senator FEINSTEIN, have been working their way through this. We would like to finish the bill. We would like to finish it this week.

With respect to the senior Senator from New Hampshire, he is on the floor and would be glad to describe his amendment and how he believes that it is certainly related to this legislation. In fact, his amendment has been pending, since last Wednesday. A full week in the Senate, he has been waiting to get a vote.

I do not believe that cloture is necessary on this bill, and I am prepared to enter into a unanimous consent agreement which will limit the number of amendments and move us toward completion of the bill. We are not in favor of having an unlimited amount of amendments but a reasonable number. We have had 10 rollcall votes on the bill to this point, not an incredible number. And allowing us to process the remaining amendments is something that simply the minority frequently insists on in the Senate.

Mr. GREGG. Madam President, will the Republican leader yield for a question?

Mr. MCCONNELL. I yield for a question.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. MCCONNELL. I am sorry, I did not yield the floor.

The PRESIDING OFFICER. There is a question from the Senator from New Hampshire.

Mr. MCCONNELL. I did not yield the floor, Madam President.

Mrs. FEINSTEIN. I beg your pardon. I thought you did.

The PRESIDING OFFICER. I understand.

Mr. MCCONNELL. And I yield to the Senator from New Hampshire for a question.

Mr. GREGG. So I can understand the parliamentary situation, I did offer this amendment last Wednesday. It does deal with earmarks. We have, as I understand it, spent 8 days of legislative time on this bill, of which almost 4 days have been consumed in a discussion of earmarks with the majority—not the majority but the plurality of amendments that we have actually voted on dealing with earmarks.

Now, in that context, I guess my question would be this: Why would you have to pull the bill down in order to take this amendment up later?

Why in 15 minutes is it not possible to dispose of this amendment? It requires a supermajority because it is subject to a point of order. That saves the majority leader time wherever he wants to give us time later. Why do you have to pull a bill down to dispose of an amendment which is pretty relevant to what we have been discussing and you can do it in 15 minutes?

Mr. MCCONNELL. I say to the Senator from New Hampshire, there is no reason to take this bill down. In fact, Republicans hope the bill will not be taken down. What we are asking for is a vote on the Gregg amendment, not an unreasonable request to the Senate. We see on it virtually every piece of legislation week in and week out.

Mr. GREGG. If I may ask further, this amendment, which I call a second look at waste, and some people have characterized it as enhanced rescission and others have called it the line-item veto, essentially allows the President to send up a package of rescissions, which I presume he would have taken out of omnibus bills, which I presume will be mostly earmarks for us to take a vote on. Isn't that something we have been discussing, this concept of earmarks, throughout the debate on this lobbying bill? And isn't this lobbying bill very much tied into the earmark issue? Isn't one of the real issues of lobbying the ability to establish earmarks by using influence?

Mr. MCCONNELL. I say to the Senator from New Hampshire, he is precisely correct. We have spent a substantial amount of time during debate on this bill discussing that very issue.

Mr. GREGG. My final question would be, why don't we just vote on this amendment and get it over with? I presume the good leader from the Democratic Party, who is an exceptional leader and does a great job, will probably beat me on this amendment. It will be over in 15 minutes, because he has kept the votes to 15 minutes. And we can wrap this baby up.

Mr. MCCONNELL. I thank my friend.

I repeat, there is no good reason why we couldn't finish this bill tomorrow night. We are in the process now of surveying the number of amendments over here that need to be offered. Obviously,

at the top of that list is the Gregg amendment. I would hope we could continue our discussion about how we might wrap this bill up.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The majority leader.

Mr. REID. The fallaciousness of this argument is astounding. Line-item veto, the last time it left this body, it went to the U.S. Supreme Court. It was argued before the Supreme Court, dealing with the separation of powers doctrine. Fifteen minutes dealing with the very fiber of our society, our constitutional requirement of separation of powers, the legislative, the executive, and judicial branches of Government? This has implications with the separation of powers between the administration, the White House, and this Congress. To think we could do this in 15 minutes is not fair. I have said, if we want to have a debate on this, I am willing to do that, but not on this bill. This is an effort to bring down this bill. To say that nongermane amendments come just like the sun comes up every day is not reasonable or rational or sound.

We have worked through this bill. We have worked on nongermane amendments, germane amendments, trying to work things out. We are now in a parliamentary structure where at 12:38 tonight, the Senate would dispose of the Reid amendment No. 4 and then vote to invoke cloture on the substitute amendment. At that time, if cloture were invoked, we would have a number of amendments. As I indicated, I think there are 16 that would require votes because they are germane. My friend from New Hampshire can talk about having laid this amendment down 5 days ago or whenever he wants to say he laid it down. I don't know when he did. But the fact is, it is a nongermane amendment. It is not on this bill. It should not be on this bill.

I have told the distinguished Republican leader, if they want some time to do this, we will set other things aside and do it. But this is an attempt to bring down this bill. To think that you could do this in 15 minutes is absolutely unreasonable. Senator LEVIN, Senator BYRD, and others filed the case. It went before the U.S. Supreme Court the last time the line-item veto came before this body. Senator BYRD gave 10 hours of speeches on the line-item veto here on the Senate floor.

To think we could do this in 15 minutes—

Mr. GREGG. Will the Senator yield for a question?

Mr. REID. I am happy to yield for a question.

Mr. GREGG. I wasn't referring to 15 minutes as the time for debate. I was referring to it as the time that you allow votes on the floor and that the votes on the floor have been condensed and they are efficient. I respect the leader's accomplishing that in such short order. The debate has actually occurred. Senator CONRAD gave a very impassioned response to the amendment. I understand Senator CARPER has an amendment similar to my amendment. So, yes, it might take a little time to debate it, but I believe we could still deal with it promptly.

Mr. REID. Mr. President, I direct, without my losing the floor, a question to the former chairman of the Budget Committee, someone who knows money as well as anybody in this body. Why couldn't we do this at a later time? I will give you whatever time you want that is reasonable. If you want to spend 2, 3, 4 days on this, I am happy to do that. We need time to prepare for this. This new in the session is not the time to do this. I wish to get this ethics bill done. I think I am being about as reasonable as I can be to set aside a significant amount of time prior to the Easter recess to give you an opportunity to do the line-item veto. And prior to that time, we could have a couple of hearings on this. I also recognize that we have a process in the Senate where bills can be amended. Sometimes they don't have to be relevant or germane. But I think you have to be in the ballpark.

We have a CR coming up. We have the supplemental coming up which is money matters that you could file this on. I think people would have trouble objecting to it procedurally being improper. But right now, this isn't the time to do it. We are talking about doing something to make this body and the House better places to look at from an ethics and morality standpoint. I think your forcing us to go forward on this, which we are not going to do, makes it very difficult. I say this without pointing at anyone in particular, Democrat or Republican. Anyone who votes against cloture is creating some real political problems for himself. I think the American people think that something should be done with this culture of corruption we have back here.

Mr. GREGG. Was that question directed at me initially?

Mr. REID. Yes, it was. Why can't we do this at a later time when you have all the time you need? I have told the distinguished Republican leader, we will have your amendment. We will have Carper or something like that. I am not sure Carper is what we want to go with but something like that, where we can debate it, have a good debate on it, have you and Senator CONRAD leading the debate. Others will want to join in, Senator BYRD and Senator LEVIN who were plaintiffs in the case. And we can move forward on it. Why couldn't we do that it way?

Mr. GREGG. I guess I would ask the inversion of that question which is why not do it now? The amendment has been pending. It has been debated. People are fairly sophisticated about this amendment since it has been an issue that has been around here for awhile. I think it could be easily moved forward and discussed and voted on in a very prompt way.

But independent of that, the reason why I think we should proceed is, I can't imagine bringing the bill down over an amendment like this which is not a partisan amendment. It has always been bipartisan and it has substance to it. It would seem appropriate. But independent of that, as you know, the ability to amend this vehicle gives me a vehicle with this amendment which, first off, the amendment is relevant. It may not be germane, but it is certainly relevant, considering the fact that it deals primarily with earmarks. But it gives me a vehicle with which to go to conference, and I want to at least get this thing to conference. Granted, the House will probably stand in disagreement, and you will control the conference. And you may decide that you are not going to take it and you will recede to the House. But at least I will have gotten to the conference with what I consider to be a fundamental reform, which goes to the issue of ethics, which is when the President sees something in a bill which he thinks inappropriate and it probably got in there through lobbying, he can send it back for another look by us. That is my primary concern.

If the position of the Democratic leader is that you will give us time on the floor and if we succeed, we will have a commitment to go to conference, assuming we can conference—I mean, is the House going to pass a bill that we get into a position where it can get to conference somehow—that is something I would consider.

Mr. REID. You are talking about if we do this at another, subsequent time?

Mr. GREGG. Yes, if I had a commitment that we would somehow get it to conference.

Mr. REID. I am going to meet the distinguished Speaker of the House in 20 minutes. I will be happy to visit with her about that. I don't see why we couldn't have some assurance that it would go to conference. As you know, I believe in conferences. I think they should go forward. I would work very hard to get that done. I would say to my friend and those who can hear me that you can see through this a thousand miles. I am sure there are Senators who are overjoyed that this matter won't become law; I mean the ethics legislation. This matter, the line-item veto, is not a simple procedure, as my friend indicates. I repeat, it has very difficult constitutional problems, as indicated when the Supreme Court knocked it out last time. We can't debate this in a few minutes. I am willing to spend whatever time and give the Senator whatever assurances I can that we will try to move this on, move this beyond where we are here to conference.

I say this: There are people who are Democrats who have some degree of confidence in being able to do something that is a line-item veto. Senator CARPER has something. You might not like what he has done. I am not an expert on what he has done, but he is

proud of it. Senator CONRAD had some other ideas. We would agree on one. We would match it with yours. It would take us a few weeks to come up with that. But as I told the distinguished Republican leader, we will bring this up at a specific time, not a hit-or-miss time, prior to the recess we are going to have for Easter. I think that is reasonable.

Mr. GREGG. If the Senator will yield for a further question. If the Senator could in the same unanimous consent give me some sort of safe harbor that I will get to conference with my language, I think we might be on to something.

Mr. REID. I can give you this assurance: I will do everything I can to get this to conference. I have not discussed this with the distinguished Speaker or anyone over there, but I will be happy to work to see that that is done. As the distinguished Senator knows, I will work to get it to conference, but as we have learned—and if we get it to conference, it will be a public conference. It will be one where Democrats will be there and Republicans will be there from both the House and the Senate. But as you know, we have more votes than you have, so I can't guarantee what would happen in conference. But I will do everything I can to get it to conference.

Mr. GREGG. If the leader would yield further, I don't think this should be characterized as an amendment to bring down the bill. That is sort of a unilateral authority of the leader, of course. But it is certainly not my intention with this amendment, nor was it my intention with this amendment. I simply want to move this item along. I think this is an appropriate vehicle. But it sounds to me as if there might be a framework here for some progress. I will leave it to the good leaders to discuss this.

Mr. REID. I want the record to reflect that the Senator from New Hampshire offered this—and I said this in my remarks—because he believes in it. This is something he believes in. It was not offered by the Senator from New Hampshire to bring down the bill. But that is what is happening. I am sorry to say there are other Senators who see this as an opportunity to bring down the bill. I would hope we can work something out on this. I want to move forward on this legislation. I want the Senator from New Hampshire to move forward on his legislation.

As the Senator from New Hampshire knows, I don't agree with your legislation. But I will work, as I have indicated before to whoever is watching this Senate proceeding, to do everything I can to get a conference and have an open public conference. If we pass something here, of course.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I want to point out, I was on the floor when this item was discussed, when the Senator from New Hampshire offered his line-item veto amendment. I was also on the floor when Senator CONRAD, who is our side's budget expert, came forward and debated it.

There was a rather fulsome debate. I want to recount what Senator CONRAD said about his belief about the amendment, that not only does it raise serious constitutional concerns, but it would allow the President to unilaterally block enacted funding, even if Congress rejects a proposed rescission. In addition, rather than strengthening fiscal discipline, the amendment could lead to more spending, not less. He pointed out how it could be used to eliminate entire new programs or improvements to benefits such as Medicare and Social Security. The President would have a year after a bill's enactment to propose a rescission. The President could package rescissions as he or she wishes and could combine rescissions that have been enacted in several different pieces of legislation. Senators would be forced to vote on the package with little opportunity for public notice or input and no opportunity to offer amendments, nor would there be any opportunity to filibuster proposed rescissions. The new power would make it much easier for a President to eliminate new Medicare or Social Security benefits to which he objects.

Now, I agree very much with what the majority leader said. This is a very problematic amendment. It was debated on the floor of the Senate. It needs further refinement if anybody is going to move ahead with it. Clearly, it is a major amendment. Clearly, it is a real problem for our side. But for the minority to take down the bill over this amendment when the amendment is not germane to the bill, when I have tried very hard to keep matters that are not within the scope of the bill off the bill, including a matter I myself very much wanted to present, I think makes no sense.

The minority leader pointed out that this bill passed before, 2 years ago, by a vote of 90 to 8. The whole point of this legislation is to show that the two sides can come together, be bipartisan, and enact a bill that will bring about ethics, lobbying, and earmark reform. And we have done that.

As Senator BENNETT, the ranking member, and I have sat on this floor, there has been ample time for Members to bring their amendments to the floor. I assure you that there has been a lot of time when we have just sat here in a quorum call. To allow this bill to be pulled down at this time is just a special matter of some kind of pique, when we know that the line-item veto amendment is extraordinarily problematic and deserves another venue, deserves more scrutiny, and should take some time before it is passed in any way, shape, or form.

So I am fully in support of what the majority leader had to say. It makes no sense for the other side to take down this bill over it. I hope the proposal made by the majority leader will be accepted. I believe he will keep his word. I will help in any way I possibly can to see that that is, in fact, the case. But we are so close to getting this bill done, and it has some momentous things in it that represent a total change of the way these bodies operate, and they are important, significant, and timely. We ought to pass this bill. We ought to show the American people that we can work together, Republicans and Democrats, for a common purpose. So I just want to say that after a week and a half, I am profoundly disappointed that this has come about. I really thought we were going to be able to work together and pass a strong, bipartisan bill. And, in fact, most of the amendments have passed by huge majorities. I think there have only been two that have been relatively close.

I urge the Republican side to reconsider. There are so many positive elements of this bill, and the American people will be so shortchanged if we cannot solve whatever problem there is between us and pass a bill that we voted on 90 to 8 some time ago, which has even been strengthened by some of the eight members who voted against it because they didn't think it was strong enough. This is a very strong measure.

Those of us who will work in conference will work to smooth out any bumps. We will work in an open way, and no side will be shut out of the conference. I pledge it will be a collegial conference. This is our opportunity to set an agenda for the 110th Congress. Please, please, please, let us not reject this.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, we have been working for a week and a half on this bill, S. 1, which is the highest priority of the Democratic majority in the new Congress because we believe, as it says, providing greater transparency in the legislative process is a starting point. Trying to restore public confidence in the way we work here is a starting point.

I was heartened by the fact that this bill, as well as the substitute amendment and other amendments offered, has largely been bipartisan. Most of the debate has been bipartisan in nature. With few exceptions, the rollcalls have been bipartisan. It troubles me that we have reached this procedural impasse with the minority that, with the power given to it in the Senate, is threatening to bring down this bill. I am searching my mind to understand why they would want to bring down a bill that would clean up this culture of corruption in Washington and make substantial ethical changes.

I have come to the conclusion that it has to do with indigestion. What I am referring to is this: For every decision in political life there is usually a good reason and a real reason. The good reason stated by the Republican side—or

one they portray as a good reason—is they want to offer an amendment, which is characterized as a simple amendment. The bill is 55 pages long; the amendment is 24 pages long—almost half the size of the bill. It is not simple; it is very complex. It is on the legislative line-item veto.

Senator REID, as majority leader, has already made a good-faith offering even before we came to the floor to the Republican minority and said that it is important and deserves its day on the Senate floor. We will guarantee you that we will debate this bill before the Easter recess, a like bill to be offered on the Democratic side. Let's bring it to a debate and a vote and see which, if either, prevails and take it from there. That was a good-faith offering.

So the so-called good reason the Republicans are threatening to bring down the ethics bill just doesn't hold. We have already made the best offer that the minority could ever expect, and I know that having served in the minority for most of my time in the Senate.

But there is also a real reason they are trying to insert line-item veto into this ethics bill. Sadly, I am afraid it is because as they sat together over lunch and read the provisions of this bill that will now likely pass, it caused indigestion among the Republican ranks and, as a consequence, they said we need a reason to stop this bill. Well, the reason turned out to be the legislative line-item veto.

For those who follow what happens in Washington, it is my belief that somewhere in the White House the President has a veto pen. I don't know if it is one pen or many pens, but my guess is if it is one pen, most of us know already that there is a lot of ink left in this pen. For over the 6 years the President has been in the White House he has only vetoed one bill, and that was the stem cell research bill. He has never vetoed a spending bill in the entire 6 years that he has served as President.

The suggestion by the Republicans now that this President has been longing for the chance to veto spending bills to show how fiscally conservative he is is not supported by the evidence. Time and again, this President signed appropriations bills without hesitation. Now we are being told if he just had this new power, he could bring spending under control. We know better. We know spending starts with the President's budget. We know that year after year, the President has taken us away from the surplus of the Clinton years into the deepest deficits in the history of the United States.

Now we are being told the reason we cannot address ethics is we need to give the President a new power to veto spending bills for the first time in over 6 years. It doesn't really stand the test of scrutiny for us to consider this as a suggestion that is based in fact. It clearly is a reason to stop the ethics bill.

I urge my colleagues on the other side of the aisle, let's not give up on this bipartisan effort and see this ethics bill go down. Yes, as the minority, you have the power to bring the bill down. Perhaps you believe the legislative line-item veto is the way to bring it down, but the American people are not going to buy it. They understand that strengthening disclosure on earmarks, eliminating dead-of-night provisions in conference reports, respecting minorities in conference committees, and ensuring proper valuation for gifts and meals and tickets that Members of Congress receive, closing the loophole and the revolving door as Members leave public life and go into the private sector, negotiating for lobbying jobs while still in Congress, enhancing the oversight of staff level job negotiations, enhancing fiscal transparency and lobbyist disclosure, lobbyist certification and compliance with gift rules—these are powerful. They are big changes and they are long overdue. We tried a year ago under Republican leadership and failed. I hope we don't fail again because the Republican minority wants to bring the bill down. I hope that my colleagues on the other side of the aisle will reconsider their position. I hope they will come back and join us in passing this bipartisan bill, making sure we do the people's work before we leave this week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I don't want to get deep into this confrontation between the two leaders, but I say to my good friend from Illinois—and he is my good friend—that I was present at the Republican luncheon and there was no indigestion on this bill. I was asked by the Republican leader to present where we are on the floor to the members of the conference. By the way, our rule is that we don't discuss anything that happens in the Republican conference, so I am bending that rule. We are allowed to at least discuss what we personally say. So I will not disclose what anybody else said, but I will bend the rule a little to characterize it.

I made the presentation as to where we were on the floor. There was no pushback whatsoever to the idea that we should pass this bill. There was no suggestion from any Member of the Republican conference that this bill should be taken down by some subterfuge.

The Senator from New Hampshire has gone to the leader and made a request. The leader has responded to the request, feeling that the Senator from New Hampshire is entitled to a vote. We are where we are. The leaders will make their decision and have their discussion. I want to make the record as clear as I possibly can that any Republican who wants to use this as a subterfuge to take down the bill has not made his or her position known to me or to the leader. There is no suggestion of that at all of which I am aware.

Mr. GREGG. Will the Senator yield?

Mr. BENNETT. Yes, I yield the floor.

Mr. GREGG. If I may follow up on the Senator's comments, it is obvious that the only person who can bring the bill down is the Democratic leader, if that is his choice. His choice appears to be based on the fact that he doesn't want to vote on the second look at waste amendment or enhanced rescission, which is tied into this bill.

As I mentioned earlier, almost 30 percent of the amendments offered have dealt with earmarks, and half of the time of the debate here in the last 8 days has been on earmarks. So it is not as if this is something that is totally off track or truly outside the realm. This isn't a farm amendment on the lobbying bill; this is a lobbying amendment on the lobbying bill. It doesn't have germaneness because that is a very narrow test, but it is sure relevant and on point. It clearly deals with earmarks, and it also deals within appropriate actions from lobbyists who get earmarks into the bills and bury them in omnibus bills. That is the purpose.

So the idea that this amendment is some sort of poison pill to the bill, it wasn't offered for that purpose and doesn't have that as its purpose. The Republican membership is ready to go forward and vote and is ready to either win or lose on this amendment.

The language of the assistant Democratic leader is such that it sounds to me as if maybe they don't want the bill. Maybe they concluded they don't want the bill because they are the only ones talking about pulling the bill down. We are not talking about pulling the bill down. We are talking about getting a vote on a reasonable amendment. Independent of that, I have made an offer——

Mrs. FEINSTEIN. Mr. President, will the Senator yield for a question? Maybe I am misinterpreting something. Will the Senator yield for a question?

Mr. GREGG. Yes, I will.

Mrs. FEINSTEIN. Through the Chair, I thought what was said was that if the Senator from New Hampshire doesn't get a vote on his amendment, that his side will vote ''no'' on cloture. That was clearly what I heard. Am I wrong?

Mr. GREGG. No, that is absolutely true. We should have a vote on our amendment, and as soon as we get a vote on our amendment, we can go to final passage. What is wrong with that?

Mrs. FEINSTEIN. Mr. President, I will tell the Senator what is wrong with it.

Mr. GREGG. I have not yielded the floor.

Mrs. FEINSTEIN. The amendment is a very complicated amendment. It is impossible to understand, it is a lengthy amendment, and all of the reverberations. I contend and say that it is out of the scope of this bill, and we hope to keep the bill away from these kinds of contentious matters but pass those items within the scope of the bill. I thought there was general agreement with that position. I thought the

Senator would recognize, based on the debate Senator GREGG had with Senator CONRAD that there were real questions with the amendment that took further study. My impression was the Senator from New Hampshire was willing to go through that process at the time.

Mr. GREGG. Mr. President, if I may reclaim my time, I have actually suggested to the Democratic leader and have taken him up on his suggestion as a way we can pursue this issue. I hope it will be done that way and that will resolve the matter. But I continue to hear, even after making that suggestion to the assistant leader, that we on our side of the aisle are attempting to bring the bill down. That is not a defensible position because the only people who can bring this bill down are on your side. You can take it off the floor. We can insist on our right to a vote, which we have every right to do, and it is reasonable to do, and especially reasonable to do in the context of this amendment which the Senator claims is complicated. It is not; it is fairly straightforward. In fact, it is much more straightforward and less complicated than the substitute amendment which has never gone through committee. It came here as a substitute amendment, drafted by the two leaders out of their offices. It is a very complex amendment—in fact, so complex that I heard both sides of the leadership of the bill trying to explain certain sections of it and they had different explanations as to how it affected, for example, private citizens who happen to be married to Members of Congress. It is extremely complex language.

My language at least has pretty much been vetted. It has been vetted all the way to the Supreme Court. It has gone through subcommittee, committee, it has been on the floor, debated, it has been debated again, it has been debated, and it was offered—in fact, my language was actually offered, in essence, by the Democratic Party as their substitute to the original line-item bill. In fact, the Senator from California supported the language when it was offered back in 1995. The Senator from California said:

> I believe that what a line-item veto essentially does is encourage caution on the part of both the Chief Executive and the legislative branch. I think the time has come for fiscal discipline and, as I said, I sincerely believe the line-item veto can help us achieve that goal.

So this matter has been debated extensively on the floor. It has been voted on before. It is not a matter of first impression. It is a matter of considerable discussion, and it is not unique. It is related to this bill.

The Senator from California used the term ''scope.'' Were the term ''scope'' applied to postcloture standing of an amendment, this amendment would stand. But scope is not the operative language. Germaneness is, and germaneness is a much narrower test in postcloture, as we know it is extraordinarily difficult to get germaneness with any amendment that has any breadth to it. That is the reason it falls postcloture, and that is the reason why it should be taken up and voted on before cloture. But I am willing to push the vote off if we are guaranteed what the Democratic leader has suggested he will guarantee us. I won't put words in his mouth. I think what he said was: You will get the vote on your amendment; you will have an amendment from your side; they will both be subject to 60 votes, with time limit on debate, and it will go to conference.

In that context, I think we can resolve this matter. But I take a little bit of umbrage at the idea that the other side of the aisle continues to characterize, even after that presentation had been worked out, our side of the aisle as trying to bring this bill down because the only person who has the right to bring this bill down right now is the majority leader. He controls the floor, he decides what is on the floor, and he can bring it down if he wishes.

We do not wish to bring this bill down. We simply wish to get a vote on a reasonable amendment that won't survive germaneness postcloture; therefore, it has to be voted before cloture. It is an entirely reasonable position for the minority to take, especially since the amendment has been aggressively vetted by having been through this process so many times and actually has been pretty well defined by the Supreme Court as to what rights we have and what rights we don't have. That is why it is structured the way it is so it is constitutional.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, parliamentary inquiry: What is the pending business at this point?

The PRESIDING OFFICER. The pending amendment is the Nelson amendment No. 71.

Mr. LOTT. Mr. President, if I may proceed to speak on this overall issue that has been going back and forth for quite some time, I find myself somewhat amused. I don't quite understand what all the fuss is about. I have been through this before. I have been in the position of resisting an amendment such as this. I have been in the position of advocating an amendment such as this. Everybody is getting their press releases ready now to go out to put their spin on this issue. I wish to make a brief effort to try to put it into proper perspective.

First, the idea or the suggestion that Republicans don't want to get this to conclusion is not credible because I managed this bill last year. We did it in a bipartisan way. As Senator MCCONNELL has said, we got an overwhelming vote. I think it was 90 to 8, and it had tough provisions in there, including most of what is in this bill.

Keep in mind, the underlying bill from last year was introduced by a bipartisan group, leaders on both sides, to begin this debate. Then there was a substitute laid down with some additional changes. Then we went forward with the amendments.

I don't think it is fair to characterize this as one side or the other trying to stop a result. As a matter of fact, I thought our leaders were going to come together. It is OK, we are going to identify a number of amendments about which Members are serious, and we could have votes on them this afternoon and Thursday and finish up Thursday night or Friday. Now I guess there is a little bit of a manhood thing here where one side is going to show the other.

Again, having been through this, when Senators do feel strongly about an issue, who have done the kind of work Senator GREGG has done, they are going to get a vote and they should get a vote. It is very simple. We could get a time agreement. Obviously, Senator GREGG would be prepared to come up with a reasonable time agreement. It is an important issue, but it certainly has been debated.

I have been on all sides of this issue over the last 10 years or so, and we could have a vote on a few other amendments and complete our work and then await conference, by the way, which won't occur until some time in March or April because the House action which has been described basically as getting the job done was only a rules change in the House. They didn't do anything about lobby reform, and they are not going to do so until March. It is not that we are in a tear to catch up with the House. We are going to complete this in a reasonable time, and then we will wait, but we are going to get a result because there are things we need to do with ethics, lobbying reform.

We can do it. We should do it. Some have gotten out of control. Now we are in a long process of self-flagellation without getting to cleaning up some things that need to be changed.

With regard to the specifics of this amendment, I was involved in the process in the nineties when we passed the line-item veto. I was very much an advocate of it. I remember we had a bipartisan group that did that. I know Senator BYRD spoke vigorously against it. We got it done, and it went to the Supreme Court. Before it went to the Supreme Court, President Clinton used the line-item veto for the first time, and I was pretty shocked by the list he came up with. Then I thought: Well, maybe I was wrong after all to support this power of the President.

This is not the same thing. This has been developed by Senator GREGG specifically addressing questions or problems of the line-item veto. I don't want to give Presidents, as they have had, by the way, and used for years, a summary rescission. This is a process, and I looked at it carefully.

I had reservations about the draft we were talking about last year. I don't

particularly like giving the President four bites of the apple. But I do like the fact that if we have some rescissions that go to reduce the deficit, Presidents can't put the same rescission project multiple times. He gets a shot at it, and then he can come up with a different list.

I am a cosponsor of this legislation. I think it will help to bring spending under control. I do think it will allow the President, when there is a project that cannot be defended in the light of day, a chance to take it out, and then we have to vote on it. And, by the way, it is not in perpetuity. It is for 4 years. This President will have this authority for 2 years, and the next President will have this authority for 2 years. Is that the correct timing on this amendment?

It has a sunset. We will see how it works. If we don't like it, if we don't agree with it, if we are embarrassed by the result, it will sunset, and then that will be the end of it unless we extend it. Is that a correct interpretation?

Mr. GREGG. Mr. President, that is correct. This is 4 years, but this President probably won't get 2 years of it. He will probably get a year and a half.

Mr. LOTT. That is correct. I don't know why we have all this huffing and puffing. Let's set it up, have some debate, have a vote, and let's move on. By the way, I believe Senator REID has the majority, and as Senator GREGG pointed out, it takes 60 votes to get this through. I don't think it is going to happen.

Senator GREGG has been willing to work out any and all kinds of agreements. I don't know how in the world the leader could keep a commitment to get it in conference out of whole cloth. Maybe he has some plan afoot.

So far we have worked pretty good. I was a little embarrassed last week. We had one of our Members offer an amendment. I voted against it, but he won fair and square. And then we went through this exercise where we were going to strong-arm Members into switching their vote. Our Members said, wait a minute, including me. I was going to switch back the other way because I thought that a mistreatment. All he was trying to do on earmarks was put us in line or in sync with what the House had passed.

I still don't particularly like that language. I think it is going to create some problems, but I thought it was a very good amendment. Basically, that put us in a holding pattern for the rest of the week or 3 or 4 days.

Hopefully the Democratic leadership will quit trying to fix blame and come up with a way we can complete this good work. The managers have been dealing with it and moving it along. I looked at the list of amendments. I don't see too many amendments that will be a problem in terms of time and debate and completing the work. Let's find a way to get this done, then await further House action, and then see if we can come up with a good product that is in the best interest of this institution and the American people. I believe this rescission package would help us get to that point.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank my friend from Mississippi for that explanation. I simply want to add a little bit of history, which I did previously, to his comments. He said when he saw how President Clinton used the line-item veto he began to wonder if he hadn't, in fact, made a mistake by supporting it. I supported the line-item veto. When I saw how President Clinton used it, I was sure I had made a mistake. Here on the floor and in the debate with Senator Moynihan and Senator BYRD, I made the commitment that I would never support the line-item veto again because it was used in a way I had not anticipated. It was used in a way very different from the way State legislatures have dealt with the line-item vetoes that Governors had. That was my rationale for supporting it. I said: The Governors have it and it works; why shouldn't the President have it? That is because I didn't understand the way the Congress really works. So I said I will never support a line-item veto again.

When the White House called me and said, We need your vote on this, I said, You won't get it. And then when I saw the details of what the Senator from New Hampshire has crafted, I realized, as he has pointed out, that it is crafted with the Supreme Court rescission in mind, with the history of the experience with President Clinton in mind, and I am now willing to support the enhanced rescission legislation the Senator from New Hampshire has proposed because, as he has said, this is not the line-item veto.

Our friends in the press like a quick headline that they think everybody can understand, and they use the headline ''line-item veto,'' and then it sticks. In fact, that is not what it is, and a careful reading of the bill makes it clear that is not what it is. If, indeed, that were what it was, I would vote against it.

But I am hoping the Democratic leader, the majority leader, can work out something which can give the opportunity for this to be brought forward, debated, and then voted on. I do note, as the Senator from New Hampshire has noted, that in order for it to pass, it would require 60 votes. So if, indeed, there are 41 votes against it, the logical thing to do is bring it up, kill it, and let us move forward. But apparently there are not 41 votes against it. I don't know, but I am guessing. So we are where we are. I am hoping it all gets worked out because I think we are close to getting this bill done. I think it is a bill that both sides can vote for overwhelmingly. I have enjoyed working with the chairman of the committee in getting reasonable adjustments in the bill, and it would be a shame to see all of that hard work go down the drain if we can't get this resolved.

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

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

Mr. ALLARD. Mr. President, I understand we are having a discussion on the floor about the amendment being proposed by Senator GREGG from New Hampshire, known as the second look at wasteful spending amendment, to the pending legislation, which is called the Legislative Transparency Act of 2007. I spoke on this particular amendment offered by Senator GREGG last week, and I came to the Chamber and expressed my strong support for what Senator GREGG is trying to do. For the life of me, I don't understand why we would want to put an issue such as this off, because it adds transparency to the process. That is the name of the bill we have before us: the Legislative Transparency Act of 2007.

What the Gregg amendment would do is to allow the President to identify certain items in bills that are earmarks or may be classified as pork barrel spending. Then once those provisions have been identified, they would get singled out, and then, the President can bring those forward and allow the House and the Senate to vote on those separately.

What happens so many times in legislation that comes before the Congress is a process which is called logrolling. It is an old term; it has been around for a long time. You just keep adding issues in there and adding issues in there and make a piece of legislation bigger, and you pick up votes, and the bill gets so big and cumbersome that it is difficult to find people who are going to vote against it because there are so many issues in there they support. So what Senator GREGG does to bring transparency to this process is to take out those single issues, give the President an opportunity to pull those out and send them back to both the House and the Senate, and we vote on them as a separate issue. That creates a clear position on that particular issue from the House and the Senate. I daresay if we do that, we will cut back on a lot of spending, for those of us who are concerned about the mounting deficits in our Federal budget, who are concerned about accountability, and who are concerned about the process around here, both in setting up a budget and then the appropriations bills that come forward.

I think it is an accountability issue, and I hope we can bring this up and have a vote, in my view, the sooner the better because right now we are involved in an appropriations process that got bogged down from the last session because of earmarks and those

kinds of spending provisions, and we are getting ready to go into a budget process and then right back into appropriations. So the sooner we can deal with this type of legislation, the better.

I am hoping the leadership here in the Senate would consider and eventually allow us to bring this up, and as I say, the sooner the better because it brings accountability to the budget process. That is something we have all been talking about, those of us who are serious about getting the deficit under control, those of us who are serious about some accountability in the budgeting process. If I secure funding for a project in an appropriations bill, I don't have any problem letting people know about it because what I do is I go through the process of getting it authorized; that is, the authorizing committee has looked at it and they have verified that whatever it is that is in the amendment is legitimate, they have reached a consensus on what needs to be done to bring accountability to that particular project or program. Then you take it to the Appropriations Committee, and they allocate the money and they keep allocating the money, and by holding on to the purse strings, they continue to make that an accountable process. If we have any shortfall in what is going on, it is a lack of accountability in the budgeting process and in the appropriations process. I don't believe this makes it any more complicated. I myself think it is pretty straightforward, and I think it is constitutional.

Now, we had sort of a line-item rescission process this Congress passed a number of years back with a large reform. The courts looked at it and decided it was unconstitutional. But in this legislation the final decision is made by the Congress. We leave control of the purse strings here in the Congress. The President just delineates a few of these programs or projects and then brings them back to the Senate, and we vote on them separately.

So I just felt compelled to come to the floor and reemphasize how very important I believe it is that we step forward and we begin to act on these kinds of commonsense solutions Senator GREGG has offered. He was chairman of the Budget Committee. He has worked hard on this issue. I supported his Stop Overspending Act of 2006 when he introduced it in the last Congress. It had a similar provision in there. This is important. I hope we can get an opportunity to act on this particular provision before we move off of this piece of legislation. I ask my colleagues here in the Senate to join us in trying to bring excessive spending under control.

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

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

Mr. LIEBERMAN. Mr. President, I know we are in an unfortunate gridlock at the moment, but earlier in the afternoon my friend from Utah, Senator BENNETT, rose to indicate that he intended, at some point in the debate, to move to strike a section of the bill regarding so-called grassroots lobbying. It requires disclosure of people doing paid grassroots lobbying exceeding a certain threshold of spending every year. And this provision is part of the title of the bill before us that came out of the Homeland Security and Governmental Affairs Committee, of which I am privileged to chair and of which I am privileged to have the distinguished Presiding Officer as a new member of.

I wish to respond to several statements that Senator BENNETT made. We will have a fuller debate, I am sure, before he asks for a vote on his amendment. But for the record, for the information of my colleagues, I wish to speak in favor of what I believe is one of the most important elements of this lobbying reform legislation.

The original provision, sponsored in committee by my friend from Michigan, Senator LEVIN, and myself, requires, for the first time, disclosure of so-called paid grassroots lobbying. Much has been said—I fear, too much of it not on point—about this provision and its purported impact on free speech. I wish to reassure my colleagues that those claims about this provision are not true.

This grassroots lobbying provision would do nothing to stop, deter or interfere with individuals exercising their constitutional rights to petition our Government for redress. We are talking about disclosure, not censorship, not limits in any way on lobbying. We are talking about disclosure of large sums of money spent by professional organizations. We are not talking about barring any organization from conducting a grassroots lobbying campaign. And we are not talking about small grassroots lobbying efforts.

We are talking about major media campaigns, mass mailings, large phone banks, designed for the purpose of influencing Members of Congress or the executive branch on specific issues. There is nothing wrong with that. But it has become, as I will discuss in a moment, an ever-increasing, evermore expensive part of the way in which people use their constitutional right to petition their Government, and it has, unfortunately, been abused, particularly in the Abramoff case. This provision would shine the disinfecting, the edifying, the illuminating, the educating sunshine of public disclosure, but would impose no limitation on constitutional rights.

Our former colleague, the late Senator Lloyd Bentsen of Texas—a wonderful man and a great Senator—once referred to this kind of paid grassroots lobbying as ''astroturf lobbying'' because it was not real grassroots lobbying. It was generated, manufactured, and not self-grown. It, to me, defies logic to require a company to disclose—as we do in law now, and would even more according to the underlying bill, S. 1—to require a company to disclose its direct lobbying of Members of Congress, while giving that same company a pass by not requiring it to disclose anything with regard to its efforts to manufacture and generate thousands of pieces of mail and calls for the same purpose.

To avoid confusion, I want my colleagues to understand what this provision does and what it does not do. It does not ban or restrict grassroots lobbying of any kind in any way. That would be wrong. Grassroots lobbying is an important way for people to get involved and contact their Members of Congress or the executive branch. There is nothing wrong with astroturf lobbying, as Senator Bentsen described it, either. It is not self-generated grass, but it is appropriate, constitutional and legal and nothing in this provision of S. 1 would stop it.

This legislation simply requires disclosure of the amount of money spent on grassroots lobbying when it is conducted by professional organizations. The opponents of this measure would have us believe we are trying to amend the first amendment. That is not true. Our Senate phones are often jammed with callers expressing their points of view and all giving the exact same message. That comes from somewhere, is paid for by somebody and is part of an organized effort, and the public and the Members have a right to know who is paying and how much.

I wish to note this provision responds directly to one element of the Abramoff scandal. Mr. Abramoff funneled money from one of his clients, the Mississippi Choctaw Indians, to a grassroots lobbying firm run by Ralph Reed to oppose pro-gambling measures. The Choctaws were particularly interested in stifling competition to their gambling activities. Well, it seems to me in that case the public had a right to know the anti-gambling campaign was funded by those trying to protect—which is their right—their own position in the gambling industry from further competition.

Mr. Abramoff also directed his clients—and here is where we get into big problems—to pay millions of dollars to grassroots lobbying firms controlled by himself and his associate Michael Scanlon, fees that were in part directed back to Mr. Abramoff personally but never known by the public as direct fees. If the disclosure requirements that we are proposing here had been in place, Mr. Abramoff and Mr. Scanlon would have had to have disclosed these multimillion dollar fees they passed through this grassroots lobbying operation and, therefore, I believe they probably would not have been able to pull that particular scam off so easily.

In crafting this provision, Senator LEVIN and I have been careful to listen to grassroots organizations and have incorporated several safeguards to make sure we do nothing to inhibit their exercise of free speech. We make clear, for example, that the grassroots lobbying effort must be in support of a direct lobbying effort. Grassroots activities without connection to lobbying do not trigger a reporting requirement in and of themselves. So no matter what is being said here, I assure my colleagues that if this bill passes with this provision in it, anyone picking up their phone of their own free will to tell their Member of Congress how they feel about an issue is not going to face any requirements under our amendment.

Here is another threshold the amendment requires. Some people say: What if an organizational leader writes to his Members or a clergyman writes to his church to urge them to express an opinion on a particular matter to Members of Congress? It wouldn't be covered by this. We exclude efforts that are not professional, that are not paid for, and we exclude all efforts that cost less than $25,000 per quarter. That is a significant exemption, and it means that an organization can spend up to $100,000 a year on paid grassroots lobbying without triggering the disclosure requirement. Again, we also exclude communication made by organizations to their own members. And we exclude any communication directed at less than 500 members of the general public.

So what we are asking for is disclosure of spending over $25,000 per quarter to get others to engage in grassroots lobbying, and we are asking them to report just one number rounded to the nearest $20,000. Eleven years ago, Senator LEVIN unsuccessfully fought for a grassroots lobbying disclosure provision when Congress originally passed the Lobbying Disclosure Act. At the time he said, to the best of his knowledge, grassroots lobbying campaigns spent about $700 million a year. To the best of my knowledge, though obviously we don't know because there is no disclosure, that figure has multiplied probably into the billions per year, and the public has no accurate picture of who is spending what to influence others to lobby Congress. That is what this provision would do.

My friend from Utah, Senator BENNETT, pointed out that the first amendment protects the right of every American to petition Government for redress of grievances. Of course, that is true, and lobbying is part of that. As I said in my opening statement on this bill, it is a constitutionally protected right. The Senator further pointed out that the Supreme Court has said this right is not diminished if performed for others for a fee. That is also correct. I agree. Nothing about disclosure, however, is inconsistent with that first amendment right. Requiring disclosure under certain narrow circumstances is all our grassroots provision would try to do. The fact is, the Supreme Court has upheld disclosure requirements for direct lobbying. I am confident that the Court's reasoning applies equally to the disclosure we are proposing for paid efforts to stimulate grassroots lobbying.

In the leading case on lobbyist disclosure, which is U.S. v. Harriss, decided in 1954, the Supreme Court considered the Federal Regulation of Lobbying Act which at that time required every person ''receiving any contributions or expending any money for the purpose of influencing the passage or defeat of any legislation by Congress'' to report information about their clients, their contributions, and their expenditures. The Supreme Court upheld in that case disclosure requirements for the Court's narrow definition of lobbying, which included not only direct communications with legislators but also their artificially stimulated public letter campaigns to Congress. Two courts of appeals have also upheld grassroots lobbying disclosure requirements. In Minnesota State Ethical Practices Board v. the National Rifle Association, decided by the Eighth Circuit Court in 1985, that circuit upheld the State statute requiring disclosure of grassroots lobbying, even when the activity at issue was correspondence from a national organization to its members. In other words, the Eighth Circuit upheld a statute that goes even farther than we are going because we are exempting communications made by organizations to their own members.

In the other case, the 11th Circuit, in a case known as Florida League of Professional Lobbyists, Inc. v. Meggs, decided about 10 years ago in 1996, upheld a Florida law which required disclosure of expenditures both for direct lobbying and indirect lobbying activities.

Astroturf lobbyists who don't like this legislative provision may well challenge it in court. That could be said of most pieces of legislation that Congress considers. But I believe the weight of precedent of both the Supreme Court and the two explicit circuit court cases on grassroots lobbying should give us confidence that extending the essential disclosure requirements of lobbying to paid efforts to stimulate grassroots lobbying would be upheld as constitutional.

I hope more broadly that we can proceed with this bill. It is an important reaction to the voices of the people that we have all heard who are offended by the ethical scandals here in Congress over the last few years, as we all, each Member of Congress, are embarrassed by those scandals. This underlying bill, S. 1, is a very strong response to them. I hope it does not fall by the wayside in what may appear to observers to be the first partisan gridlock of this session of Congress. Surely we can figure out a way to proceed to consider the issue that is the subject of the gridlock at some point in the Senate and then proceed rapidly to consider the other amendments pending on S. 1, adopt the bill, and go forward.

I thank my colleagues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. Mr. President, I listened with interest on the television when my friend from Connecticut was responding to my amendment, talking about the grassroots or astroturf kinds of lobbyists. I was struck as usual with my friend's good intentions. I am reminded once again of a comment I made, which the Presiding Officer heard me make, which is hard cases make bad law.

The Abramoff situation was clearly a matter of money laundering. It had little or nothing to do with lobbyists. He found a way to use a particular activity in order to channel contributions from one of his clients back to himself in fees that would be hidden. That is being offered as a reason why we need to adopt this amendment with respect to grassroots organizations.

My friend from Connecticut talked about simply disclosure. Everybody who does this ought to say what they are doing, and we are not stopping them. Yes, they have their constitutional right to do this. And yes, it is a proper thing for them to do, so long as it all gets disclosed. Because if Abramoff had been forced to disclose, he wouldn't have been able to launder the money. That sounds enormously reasonable. But as I listened to the details, comparing them to my knowledge of the underlying bill, I realized, once again, this is being crafted with an eye toward the astroturf lobbyists, without an understanding of how chilling an effect it will have on genuine grassroots kinds of activities.

As the ACLU pointed out in its letter, the reporting requirements are so heavy and so onerous and now, as a result of an amendment we have previously adopted, carry with them a $200,000 fine, if they are inadvertently broken, that it will have a chilling effect on many groups who will decide they simply don't want to run the risk. We simply don't want to expose ourselves to this. Someone who inadvertently violates the law or violates the reporting requirements which we would be putting into the law, who accepts a relatively small amount of money for his services but somehow triggers the amount listed in the bill, finds himself or herself subject to a $200,000 fine for each incident. And even if that individual goes to court and gets it set aside, the legal costs will clearly go above $200,000.

To what end? Members of Congress are fully aware of how these astroturf campaigns are mounted. We understand when we are the target of one of

these. I don't know a single Member of Congress who can be swayed by this kind of thing, if, in fact, the underlying legislation is bad legislation in the opinion of the Member of Congress. I know many of these people do this to make a living, and they convince their Members that it is a worthwhile kind of thing. They will still continue to do that, the big ones. This is not something that is part of any culture of corruption. We cannot point to anybody who has been overwhelmed by these and, therefore, changed his mind on a particular piece of legislation.

Let's have a little understanding of the way the system works and a little common sense about how Congress responds, about how people try to bring particular pressure points upon them.

I respect my friend from Connecticut. I think his reading of the law is obviously very careful. But I come back to exactly the same position I did before in my earlier statement. This will have a chilling effect on honest, responsible, legitimate grassroots kind of activity, because the people who engage in that kind of activity will be afraid that their exposure to a $200,000 fine is too great. And it will be easier for them to say: Never mind.

People who do the astroturf kind of thing, where they are big enough and they have enough money, they have enough legal background, file all their reports and will continue to do it. The reports will be filed, and no one will pay any attention to them. I often say the best place to hide a leaf is on the floor of the forest surrounded by all of the other leaves. There will be a blizzard of reports coming from the big people who can afford to do this, and there will be a chilling effect on the little people who will be very nervous about the exposure we have built into this bill.

In the previous bill passed by the Senate that had this provision in it, the fine was $50,000. That was serious enough. Now that the fine is $200,000, I am getting all kinds of concern from all kinds of groups that are not professional astroturf lobbyists but legitimate grassroots groups that are very anxious that this is going to, in effect, hamper their ability to exercise their constitutional rights. Will it legally prevent them from exercising their rights? No, it won't. Will it practically prevent them from doing so? Yes, in all probability, it will. And the result is simply not worth that kind of risk to run.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. Mr. President, I strongly oppose Senator BENNETT's amendment to strike section 220 from the bill. The debate about section 220 is essentially a debate about the openness of the legislative process. It is a debate about the right of the American people to know who is spending money to influence their elected representatives and how that money is being spent.

It is important not to be misled by the use of the term grassroots lobbying in section 220. We aren't talking here about constituents reading the newspaper and deciding to call their Member of Congress to weigh in on the issue of the day. No, what section 220 deals with is paid grassroots lobbying, the spending of money to try to get the public to contact Congress. It is estimated that grassroots lobbying is a billion dollar business. That is a billion undisclosed dollars spent by special interests to influence the legislative process. We should keep in mind as well that in 2005 a few million of those undisclosed dollars went to Grassroots Interactive, a so-called ''grassroots'' lobbying firm controlled by Jack Abramoff. E-mails made public by the Indian Affairs Committee indicate that Abramoff and his accomplice Michael Scanlon prided themselves on being able to make it appear as if there was significant public concern over an issue. Further, those e-mails suggest that Abramoff and Scanlon used the grassroots lobbying firm as a way to avoid public scrutiny of their activities because current law does not require disclosure for grassroots lobbying firms. For example, Jack Abramoff reportedly paid Ralph Reed $1.2 million to use his Christian Coalition network to stimulate public opposition to a tribal casino; under current law, Ralph Reed's supporters were completely in the dark about the fact that their antigambling efforts were being funded by a competing tribal casino.

The lobbying disclosure law, as it stands now, contains a billion dollar loophole. All section 220 does is close that loophole.

I am going to address some of the claims made by the Senator from Utah, but first let me explain what section 220 does. First, it requires registered lobbyists to report how much they spend on efforts to stimulate grassroots lobbying on the lobbying disclosure reports that they are already required to file. Second, it requires large professional so-called grass roots lobbying firms to report on the amount they receive for their services, just like any other lobbyist. And that is it, that is all section 220 does. Organizations do not have to report on the amounts they spend to communicate with their own members, and they only have to report on the cost of their communications with the general public if they are required to register and file under the Lobbying Disclosure Act.

By the way, communications to fewer than 500 people are not considered by section 220 to be communications to the general public. And here is the important thing private citizens can still call, write, e-mail, fax, or visit their Senators anytime they want, in response to a call from a telemarketer or an e-mail from an organization they belong to, or because they read something in the morning paper, without ever have to report anything at all. Citizens are completely unaffected by this provision.

Some groups, especially the ACLU, have raised concerns that section 220 will intrude on Americans' freedom of speech and right to petition the Government. I appreciate the ACLU's concerns and am grateful for its vigilance in protecting our civil liberties, but in this case its reservations are unfounded. In 1954, in United States v. Harriss, the Supreme Court upheld the constitutionality of disclosure requirements in the Federal Regulation of Lobbying Act, stating that Congress is entitled to require a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose. That is exactly what section 220 does. Without disclosure, the Court warned, ''the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal.'' Paid grassroots lobbying is a billion dollar business. It will not be chilled or discouraged by the very reasonable disclosure requirements in section 220.

While the ACLU's opposition to section 220 is honest and heartfelt, the same cannot be said of attacks made by some other groups. Their claims are so outrageous, so manifestly untrue, so unhinged from any connection to the reality of this bill, that I would like to assume that they have been misinformed about the details of the section, or that perhaps they are mistakenly referring to an entirely different piece of legislation. Unfortunately, I think it is more likely that they are engaged in a campaign of deliberate misinformation about the details of section 220. And of course, because of the loophole they are trying to protect, we may never know who is spending big money to try to convince the public to tell us to oppose this provision.

I certainly would not claim that the Senator from Utah is deliberately trying to mislead the Senate. But his statement today shows a deep misunderstanding of how section 220 works. So let me address several of the claims he made.

First, the Senator from Utah said the following:

> Someone who gets his neighbors together and says, let's all write our congressmen on this issue and then spends some money doing it, under this provision, becomes a paid lobbyist and if he does not report and register, would be fined $200,000 for having done that.

That is simply not true. The definition of lobbyist and the requirements for registration are not changed by this bill or section 220. A lobbyist doesn't have to register under the Lobbying Disclosure Act unless he makes a lobbying contact on behalf of a client and

receives over $5,000 for lobbying activities engaged in for a particular client. So the person who gets his neighbors together as described by the Senator from Utah and spends some money getting them to write some letters is not a lobbyist and does not have to register—before this bill or afterwards. That is not just a matter of interpretation of the statute; it is the undisputed meaning of the Lobbying Disclosure Act.

The Senator from Utah also said the following in his statement yesterday:

A grass-roots lobbying group decides in its neighborhood that the most effective means of influencing and speaking up on legislation is to send out letters to its membership. Or perhaps it may decide the most effective means would be to buy a mailing list and send out letters to the people on the mailing list. As soon as they spend the money to buy the mailing list, there is a paid lobbyist involved. And if the registration is not correct, there is a $200,000 fine against that group if we leave this—this provision in the bill as it is.

Again, that is not true. Unless an organization makes direct contact with a Member of Congress and spends more than $10,000 in a quarter on lobbying activities, then it does not have to register. And if it does not have to register, it does not have to report its spending on that mailing list. In addition, and this is very important, a group's spending to communicate with its own members is not considered grass roots lobbying at all.

The only way that this group would have to register is if it makes direct contact with a Member of Congress and spends over $10,000 in a quarter on lobbying activities, not including communicating with the general public to try to get the general public to contact the Congress. If the group does that, then it is not a small grassroots lobbying group. And yes, it has to register and report. I think that is the correct result.

I have taken a fair amount of time to respond to the Senator from Utah because this legislation is too important to let mistaken discussions of this provision stand without an answer.

Some of section 220's opponents have claimed that it is designed to keep the public in the dark about the legislative process, that it targets individual citizens and small grassroots organizations, that it will prevent organizations from communicating with the public, and that it will smother lobbyists in miles of redtape.

None of these claims are true. Not one. I suppose the groups spreading this information are so afraid of section 220 that they are willing to say anything to try to stop it. But I wonder exactly what they are afraid of. Section 220 only applies to registered lobbyists and large grassroots lobbying firms, and it does not prohibit or restrict their activities in any way. In fact, section 220 merely makes public how much money they spend and how they spend it. Surely these groups that have tried to convince people to contact their offices with mistaken claims about the bill aren't afraid of a little sunlight—or maybe they are.

We are so close to passing the kind of ethics bill that the public wants, that the 2006 elections endorsed, and that our democracy needs. Defeating this amendment will bring us closer to the day we can go back to our States and tell our constituents that we actually delivered real bipartisan lobbying reform. But what will our constituents say if this amendment succeeds and the Senate votes to reopen a billion-dollar loophole in the lobbying disclosure law?

I urge my colleagues not to be fooled by the phony arguments being advanced by the opponents of this provision. I ask my colleagues to please vote no on the amendment of the Senator from Utah.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, to bring everyone up to date as to where we are, I made a good-faith offer to the minority that we will put the line-item veto off to another day. Senator BYRD was not agreeable to that. I talked to Senator BYRD on more than one occasion this evening, the last time for a significant amount of time, and he simply believes this line-item veto is a matter of great constitutional import, that for us to agree at this time to debate this would be wrong and that he simply will not do that.

Having said that, I still say I think it is a terribly unfortunate day for this Senate that a bipartisan piece of legislation dealing with ethics and lobbying reform that has been cosponsored for the first time in three decades as the first bill brought before the Senate by the two leaders, Democratic and Republican leader, is not going to be allowed to go forward based on the Republicans not being able to have a vote on a matter that is not germane or relevant to this legislation.

We have done so much with this legislation. We introduced the bill that passed this Senate last year by a vote of 98. We strengthened that significantly with the substitute. A number of amendments were offered by my Republican colleagues and Democratic colleagues. There are those who say that Senators thought those amendments would not be agreed to. They have been agreed to, with rare exception.

We have 15 or so amendments that would be postcloture germane on the substitute if cloture were invoked. We have agreed those amendments should go forward.

The point I am making is it is too bad that it appears this bill is not going to pass because of a line-item veto. That is what it is all about. Members can talk about things in here that may apply, and the Parliamentarian says it is not germane. To think we can dispose of this piece of legislation in a few minutes is not sensible. This is something that will take a lot of debate. Senator CONRAD, alone, would take a number of hours. Senator BYRD would take a number of hours. Senator LEVIN, who is one of the plaintiffs taking this to the Supreme Court, would take a significant amount of time.

I hope my friends on the other side of the aisle would reconsider. After what has gone on in Washington, in the courts alone, this requires our doing something. We, in good faith, have moved forward on this, playing by the Senate rules. I hope people of good will on the other side of the aisle vote to invoke cloture. If not, as I said earlier today, there is only one reason this bill is going to not pass. It is because the minority does not want it to pass, period, underscore, exclamation point.

So, Mr. President, I ask unanimous consent that the Lott amendments Nos. 78 and 79 be withdrawn, that at 9 o'clock p.m. tonight all time postcloture be yielded back, and without further intervening action or debate, the Senate proceed to vote in relation to the following: Feingold amendment No. 65; Bennett amendment No. 81, as modified; Reid amendment No. 4, as amended, if amended; motion to invoke cloture on the Reid substitute amendment; provided further that there be 2 minutes of debate equally divided between each vote.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Is there objection?

The Republican leader.

Mr. MCCONNELL. Mr. President, reserving the right to object, I might say in response to my good friend, the majority leader, there is no particular reason these votes could not be held in the morning. It is clear we are at an impasse. That frequently happens in the Senate. It is not at all unusual. It is also not at all unusual to have nongermane amendments offered on bills. They are offered on virtually every bill that goes through the Senate. So there is nothing extraordinary happening on this bill that we do not see in the Senate with great repetition on bill after bill after bill after bill.

We have been working in good faith to reach an agreement with respect to Senator GREGG's amendment on enhanced rescission. I wish to thank the Senator from New Hampshire for his patience in that regard. He was here early on this bill. He offered it a week ago—it has now been pending for an entire week—and is prepared for a vote.

Now, the majority leader, to his credit, was attempting to reach an agreement to allow for a vote on this issue at a later date. He mentioned it needed to be sufficiently debated. Of course, at a later date, in the context in which he

and I and Senator GREGG were discussing it, there would be plenty of time for debate, adequate time to make the arguments on both sides to fully consider this important measure, with plenty of time for everyone to have their fair say about it.

Unfortunately, the majority leader has an objection on his side, and therefore it appears we will not be able to finish this bill this week. I hope we can continue to work on a path toward finishing the underlying bill. It passed last year 90 to 8, after the then-minority defeated cloture on one occasion in order to do exactly what this minority is going to do to defeat cloture on one occasion, which is to guarantee consideration of additional amendments.

So I would have hoped we could have had these votes in the morning because not much progress will be made tonight in this regard.

Having said that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there objection?

The Senator from New Hampshire.

Mr. GREGG. Mr. President, reserving the right to object, I just want to thank the Republican leader and the majority leader for their efforts to try to move forward with my amendment. There was a lot of work done, and we had, I thought, a reasonable understanding as to how to proceed, which was outlined on the floor earlier in a colloquy between myself and the Republican leader and the Democratic leader and the assistant Democratic leader.

I regret that there is an objection on the other side. But I appreciate the Republican leader's willingness to protect my rights by maintaining my ability to amend this bill, if I cannot get this amendment up at a later date under a time certain, as we had an understanding at least between the four of us.

I have no objection.

The PRESIDING OFFICER. Is there objection?

The majority leader.

Mr. REID. Mr. President, the unanimous consent request is agreed to; is that right?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 78 and 79) were withdrawn.

Mr. REID. Mr. President, what I want to say is, I do not want anyone to be disabused that the only problem we had with our conversations was the time. As I indicated, I thought it would be appropriate to have a time certain to do this, but there were other issues that became involved in this also about how we would get to conference and other matters that were somewhat complicating, which certainly I did not have an opportunity to even discuss with Senator BYRD. But there were other hurdles we had to jump through. So it is not just as simple as that.

The point is, it was not done. I think that is unfortunate. But the issue before this Senate tonight is whether we are going to move forward with the most significant lobbying and ethics reform, by a large margin, since Watergate. It would be historic legislation. I would remind everyone the legislation that passed last year, 90 to 8, was the original bill we laid down. So everyone understands, it was held up because of the Dubai Ports issue, which was resolved quite quickly.

Mr. President, I yield to my friend from Illinois.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, for the record, a year ago when we debated ethics reform, the cloture motion was opposed on the Democratic side after we considered one amendment—one amendment. We have considered 12 amendments to this bill to this point, plus there have been others that have been accepted by the managers. So our objection a year ago was the fact that we had not opened it to an amendment process. I do not think anyone can argue that point this evening when the minority decides, if they do, to oppose the motion to invoke cloture.

I do not want to read too much into this. I hope this is just a bump in the road. But this is going to be a long journey of 2 years, and it does not start well when a bipartisan bill sponsored by the two leaders—the Democratic and Republican leaders—a substitute cosponsored by both leaders, and amendments cosponsored on both sides of the aisle are not enough impetus for us to pass a bill which is long overdue.

We considered this bill a year ago. It has been set over and over again, but nothing happened. We were determined with the mandate of the last election to see some change on the floor of the Senate. I thought we were off to the right start with a bipartisan measure, an effort to cooperate, an effort to compromise—and there have been many compromises on the floor. To think it is going to break down this evening because we refuse to consider a measure which is not even part of this bill, not even relevant to this bill, not even germane to this bill, tells me that we have reached a bad spot in the road. I hope we can get beyond it. We have a lot of work we need to do in the time to come. I hope it starts off in the same bipartisan manner, but I hope it ends better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 81, AS MODIFIED

Mr. BENNETT. Mr. President, I am grateful to the majority leader for scheduling a vote on my amendment No. 81. I wish to inform the Members of the Senate that Senator FEINSTEIN and I have been working to get this worked out in such a fashion that a recorded vote would not be necessary.

I raised the issue because lawyers on our side examined the underlying legislation and said the way it was worded, it could, in fact, be interpreted to prevent the 501(c)(3) activity that is purely educational and not connected with lobbying in any way, in which many of us participate.

The flagship example of that is the Aspen Institute and their Congressional Program. I am told the Aspen Institute has approved the language that is in the underlying bill. But I am convinced from the analysis of the lawyers that someone who wanted to do that program harm could, in fact, take the language of the underlying bill and attack the Aspen Institute Congressional Program.

Furthermore, while the Aspen Institute is perhaps the best known and the best supported, there are a number of other purely educational programs conducted by groups that have some connection with lobbyists. They do not take lobbyists on the trip. The lobbyists do not use the trip in any way. But because the organization has some connection to a lobbyist—may have employed a lobbyist for some issue unrelated to the trip or may, as in the case of the Aspen Institute, have lobbyists on its board—I am told that someone who wanted to disrupt those programs could challenge them.

So we have tried to work out a way to carve out this area reasonably and clearly, and we thought we had a deal. We had approval from both sides of the aisle by Senators who looked at it and said: Yes, this is exactly right. This is something we can certainly live with. We were, frankly, within minutes of having a voice vote on this, and then an objection was raised. The Senator who raised the objection has refused to budge. He has refused to compromise.

I have modified our original proposal in an effort to get compromise and have been unable to get it. So we will be voting on it. I would hope everyone would understand, when the time comes to vote on the Bennett amendment No. 81, that we are not, in fact, as some might allege, creating any kind of a loophole. The Ethics Committee will be involved to review all of these programs in advance, to make sure they are, in fact, educational programs. Lobbyists will not be allowed to travel or be present at any of the meetings.

We are talking about the kinds of things we should have more of in the Congress rather than less—opportunities across the aisle to get together under the sponsorship of a neutral organization, in a neutral location, and talk through the various problems.

Again and again, as I have been involved in these things, people say to me: Why can't we have more of this in Congress? The way the underlying bill is written contains the potential of having less of it. My amendment is structured to see to it that we are able to preserve those connections and relationships we already have. And if some future foundation decides to fund a 501(c)(3) for an additional one, they will not be prohibited from doing so just because someone on the foundation's

board happens to be a lobbyist. They will not be prevented from doing so just because someone connected with the 501(c)(3) happens to be a lobbyist, totally removed and apart from anything the 501(c)(3) is trying to do.

I believe very strongly this is the way we ought to go. I am grateful to my chairman, Senator FEINSTEIN, for her willingness to cooperate in a compromise. I am sorry we have been unable to work it out so that it is necessary for us to have a vote.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

VOTE ON AMENDMENT NO. 65

Mr. REID. Mr. President, I ask unanimous consent that the vote begin now and be discontinued at 20 after the hour.

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

Under the previous order, the question occurs on agreeing to amendment No. 65 offered by the Senator from Wisconsin.

Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. LOTT. The following Senators were necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from South Carolina (Mr. DEMINT), the Senator from Nebraska (Mr. HAGEL), and the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 89, nays 5, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—89

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

NAYS—5

Coburn	Inhofe	Voinovich
Enzi	Thomas	

NOT VOTING—6

Bond	Hagel	Sessions
DeMint	Johnson	Wyden

The amendment (no. 65) was agreed to.

Ms. STABENOW. Mr. President, I move to reconsider the vote.

Mr. SALAZAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 81, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes equally divided prior to a vote in relation to amendment No. 81, offered by the Senator from Utah.

The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, for the information of Senators, on this amendment I wish to give them the names of the groups that would likely be prohibited from sponsoring educational travel, unless this amendment is adopted: Aspen Institute, Transatlantic Policy Network, Save the Children, CARE, Global Health Council, Population Action International.

For those who think this is a loophole that Jack Abramoff could drive through, I point out that the amendment requires the Ethics Committee to vet each program in advance, examine who is going, whether there would be a lobbyist present, and what the purpose is. If you vote against this amendment, in my view, you are expressing a vote of no confidence in the chairman and ranking member of the Ethics Committee, Senators BOXER and CORNYN. I urge adoption of the amendment.

Mr. REID. Mr. President, I yield 1 minute to the Senator from Wisconsin, Mr. FEINGOLD.

Mr. FEINGOLD. Mr. President, the Reid amendment draws a bright line. Groups that employ or retain lobbyists could not provide trips of over 1 day. The Bennett amendment allows 501(c)(3)s that lobby to provide trips. There is a limitation that will prevent this amendment from becoming a loophole that will lead to kinds of abuses we saw with Jack Abramoff and his trips to Scotland. If these groups don't lobby, there is no limitation; they can do this. That means, unlike what the Senator from Utah said, the Aspen Institute would not be prohibited under the Reid amendment. We must defeat this amendment to keep our rules parallel to the House rules and prevent lobbyists from funding these trips.

The PRESIDING OFFICER. All time is expired. The question is on agreeing to the amendment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. LOTT. The following Senators were necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Nebraska (Mr. HAGEL).

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

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—51

Alexander	DeMint	McCain
Allard	Dole	McConnell
Bennett	Domenici	Mikulski
Brownback	Ensign	Murkowski
Bunning	Enzi	Nelson (NE)
Burr	Graham	Roberts
Carper	Gregg	Sessions
Chambliss	Hatch	Smith
Coburn	Hutchison	Snowe
Cochran	Inhofe	Specter
Coleman	Isakson	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Thomas
Corker	Leahy	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner

NAYS—46

Akaka	Feinstein	Obama
Baucus	Grassley	Pryor
Bayh	Harkin	Reed
Biden	Inouye	Reid
Bingaman	Kennedy	Rockefeller
Boxer	Kerry	Salazar
Brown	Klobuchar	Sanders
Byrd	Kohl	Schumer
Cantwell	Lautenberg	Shelby
Cardin	Levin	Stabenow
Casey	Lieberman	Tester
Clinton	Lincoln	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden
Durbin	Murray	
Feingold	Nelson (FL)	

NOT VOTING—3

Bond	Hagel	Johnson

The amendment (No. 81), as modified, was agreed to.

Mr. REID. 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.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, it is my understanding there are two more votes; is that right?

The PRESIDING OFFICER. There are two more votes.

Mr. REID. I ask unanimous consent that the votes be 10 minutes in length.

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

Mr. REID. I am sorry, I should have suggested that on the last vote, but I just didn't do it.

AMENDMENT NO. 4, AS MODIFIED AND AMENDED

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided before a vote on amendment No. 4, as modified and amended, offered by the Senator from Nevada, Mr. REID.

Mr. REID. I yield back my minute.

The PRESIDING OFFICER. The majority leader yields back his minute. Who seeks time in opposition?

Mr. BENNETT. I yield back my time.

The PRESIDING OFFICER. The Senator from Utah yields back his time. All time is yielded back.

The question is on agreeing to amendment No. 4, as modified and amended.

Ms. SNOWE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators were necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Nebraska (Mr. HAGEL).

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

The result was announced—yeas 88, nays 9, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—88

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

NAYS—9

Burr	Ensign	Murkowski
Coburn	Inhofe	Stevens
Cochran	Lott	Thomas

NOT VOTING—3

Bond	Hagel	Johnson

The amendment (No. 4), as modified and amended, was agreed to.

Mr. DURBIN. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided on the motion to invoke cloture on the Reid substitute. Who yields time?

Mr. REID. Mr. President, this is the vote. People who do not vote to invoke cloture are not in favor of doing away with the culture of corruption we have here in Washington. This is good legislation. It is the most significant reform since Watergate by many degrees. I hope people will vote for cloture.

Mr. MCCONNELL. Mr. President, the minority will hopefully vote against cloture, just like the minority last year voted against cloture on the very same bill, or a very similar bill for the very same reason: to guarantee the opportunity to offer additional amendments. I urge all of our colleagues to vote no.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, by unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule 22 of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the Reid substitute amendment No. 3 to Calendar No. 1, S. 1 Transparency in the Legislative Process.

Harry Reid, Dianne Feinstein, Joseph Lieberman, Tom Carper, Ken Salazar, Robert Menendez, Patty Murray, Jon Tester, Jack Reed, Joe Biden, Debbie Stabenow, Daniel K. Akaka, Barbara Mikulski, Benjamin L. Cardin, Dick Durbin, Ted Kennedy.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 3 offered by the Senator from Nevada, Mr. REID, an amendment in the nature of a substitute, shall be brought to a close?

The yeas and the nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators were necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Nebraska (Mr. HAGEL).

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

The yeas and nays resulted—yeas 51, nays 46, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—51

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Kennedy	Pryor
Brown	Kerry	Reed
Byrd	Klobuchar	Rockefeller
Cantwell	Kohl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Smith
Clinton	Levin	Stabenow
Coleman	Lieberman	Tester
Conrad	Lincoln	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden

NAYS—46

Alexander	Burr	Corker
Allard	Chambliss	Cornyn
Bennett	Coburn	Craig
Brownback	Cochran	Crapo
Bunning	Collins	DeMint
Dole	Kyl	Snowe
Domenici	Lott	Specter
Ensign	Lugar	Stevens
Enzi	Martinez	Sununu
Graham	McCain	Thomas
Grassley	McConnell	Thune
Gregg	Murkowski	Vitter
Hatch	Reid	Voinovich
Hutchison	Roberts	Warner
Inhofe	Sessions	
Isakson	Shelby	

NOT VOTING—3

Bond	Hagel	Johnson

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 46. A quorum being present, two-thirds of the Senators voting not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

Mr. REID. Mr. President, I enter a motion to reconsider that vote.

The PRESIDING OFFICER. The motion to reconsider is entered.

Mr. REID. I ask unanimous consent that the cloture vote on the bill be delayed to occur only if cloture is invoked on the substitute.

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

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. 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 West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak as in morning business.

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

Mr. BYRD. Mr. President, I rise tonight at this late hour. The hour is late and the night is black. I rise tonight to shine a bright light on political chicanery that is playing out on the Senate floor.

In November, America voted for a change. The people sent a strong signal that they wanted less partisanship and more accountability in Washington. In response to the voters, Senator REID, Senator FEINSTEIN, and Senator MCCONNELL put before the Senate an ethics reform bill that would add transparency and accountability to the legislative process. They should be proud of their product, and the Senate has had a good debate thus far on the bill.

But wait, wait, wait 1 second. Before we can clear the way for greater accountability and sunshine into the way work gets done in these halls, the Senate is being blackmailed into an assault on the Congress's single most precious and most powerful authority—the power of the purse. That is the most powerful authority we have: the power of the purse.

Tonight, this reform bill is threatened by an effort by our colleagues on the other side of the aisle to give the President line-item veto authority. No vote on the line-item veto, they say,

and no ethics reform. That is nothing more than legislative blackmail, and I, for one, will not pay the price. No one should stand still when this Constitution, which I hold in my hand, is the hostage. No one should stand still, I repeat, when this Constitution, which I hold in my hand, is the hostage.

This line-item veto authority would grant tremendous and dangerous new power to the President. He would have unchecked authority to take from the Congress the power of the purse, a power that the constitutional Framers thought was absolutely vital to protecting the people's liberties.

It was just 8 years ago that the U.S. Supreme Court decided that the line-item veto was unconstitutional. Now our colleagues—some of them—on the other side of the aisle are threatening to hold up the ethics reform bill in an effort to hand the President another line-item veto authority. Are the memories around here so short?

Are the memories around here so short?

We have a President who already has asserted too much power. This is a blatantly gross attempt to take even more power for the President and strip away power from the people.

This President claimed the unconstitutional authority to tap into the telephone conversations of American citizens without a warrant or court approval.

This President claimed the unconstitutional authority to sneak and peek, to snoop and scoop, into the private lives of the American people.

This President has taken the Nation to a failed war based on faulty evidence and the misrepresentation of facts. And many Senators voted not realizing that was what was being done when we voted on the war resolution.

So I say, this President has taken the Nation to a failed war based on faulty evidence and an unconstitutional doctrine of preemptive strikes. More than 3,000 American sons and daughters have died in Iraq in this crazed Presidential misadventure.

And what is the response of the Senate? To give the President even more unfettered authority? To give him greater unchecked powers? We have seen the danger of the blank check. We have lived through the aftermath of a rubberstamp Congress. We should not continue to lie down for this President or any other President.

Of course, this President wants to take away Congress's power of the purse. When Congress has the sole ability to shut down these unconstitutional practices, when Congress is asking tough questions and demanding truthful answers about this war, when Congress is taking a hard look at finding ways to begin to bring our troops home, over the objections of this administration, the President's response is to demand that the Congress give away its most crucial power. Silence the Congress. Ignore the people. Strip away our constitutional protections and one may just as well strip away the people's liberties lock, stock, and barrel. Strip away the power of the Congress, the power of the people, and amass all power behind the fences and secret doors of the White House.

No Senator should vote to hand such power to the President. No American should stand for it—not now, not ever.

If our colleagues on the other side of the aisle want to stop the Senate's effort to add transparency and accountability to the legislative process, that is their right and their choice. But I will not blink. I cannot look the other way. We should get on with the business at hand and pass meaningful ethics reform legislation. But we should never, never, hand away those precious constitutional powers—the last protections of the people's liberties, vested in the people's representatives in this Congress—to any President.

We have each taken an oath to protect and defend this Constitution of the United States. Here it is. I hold it in my hand. I say again, we have each taken an oath to protect and defend this Constitution of the United States. And it is about time we did protect and defend that Constitution of the United States.

Mr. President, I thank the Chair. I thank all Senators.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. I ask unanimous consent that there now be a period of morning business with Senators allowed to speak therein for a period of up to 10 minutes each.

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

MARTIN LUTHER KING, JR.

Mr. DURBIN. Mr. President, I rise today to honor Dr. Martin Luther King, Jr., a great man who inspired ordinary African Americans to demand equal rights as American citizens. This year, we celebrate what would have been Dr. King's 78th birthday and his dream for equality and justice for all that remains our Nation's moral compass.

In honoring Dr. King on this particular anniversary of his birth, we remember that it has been a year since we lost his wife and indispensable partner, Coretta Scott King, who died on January 30, 2006. Mrs. King was a woman of quiet courage and great dignity who marched alongside her husband and became an international advocate for peace and human rights. She had been actively engaged in the civil rights movement as a politically and socially conscious young woman and continued after her husband's death to lead the country toward greater justice and equality for all, traveling the world on behalf of racial and economic justice, peace and nonviolence, women's and children's rights, gay rights, religious freedom, full employment, health care, and education.

Much has improved since 1966, when Martin Luther King, Jr., and Ralph Abernathy organized marches and protests in Chicago. Today, 80 percent of African Americans older than 25 have earned their high school diploma, and there are 2.3 million African American college students, an increase of 1 million from 15 years ago. In addition, there are 1.2 million African-American businesses across the country that generate $88.6 billion in revenues.

This important day calls us to recognize the challenges that remain and the work that still must be done to move closer to Dr. King's dream. If he were alive today, Dr. King would undoubtedly be dismayed by injustices large and small, including the violence in Iraq, the deepening divide between those who have and those who do not, and the prohibitive cost of higher education, which is now out of reach for many African-American and Hispanic families. In the wealthiest Nation on Earth, 37 million people live in poverty, 47 million people do not have health insurance, and millions more are underinsured.

Our Nation is a better one thanks to Dr. King and the sacrifices he and others made during the 1950s and 1960s. I remembered that as I walked in some of those same footsteps when I joined U.S. Representative JOHN LEWIS' pilgrimage to Selma and Montgomery, Alabama. Although there is much of Dr. King's dream that remains to be fulfilled, I have faith that we will continue to move toward the equality and justice that he sought. As a nation, we must and we shall.

Mr. KYL. Mr. President, on January 15, our Nation commemorated the birthday of the Reverend Dr. Martin Luther King, Jr. Every year we pay tribute to the life of this great American. But, in honoring Dr. King, we celebrate more than his life; we celebrate the legacy of his words and deeds, and the virtues that he embodied.

Today, we remember Dr. King because he represents the best of the American spirit: someone who is compassionate, devoted, courageous, and hopeful. His compassion drew him to the plights of the poor and oppressed, and his devotion led him to champion their cause. His courage led him to act on this devotion, countless times placing himself in harm's way. Indeed, it was because of his courage that he fell to an assassin's bullet in 1968. And, his hope sustained him, even in the face of bitter racism.

All of these virtues—compassion, devotion, courage, and hope—propelled

Dr. King to the esteemed place he occupies today.

Perhaps Dr. King's most enduring virtue was his hope. It surely was on display when he delivered his most famous oration. In 1963, on the steps of the Lincoln Memorial, gazing out at the Washington Monument and beyond to the Capitol, he delivered his ''I Have a Dream'' speech, which is familiar to all Americans.

As Dr. King looked upon these impressive symbols of America, he reflected upon the glaring shortcoming of our democracy. For all its successes, America had failed to realize the truth put forth in our Declaration of Independence: ''that all men are created equal.'' Amid these monuments to the promise of America, he told hundreds of thousands of the Nation's greatest injustice: racial inequality. Yet he still maintained hope, speaking in terms dreams and freedom.

In 1964, President Lyndon Johnson signed the Civil Rights Act, and the Voting Rights Act became law the following year. Despite these legislative gains, Dr. King realized that achieving equality of opportunity required something much greater, and far more difficult, than mere legislation. It required a change in the hearts and minds of citizens.

Despite this challenge, his optimism did not waver. In 1967, he appeared on ''Meet the Press'' where he was asked if he believed ''the American racial problem can be solved.''

''Yes, I do,'' he replied. ''I refuse to give up. I refuse to despair it in this moment. I refuse to allow myself to fall into the dark chambers of pessimism, because I think in any social revolution, the one thing that keeps it going is hope.''

King's hope survived him, and today we are closer to the world that he envisioned.

We honor historical figures not merely because they achieved or said great things. We honor them because their lives continue to offer insight that we might use to improve our world.

''[T]he goal of America is freedom,'' he wrote as he sat in a Birmingham, AL, jail cell. Only a man with great hope and faith in the triumph of good could write those words in those circumstances. It is with similar hope that we as Americans should proceed today, whatever the challenges that confront us.

NATIVE HAWAIIAN REORGANIZATION ACT

Mr. ALEXANDER. Mr. President, today the Senator from Hawaii, Mr. AKAKA, reintroduced the Native Hawaiian Reorganization Act, a bill that would create a new, race-based government within the borders of the United States. I strongly oppose this bill. This legislation was considered and rejected by the Senate last year; we ought not waste one moment of the Senate's time on it this year. Instead, we should consider legislation that unites us all as Americans. Our Nation must remain ''one Nation, under God, indivisible, with liberty and justice for all''—''not many Nations, divided by race, with special privileges for some.'' Here are four reasons this bill should be stopped in its tracks: 1. It would create a new, sovereign government within our borders. 2. As noted by the U.S. Civil Rights Commission, the bill ''would discriminate on the basis of race or national origin.'' 3. The bill is really about transferring control over ''land'' and ''other assets'' to this new, race-based government. 4. Native Hawaiians are not just ''another Indian tribe'' since they do not meet the requirements under current law of being sovereign for the last 100 years, living as a separate and distinct community, and having a preexisting political organization.

I hope my colleagues will join me in opposing this dangerous piece of legislation.

GRAND VALLEY STATE UNIVERSITY LAKERS

Mr. LEVIN. Mr. President, I would like to congratulate the Grand Valley State Lakers on winning the 2006 Division II National Championship. Grand Valley completed a highly entertaining and rewarding season on December 16, 2006, when they defeated Northwest Missouri State 17–14 in the championship game. This victory is a great source of pride for all those affiliated with Grand Valley State University and for the State of Michigan.

It was a record breaking year on many fronts for the Grand Valley State Football team. This victory was the culmination of a perfect 15–0 season for the Lakers. Under the guidance of Coach Chuck Martin, Grand Valley State won their fourth Division II Championship in the last 5 years. During this time, the Lakers have become a powerhouse in Division II football and have a .709 winning percentage. Since 1999, they have an extraordinary 86–9 record, which is the second highest in all of college football. Moreover, quarterback Cullen Finnerty became the most prolific offensive player in college football history this year. In his 4-year career, Finnerty amassed a 51–4 record and led the Lakers to three national championships. As quarterback of the Lakers, Finnerty finished his career with over 10,000 total yards, including over 2,000 yards rushing.

The championship game provided its share of excitement. The thousands of GVSU fans and supporters who made the trip from the campus in Allendale to the stadium in Florence, AL, were not disappointed with the result. It proved to be a hard fought contest between two great teams. Grand Valley State eventually forced three crucial turnovers in the game, which included a NW Missouri St. fumble in the Grand Valley end zone late in the fourth quarter. Junior cornerback Bill Brenchin made significant contributions on all three plays. Brenchin ended the game with two interceptions and recovered the fumble in the end zone as NW Missouri St. attempted to tie or win the game. Overall, the Grand Valley defense was too much for NW Missouri St. to overcome, and, the Laker offense, under Finnerty's direction had more than enough weapons to stifle the opposing defense.

I am proud to recognize the Grand Valley State football team for their remarkable achievements on the field this year. They have proven that hard work, dedication and commitment can produce great results. The members of the team should be proud of their efforts and should savor their recent success. They have been a tremendous source of inspiration for both the Grand Valley State community and the entire State of Michigan.

Each member of the Grand Valley State team, including Anthony Adams, Sam Allen, Matt Bakker, Lyle Banks, Brandon Barnes, Ryan Bass, Matt Beaty, Nate Beebe, P.J. Beuke, Chad Biggar, Scott Blasko, Cameron Bradfield, Bill Brechin, Drew Burton, Tory Buter, Samad Cain, Robert Carlisle, Brandon Carr, Tony Carr, Tony Carreri, Kirk Carruth, Todd Carter, Mark Catlin, Carlos Clark, Aaron Conti, Greg Copeland, Mendalson Covington, Anthony Crump, Joe Davis, Corey Edwards, Jeremy Ehinger, Billy Eisenhardt, Ian Evans, Eric Ewing, Gary Fant, Chris Favors, Cullen Finnerty, Matt Flutur, Dan Foster, Eric Fowler, Preston Garris, Ryan Gaydosh, Alex Gilde, Brennen Blass, John Godush, Maurice Gore, Mike Graham, D.D. Hardy, James Hardy, Brett Harris, Jacob Henige, Brett Hines, Drew Hinkle, Tyler Holtz, Nick Hopkins, Brad Hull, Brad Iciek, Jay Jandasek, Nate John, Blake Johncock, Derrick Jones, Sam Jones, Zach Jones, Lamar Keith, Mike Koster, Buster Larkins, Mike Leiffers, Astin Martin, John Matthews, Nick McDonald, Mike McFadden, Jacob McGuckin, Byron Miles, David Misiewicz, Terry Mitchell, Jaquon Morrison, Mike Mukuna, Frank Mulder, Jordan Munson, Doug Neumeyer, Courtney Partee, Denny Pittman, Justin Pollock, Danny Richard, Chad Richardson, Sean Roland, Matt Russell, Brandon Ryan, Mike Scherpenberg, Felix Sharpe, Dan Skuta, Blake Smolen, Chad Somerville, Derek Stansbery, Bretty Stengele, Sean Stevens, Alex Szarenski, Joey Teague, Bryan Thomas, Tony Thompson, Jacob Topp, Lance Travis, Antoine Trent, Justin Trumble, Justin Ulberg, Justin Victor, Matt Wade, John Wasmund, Collin Williams, Justin Winsor, Joe Wohlscheid, and James Wojiechowski, made meaningful contributions to the success of the football team and proved once again the strength of teamwork and commitment.

I know my colleagues in the Senate join me in congratulating Coach Martin and the 2006 Grand Valley State

Lakers on their Division II National Championship.

ADDITIONAL STATEMENTS

RECOGNIZING WILLIAM T. ''BILL'' McLAUGHLIN

● Mr. CARPER. Mr. President, today I wish to recognize Mayor William T. McLaughlin. Bill, as he is affectionately called by his friends—and Bill has a lot of friends—celebrated his 90th birthday on December 22, 2006. During the 90 years that the world has been blessed with Bill's presence, he and his late wife Mary have touched many lives and helped countless people. His contributions have ranged from serving his country during World War II, serving the city of Wilmington for two terms as the city's mayor and for 12 years on the city council before that, and offering continued service with numerous community projects both before and after his tenure in elected office.

William T. McLaughlin was born on December 22, 1916, on Wilmington's east side. One of 12 children, Bill often joked that the Great Depression helped to raise his family's standard of living. When Bill was 16 years old, his father lost his job. Bill's devotion to his family led to his dropping out of high school in order to accept a job cleaning the Boy's Club in Wilmington's Browntown neighborhood. He then went to work at a linoleum plant where, after being turned down for a two-cent raise, he helped organize a union for the plant employees. This type of initiative would be a hallmark of Bill's life.

At the age of 22, Bill signed up for the National Youth Administration, a Federal program he hoped would send him to California. Instead, he was assigned to a swamp drainage program in southern Delaware.

After helping to reduce Delaware's mosquito population, Bill decided to seek more adventurous endeavors and joined the Army Air Force during World War II. He trained as an electrical technician and saw action as a radio operator and tail gunner. He was shot down over the skies of New Guinea but managed to survive and went on to complete 50 missions before returning home to Wilmington.

Upon his return, Bill attended night school on the GI bill. During this time, Bill went to work for DuPont, where he would work for 30 years, mostly as a supervisor in the company's business machines section.

It was during this time that Bill would meet the woman who would become the love of his life. Mary's enthusiasm and outgoing personality were a good counterpoint to Bill's soft-spoken manner and she would have a huge influence on both his future and the future of Wilmington. Together, they raised two sons, William and Donald.

Unlike many elected officials, Bill did not enter politics until the later years of his life. In 1964, Mary encouraged him to run for Wilmington's 9th ward city council seat. Bill won the election and continued to serve on the city council for 12 years. During this time, he became the council's finance chairman. In 1976, he agreed to seek election as Wilmington's mayor after then-Mayor Tom Maloney decided to run for the U.S. Senate.

Bill was elected as Wilmington's mayor and served two terms in that capacity, serving from 1977 until 1984. During this time, his openness and compassion helped him cultivate a renaissance for the city. He held weekly ''open door'' sessions where any citizen could come by his office and voice their concerns or simply chat about local issues.

As mayor, he worked with Governor Pete DuPont and other State leaders to develop the Financial Center Development Act, which laid the foundation for Delaware's rebirth as a financial services center. He also helped lead the efforts to recruit dozens of out-of-State banks to set up shop in Delaware, creating more than 30,000 jobs for the First State.

During his time in office, Mayor McLaughlin helped implement the desegregation of Delaware's public school system in northern Delaware. Bill never forgot the obstacles that he had to overcome during his lifetime and sought to level the playing field for all Delawareans, regardless of the color of their skin. He also increased housing opportunities for people with low incomes, and he worked tirelessly to create new jobs by recruiting potential employers to settle in Wilmington and the surrounding areas.

Bill also played a pivotal role in promoting the Delaware arts community, helping to create the Delaware Theatre Company and the Delaware Center for Contemporary Arts.

What stands out most to me—and for a generation of Delaware's political leaders—is Bill's willingness to mentor young people seeking elected office. When I first ran for State treasurer in 1976, Bill was among the first public officials I reached out to. His support and kindness were instrumental in my first campaign and continue to be a source of inspiration for many of Delaware's elected officials.

After leaving office in 1984, Bill continued to play a vital role in the lives of countless Delawareans. He championed the disadvantaged through his involvement with numerous community service efforts. In 1996, he and Mary founded the William T. and Mary McLaughlin Education Fund, which continues to provide academic support for deserving students in Wilmington and New Castle County. After Mary's passing in 2002, Bill continued their work to help better the lives of their fellow Delawareans.

Bill's hard work and devotion to service have led to countless community service awards. In 1985, on his last day as Wilmington's mayor, Bill was awarded the Josiah Marvel Cup for public service, the Delaware State Chamber of Commerce's most prestigious award. Many people would have seen that award as a capstone, but Bill seemed to view it as a foundation upon which he continues to build his legacy.

Bill is a true friend of Delaware. His compassion, integrity, warm sense of humor and vitality of spirit are a true inspiration for us all. I rise today to commend his hard work, to applaud his devotion to community service and to wish him many more happy birthdays in the years to come.●

MESSAGES FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 188. An act to provide a new effective date for the applicability of certain provisions of law to Public Law 105–331.

H.R. 391. An act to authorize the Secretary of Housing and Urban Development to continue to insure, and to enter into commitments to insure, home equity conversion mortgages under section 255 of the National Housing Act.

At 5:55 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. 5. A bill to amend the Higher Education Act of 1965 to reduce interest rates for student borrowers.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5. An act to amend the Higher Education Act of 1965 to reduce interest rates for student borrowers; to the Committee on Health, Education, Labor, and Pensions.

H.R. 188. An act to provide a new effective date for the applicability of certain provisions of law to Public Law 105–331; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 391. An act to authorize the Secretary of Housing and Urban Development to continue to insure, and to enter into commitments to insure, home equity conversion mortgages under section 255 of the National Housing Act.

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–358. A communication from the Principal Deputy Associate Administrator, Office

of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of HFE–7300'' (FRL No. 8270–6) received on January 16, 2007; to the Committee on Environment and Public Works.

EC–359. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Correction'' (FRL No. 8269–2) received on January 16, 2007; to the Committee on Environment and Public Works.

EC–360. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Environmental Protection Agency Implementation of OMB Guidance on Nonprocurement Debarment and Suspension'' ((RIN2030–AA94)(FRL No. 8270–6)) received on January 16, 2007; to the Committee on Environment and Public Works.

EC–361. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, a document recently issued by the Agency that is related to its regulatory programs; to the Committee on Environment and Public Works.

EC–362. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–536 , ''Organ and Bone Marrow Donor Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–363. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–539 , ''Child Abuse and Neglect Investigation Record Access Temporary Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–364. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–540 , ''Department of Small and Local Business Development Subcontracting Clarification Temporary Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–365. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–541 , ''Office and Commission on African Affairs Clarification Temporary Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–366. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–542 , ''Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–367. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–543 , ''Commercial Exception Clarification Temporary Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–368. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–544 , ''Mayor and Chairman of the Council Transition Revised Temporary Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–369. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–545 , ''Comprehensive Psychiatric Emergency Program Long-Term Ground Lease Temporary Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–370. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–546 , ''Good Samaritan Use of Automated External Defibrillators Clarification Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–371. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–547 , ''Consumer Education on Video and Computer Games for Minors Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–372. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–548 , ''Audiology and Speech-Language Pathology Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–373. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–549 , ''Physical Therapy Assistant Licensure Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–374. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–550 , ''Physical Therapy Practice Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–375. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–551 , ''Licensed Health Professional Criminal Background Check Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–376. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–552 , ''Metropolitan Police Department Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–377. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–553 , ''Personal Mobility Device Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–378. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–554 , ''District Department of Transportation DC Circular Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–379. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–555, ''Square 2910 Residential Development Stimulus Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–380. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–556, ''Wisconsin Avenue Bridge Project and Noise Control Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–381. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–557, ''Surgical Assistant Licensure Amendment Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–382. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–558, ''Closing of Public Alleys in Square 776, S.O. 06–9227, Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–383. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–559, ''Closing of Public Alleys in Square 701, S.O. 06–9889, Act of 2006'' received on January 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–384. A communication from the Director, National Gallery of Art, transmitting, pursuant to law, a report relative to the Gallery's competitive sourcing efforts for fiscal year 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–385. A communication from the Director, National Gallery of Art, transmitting, pursuant to law, the Gallery's Inventory of Commercial and Inherently Governmental Activities Report for fiscal year 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–386. A communication from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting, pursuant to law, a report relative to the Corporation's category rating system; to the Committee on Homeland Security and Governmental Affairs.

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. AKAKA (for himself, Mr. INOUYE, Mr. DORGAN, Ms. CANTWELL, Mr. COLEMAN, Mr. STEVENS, Ms. MURKOWSKI, Mr. SMITH, and Mr. DODD):

S. 310. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; to the Committee on Indian Affairs.

By Ms. LANDRIEU (for herself, Mr. ENSIGN, Mrs. BOXER, Mr. KERRY, Mr. REED, Mr. LEVIN, Mr. CARPER, Mr. GRAHAM, Ms. COLLINS, Mr. MENENDEZ, Ms. SNOWE, and Mr. BYRD):

S. 311. A bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM (for himself and Mr. DEMINT):

S. 312. A bill to authorize the Marion Park Project and Committee of the Palmetto Conservation Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor Brigadier General Francis Marion; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 313. A bill for the relief of Ibrahim Parlak; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 314. A bill for the relief of Josephina Valera Lopez; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. WEBB, Mr. GRASSLEY, Mr. CORNYN, Mr. THUNE, and Mr. GRAHAM):

S. 315. A bill to establish a digital and wireless network technology program, and for other purposes; to the Committee on Commerce , Science, and Transportation.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. LEAHY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 316. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. CARPER):

S. 317. A bill to amend the Clean Air Act to establish a program to regulate the emission of greenhouse gases from electric utilities; to the Committee on Environment and Public Works.

By Mrs. DOLE:

S. 318. A bill to redesignate the Special Textile Negotiator of the United States Trade Representative as the Chief Textile Negotiator and confer the rank of Ambassador upon that position, and for other purposes; to the Committee on Finance.

By Mr. SALAZAR:

S. 319. A bill to amend the Internal Revenue Code of 1986 to reduce the incentive to purchase larger and luxury motor vehicles; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. WYDEN, Mr. BUNNING, Mr. INOUYE, and Mr. DURBIN):

S. 320. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THUNE (for himself and Ms. KLOBUCHAR):

S. 321. A bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies; to the Committee on Finance.

By Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. MCCAIN, Mr. CONRAD, Mr. BINGAMAN, Mr. BAUCUS, Mr. SMITH, and Mr. INOUYE):

S. 322. A bill to establish an Indian youth telemental health demonstration project; to the Committee on Indian Affairs.

By Mrs. BOXER:

S. 323. A bill to require persons seeking approval for a liquefied natural gas facility to identify employees and agents engaged in activities to persuade communities of the benefits of the approval; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 324. A bill to direct the Secretary of the Interior to conduct a study of water resources in the State of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. VOINOVICH):

S. 325. A bill to provide for innovation in health care through State initiatives 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 Mrs. LINCOLN (for herself, Mr. THOMAS, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. AKAKA, Mr. PRYOR, Ms. KLOBUCHAR, Mr. ENZI, Mr. HARKIN, Mr. ROCKEFELLER, and Mr. KERRY):

S. 326. A bill to amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. SALAZAR):

S. 327. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 328. A bill to ensure the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VOINOVICH (for himself, Mr. LUGAR, Mr. HAGEL, and Mr. LIEBERMAN):

S. Res. 31. A resolution expressing support for democratic forces in Serbia and encouraging the people of Serbia to remain committed to a democratic path; considered and agreed to.

By Mr. KERRY (for himself and Ms. SNOWE):

S. Res. 32. A resolution authorizing expenditures by the Committee on Small Business and Entrepreneurship; to the Committee on Rules and Administration.

By Mr. BIDEN (for himself, Mr. HAGEL, Mr. LEVIN, and Ms. SNOWE):

S. Con. Res. 2. A concurrent resolution expressing the bipartisan resolution on Iraq; to the Committee on Foreign Relations.

By Mr. SALAZAR (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. LUGAR, Mr. OBAMA, Mr. HAGEL, Mr. DORGAN, Mr. COLEMAN, Mr. KERRY, Mr. THUNE, Mr. NELSON of Nebraska, Mr. BROWNBACK, Ms. CANTWELL, Mr. ALLARD, Mr. KOHL, Mr. MENENDEZ, Mr. TESTER, Mrs. CLINTON, Mr. BROWN, Mr. BAUCUS, Mr. DURBIN, Mr. FEINGOLD, and Mr. COCHRAN):

S. Con. Res. 3. A concurrent resolution expressing the sense of Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should provide from renewable resources not less than 25 percent of the total energy consumed in the United States and continue to produce safe, abundant, and affordable food, feed, and fiber; to the Committee on Agriculture, Nutrition, and Forestry.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of S. 2, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

At the request of Mr. SALAZAR, his name was added as a cosponsor of S. 2, supra.

S. 5

At the request of Mr. REID, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 5, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 21

At the request of Mr. REID, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 21, a bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 113

At the request of Mr. INHOFE, the names of the Senator from North Carolina (Mr. BURR), the Senator from Alabama (Mr. SESSIONS), the Senator from Mississippi (Mr. LOTT) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 113, a bill to make appropriations for military construction and family housing projects for the Department of Defense for fiscal year 2007.

S. 156

At the request of Mr. WYDEN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from South Carolina (Mr. DEMINT), the Senator from Virginia (Mr. WARNER), the Senator from Nevada (Mr. ENSIGN) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 156, a bill to make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

S. 206

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 206, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 267

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 267, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify that territories and Indian tribes are eligible to receive grants for confronting the use of methamphetamine.

S. 291

At the request of Mr. SMITH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 291, a bill to establish a digital and

wireless network technology program, and for other purposes.

S. 308

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 308, a bill to prohibit an escalation in United States military forces in Iraq without prior authorization by Congress.

S. RES. 22

At the request of Mr. LEAHY, his name was added as a cosponsor of S. Res. 22, a resolution reaffirming the constitutional and statutory protections accorded sealed domestic mail, and for other purposes.

AMENDMENT NO. 14

At the request of Mr. DEMINT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 14 proposed to S. 1, a bill to provide greater transparency in the legislative process.

AMENDMENT NO. 20

At the request of Mr. BENNETT, the names of the Senator from Tennessee (Mr. CORKER), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Iowa (Mr. GRASSLEY) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of amendment No. 20 proposed to S. 1, a bill to provide greater transparency in the legislative process.

AMENDMENT NO. 51

At the request of Mr. COBURN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 51 proposed to S. 1, a bill to provide greater transparency in the legislative process.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. DORGAN, Ms. CANTWELL, Mr. COLEMAN, Mr. STEVENS, Ms. MURKOWSKI, Mr. SMITH, and Mr. DODD):

S. 310. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; to the Committee on Indian Affairs.

Mr. AKAKA. Mr. President, I rise today with the senior Senator from Hawaii to introduce the Native Hawaiian Government Reorganization Act of 2007. This bill, which is of great importance to the people of Hawaii, establishes a process to extend the Federal policy of self-governance and self-determination to Hawaii's indigenous people. The bill provides parity in Federal policies that empower our country's other indigenous people—merican Indians and Alaska Natives—to participate in a government-to-government relationship with the United States.

January 17, 2007, commemorates the 114th anniversary of Hawaii's beloved Queen Liliuokalani being deposed. Although this event may seem like a distant memory, it is a poignant event that expedited the decline of a proud and self-governing people. The overthrow facilitated Native Hawaiians being disenfranchised from not only their culture and land, but from their way of life. Native Hawaiians had to endure the forced imprisonment of their Queen and witness the deterioration and near eradication of their culture and tradition in their own homeland, at the hands of foreigners committed exclusively to propagating Western values and conventions.

While Congress has traditionally treated Native Hawaiians in a manner parallel to American Indians and Alaska Natives, the Federal policy of self-governance and self-determination has not been formally extended to Native Hawaiians. The bill itself does not extend Federal recognition—it authorizes the process for Federal recognition.

The Native Hawaiian Government Reorganization Act of 2007 does three things: (1) It authorizes an office in the Department of the Interior to serve as a liaison between Native Hawaiians and the United States; (2) It forms an interagency coordinating group composed of officials from Federal agencies who currently administer programs and services impacting Native Hawaiians; and (3) It authorizes a process for the reorganization of the Native Hawaiian governing entity for the purposes of a federally recognized government-to-government relationship.

Once the Native Hawaiian governing entity is recognized, the bill establishes an inclusive, democratic negotiations process representing both Native Hawaiians and non-Native Hawaiians. Negotiations between the Native Hawaiian entity and the Federal and State governments may address issues such as the transfer of lands, assets, and natural resources and jurisdiction over such lands, assets, and natural resources, as well as other longstanding issues resulting from the overthrow of the Kingdom of Hawaii. Any transfers of governmental authority or power will require implementing legislation at the State and Federal levels.

The Hawaii congressional delegation has devoted much time and careful consideration into crafting this legislation. When I first started this process in 1999, our congressional delegation created five working groups to assist with the drafting of this legislation. The working groups were composed of individuals from the Native Hawaiian community, the State of Hawaii, Federal Government, Indian country, Members of Congress, and experts in constitutional law. Collectively, more than 100 people worked together on the initial draft of this legislation. The meetings held with the Native Hawaiian community were open to the public and a number of individuals who had differing views attended the meetings and provided their alternative views on the legislation.

In August 2000, the Senate Committee on Indian Affairs and the House Committee on Resources held joint field hearings on the legislation in Hawaii for 5 days. While the bill passed the U.S. House of Representatives in the 106th Congress, the Senate failed to take action. The bill was subsequently considered by the 107th, 108th, and 109th Congresses. In each Congress, the bill has been favorably reported by the Senate Committee on Indian Affairs and its companion measure has been favorably reported by the House Committee on Resources in the 106th through the 108th Congress.

Most recently in the 109th Congress clarifications were made to the bill. I want to inform my colleagues to the fact that this bill is identical to legislative language negotiated between Senator INOUYE and myself, and officials from the Department of Justice, Office of Management and Budget, and the White House. The language satisfactorily addresses concerns expressed in July 2005 by the Bush administration regarding the liability of the United States in land claims, the impact of the bill on military readiness, gaming, and civil and criminal jurisdiction in Hawaii.

With respect to liability of the United States as it relates to land claims, as the author of the Apology Resolution, P.L. 103–150, as well as the Native Hawaiian Government Reorganization Act, I have always maintained that this legislation is not intended to serve as a settlement of any claims nor as a cause of action for any claims. The negotiated language makes clear that any grievances regarding historical wrongs committed against Native Hawaiians by the United States or by the State of Hawaii are to be addressed in the negotiations process between the Native Hawaiian governing entity and Federal and State governments.

As a senior member of the Senate Committee on Homeland Security and Governmental Affairs, as well as the incoming Chairman on the Subcommittee on Readiness and Management of the Senate Committee on Armed Services, military readiness for our Armed Forces is of great importance to me. Due to concerns raised by the Department of Defense to the consultation requirements expected to be facilitated by the Office of Native Hawaiian Relations in the Department of the Interior and the Native Hawaiian Interagency Coordinating Group; negotiated language exempts the Department from these consultation requirements. However, these exemptions do not alter nor terminate requirements of the DoD to consult with Native Hawaiians under the Native Graves Protection and Repatriation Act, NAGPRA, National Historic Preservation Act, NHPA, and other existing statutes.

The bill does not authorize gaming by the Native Hawaiian governing entity. Negotiated language clarifies that gaming may not be conducted by Native Hawaiians or the Native Hawaiian governing entity as a matter of

claimed inherent authority or under the authority of any Federal laws or regulations promulgated by the Secretary of the Interior or the National Indian Gaming Commission. The bill also makes clear that the prohibition applies to any efforts to establish gaming by Native Hawaiians and the Native Hawaiian governing entity in Hawaii and in any other State or Territory. This language only applies to efforts to establish gaming operations as a matter of inherent authority as indigenous peoples or under federal laws pertaining to gaming by native peoples.

The bill makes clear that civil and criminal jurisdiction currently held by the Federal and State governments will remain with the Federal and State governments unless otherwise negotiated and implementing legislation is enacted.

I have described the clarifications that have been made so my colleagues know that our negotiations with the administration have been successful. This language has been publicly available since September 2005 and has been widely distributed. Although such clarifications have been made, I am proud to report that the bill remains true to its intent and purpose—to clarify the existing legal and political relationship between Hawaii's indigenous people, Native Hawaiians and the United States.

Along with our efforts to work with the Bush administration, during the past 4 years, we have worked closely with Hawaii's first Republican governor in 40 years, Governor Linda Lingle to enact this legislation. We have also worked closely with the Hawaii State legislature which has passed three resolutions unanimously in support of federal recognition for Native Hawaiians. I am pleased to announce today that I am again joined by members from both sides of the aisle to introduce this important measure. I mention this, to underscore the fact that this is bipartisan legislation.

In addition to its widespread support by both Native Hawaiians and non-Native Hawaiians in Hawaii, in resolutions adopted by the oldest and largest national Indian organization, the National Congress of American Indians, and the largest organization representing the Native people of Alaska, the Alaska Federation of Natives, the members of both groups have consistently expressed their strong support for enactment of a bill to provide for recognition by the United States of a Native Hawaiian governing entity. Organizations such as the American Bar Association, Japanese American Citizen League, and the National Indian Education Association have also passed resolutions in support of federal recognition for Hawaii's indigenous peoples.

Today I provide my colleagues with a framework to understand the need for this legislation by briefly reviewing (1) Hawaii's past, ancient Hawaiian society prior to Western contact, (2) Hawaii's present, the far reaching consequences of the overthrow, and (3) Hawaii's future.

Hawaii was originally settled by Polynesian voyagers arriving as early as 300 A.D, 1200 years before Europe's great explorers Magellan and Columbus. The Hawaiians braved immense distances guided by their extensive knowledge of navigation and understanding of the marine environment. Isolation followed the era of long voyages, enabling Native Hawaiians to develop distinct political, economic, and social structures which were mutually supportive. As stewards of the land and sea, Native Hawaiians were intimately linked to the environment and they developed innovative methods of agriculture, aquaculture, navigation and irrigation.

With an influx of foreigners into Hawaii, Native Hawaiian populations plummeted due to death from common Western diseases. Those that survived witnessed foreign interest and involvement in their government grow until Queen Liliuokalani was forced by American citizens to abdicate her right to the throne. This devastated the Native Hawaiian people, forever tainting the waters of their identity and tattering the very fabric of their society. For some this injustice, this wound has never healed, manifesting itself in a sense of inferiority and hopelessness leaving many Native Hawaiians at the lowest levels of achievement by all social and economic measures.

Mr. President, 14 years ago the United States enacted the Apology Resolution, 103–150, which acknowledged the 100th anniversary of the overthrow of the Kingdom of Hawaii in which the United States offered an apology to Native Hawaiians and declared its policy to support reconciliation efforts. This is a landmark declaration for it recognizes not only are Native Hawaiians the indigenous people of Hawaii, but of the urgent need for the U.S. to actively engage in reconciliation efforts. This acknowledgment played a crucial role in initiating a healing process and although progress has been made, the path ahead is uncertain.

Frustration has led to anger and festered in the hearts of Hawaii's younger generations, with each child that is taught about this period of Hawaiian history, a loss is relived. It is a burden that Native Hawaiians since the overthrow continue to carry, to know that they were violated in their own homeland and their governance was ripped away unjustly. Despite the perceived harmony, it is the generation of my grandchildren that is growing impatient and frustrated with the lack of progress being made. Influenced by a deep sadness and growing intolerance, an active minority within this generation seeks independence from the United States.

It is for this generation that I work to enact this bill so that there is the structured process to deal with these emotional issues. It is important that discussions are held and that there is a framework to guide appropriate action. For Hawaii is the homeland of the Native Hawaiian people.

A lack of action by the U.S. will only incite and fuel us down a path to a divided Hawaii. A Hawaii where lines and boundaries are drawn and unity severed. However, the legislation I introduce today seeks to build upon the foundation of reconciliation. It provides a structured process to bring together the people of Hawaii, along a path of healing to a Hawaii where its indigenous people are respected and culture is embraced.

Respecting the rights of America's first people—American Indians, Alaska Natives, and Native Hawaiians is not un-American. Through enactment of this legislation, we have the opportunity to demonstrate that our country does not just preach its ideas, but lives according to its founding principles. That the United States will admit when it has trespassed against a people and remain resolute to make amends. We demonstrate our character to ourselves and to the world by respecting the rights of our country's indigenous people. As it has for America's other indigenous peoples, I believe the United States must fulfill its responsibility to Native Hawaiians.

I am proud of the fact that this bill respects the rights of Hawaii's indigenous peoples through a process that is consistent with Federal law, and it provides the structured process for the people of Hawaii to address the longstanding issues which have plagued both Native Hawaiians and non-Native Hawaiians since the overthrow of the Kingdom of Hawaii. We have an established record of the United States' commitment to the reconciliation with Native Hawaiians. This legislation is another step building upon that foundation and honoring that commitment.

I ask my colleagues to join me in enacting this legislation which is of great importance to all the people of Hawaii.

Mr. President, I ask unanimous consent that the text of this measure 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. 310

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 ''Native Hawaiian Government Reorganization Act of 2007''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States;

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are indigenous, native people of the United States;

(3) the United States has a special political and legal relationship to promote the welfare of the native people of the United States, including Native Hawaiians;

(4) under the treaty making power of the United States, Congress exercised its constitutional authority to confirm treaties between the United States and the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii;

(B) accorded full diplomatic recognition to the Kingdom of Hawaii; and

(C) entered into treaties and conventions with the Kingdom of Hawaii to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(5) pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside approximately 203,500 acres of land to address the conditions of Native Hawaiians in the Federal territory that later became the State of Hawaii;

(6) by setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Hawaiian Homes Commission Act assists the members of the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii;

(7) approximately 6,800 Native Hawaiian families reside on the Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Hawaiian Home Lands are on a waiting list to receive assignments of Hawaiian Home Lands;

(8)(A) in 1959, as part of the compact with the United States admitting Hawaii into the Union, Congress established a public trust (commonly known as the ''ceded lands trust''), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians;

(B) the public trust consists of lands, including submerged lands, natural resources, and the revenues derived from the lands; and

(C) the assets of this public trust have never been completely inventoried or segregated;

(9) Native Hawaiians have continuously sought access to the ceded lands in order to establish and maintain native settlements and distinct native communities throughout the State;

(10) the Hawaiian Home Lands and other ceded lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival and economic self-sufficiency of the Native Hawaiian people;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii;

(12) on November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the ''Apology Resolution'') was enacted into law, extending an apology on behalf of the United States to the native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii;

(13) the Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

(14) the Apology Resolution expresses the commitment of Congress and the President—

(A) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii;

(B) to support reconciliation efforts between the United States and Native Hawaiians; and

(C) to consult with Native Hawaiians on the reconciliation process as called for in the Apology Resolution;

(15) despite the overthrow of the government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a single distinct native community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency;

(16) Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency—

(A) through the provision of governmental services to Native Hawaiians, including the provision of—

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

(x) native language immersion schools from kindergarten through high school;

(xi) college and master's degree programs in native language immersion instruction; and

(xii) traditional justice programs, and

(B) by continuing their efforts to enhance Native Hawaiian self-determination and local control;

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources;

(18) the Native Hawaiian people wish to preserve, develop, and transmit to future generations of Native Hawaiians their lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, to control and manage their own lands, including ceded lands, and to achieve greater self-determination over their own affairs;

(19) this Act provides a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct, indigenous, native community to reorganize a single Native Hawaiian governing entity for the purpose of giving expression to their rights as native people to self-determination and self-governance;

(20) Congress—

(A) has declared that the United States has a special political and legal relationship for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) has identified Native Hawaiians as a distinct group of indigenous, native people of the United States within the scope of its authority under the Constitution, and has enacted scores of statutes on their behalf ; and

(C) has delegated broad authority to the State of Hawaii to administer some of the United States' responsibilities as they relate to the Native Hawaiian people and their lands;

(21) the United States has recognized and reaffirmed the special political and legal relationship with the Native Hawaiian people through the enactment of the Act entitled, ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4), by—

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held as a public trust for 5 purposes, 1 of which is for the betterment of the conditions of Native Hawaiians; and

(B) transferring the United States' responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the exclusive right of the United States to consent to any actions affecting the lands included in the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act;

(22) the United States has continually recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the indigenous, native people of a once-sovereign nation with whom the United States has a special political and legal relationship; and

(D) the special relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States; and

(23) the State of Hawaii supports the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States as evidenced by 2 unanimous resolutions enacted by the Hawaii State Legislature in the 2000 and 2001 sessions of the Legislature and by the testimony of the Governor of the State of Hawaii before the Committee on Indian Affairs of the Senate on February 25, 2003, and March 1, 2005.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means people whom Congress has recognized as the original inhabitants of the lands that later became part of the United States and who exercised sovereignty in the areas that later became part of the United States.

(2) ADULT MEMBER.—The term ''adult member'' means a Native Hawaiian who has attained the age of 18 and who elects to participate in the reorganization of the Native Hawaiian governing entity.

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a Joint Resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893, overthrow of the Kingdom of Hawaii.

(4) COMMISSION.—The term ''commission'' means the Commission established under section 7(b) to provide for the certification that those adult members of the Native Hawaiian community listed on the roll meet the definition of Native Hawaiian set forth in paragraph (10).

(5) COUNCIL.—The term ''council'' means the Native Hawaiian Interim Governing Council established under section 7(c)(2).

(6) INDIAN PROGRAM OR SERVICE.—

(A) IN GENERAL.—The term ''Indian program or service'' means any federally funded or authorized program or service provided to an Indian tribe (or member of an Indian tribe) because of the status of the members of the Indian tribe as Indians.

(B) INCLUSIONS.—The term ''Indian program or service'' includes a program or service provided by the Bureau of Indian Affairs, the Indian Health Service, or any other Federal agency.

(7) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(9) INTERAGENCY COORDINATING GROUP.—The term ''Interagency Coordinating Group'' means the Native Hawaiian Interagency Coordinating Group established under section 6.

(10) NATIVE HAWAIIAN.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the term ''Native Hawaiian'' means—

(i) an individual who is 1 of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous, native people who—

(I) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(II) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or

(ii) an individual who is 1 of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or a direct lineal descendant of that individual.

(B) NO EFFECT ON OTHER DEFINITIONS.—Nothing in this paragraph affects the definition of the term ''Native Hawaiian'' under any other Federal or State law (including a regulation).

(11) NATIVE HAWAIIAN GOVERNING ENTITY.—The term ''Native Hawaiian Governing Entity'' means the governing entity organized by the Native Hawaiian people pursuant to this Act.

(12) NATIVE HAWAIIAN PROGRAM OR SERVICE.—The term ''Native Hawaiian program or service'' means any program or service provided to Native Hawaiians because of their status as Native Hawaiians.

(13) OFFICE.—The term ''Office'' means the United States Office for Native Hawaiian Relations established by section 5(a).

(14) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(15) SPECIAL POLITICAL AND LEGAL RELATIONSHIP.—The term ''special political and legal relationship'' shall refer, except where differences are specifically indicated elsewhere in the Act, to the type of and nature of relationship the United States has with the several federally recognized Indian tribes.

SEC. 4. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct, indigenous, native people with whom the United States has a special political and legal relationship;

(2) the United States has a special political and legal relationship with the Native Hawaiian people which includes promoting the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution, including but not limited to Article I, section 8, clause 3, to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3, 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian governing entity; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—The purpose of this Act is to provide a process for the reorganization of the single Native Hawaiian governing entity and the reaffirmation of the special political and legal relationship between the United States and that Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, the United States Office for Native Hawaiian Relations.

(b) DUTIES.—The Office shall—

(1) continue the process of reconciliation with the Native Hawaiian people in furtherance of the Apology Resolution;

(2) upon the reaffirmation of the special political and legal relationship between the single Native Hawaiian governing entity and the United States, effectuate and coordinate the special political and legal relationship between the Native Hawaiian governing entity and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian governing entity by providing timely notice to, and consulting with, the Native Hawaiian people and the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Interagency Coordinating Group, other Federal agencies, and the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; and

(5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

(c) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Office.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.

(a) ESTABLISHMENT.—In recognition that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group to be known as the ''Native Hawaiian Interagency Coordinating Group''.

(b) COMPOSITION.—The Interagency Coordinating Group shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that administers Native Hawaiian programs, establishes or implements policies that affect Native Hawaiians, or whose actions may significantly or uniquely impact Native Hawaiian resources, rights, or lands; and

(2) the Office.

(c) LEAD AGENCY.—

(1) IN GENERAL.—The Department of the Interior shall serve as the lead agency of the Interagency Coordinating Group.

(2) MEETINGS.—The Secretary shall convene meetings of the Interagency Coordinating Group.

(d) DUTIES.—The Interagency Coordinating Group shall—

(1) coordinate Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government that may significantly or uniquely affect Native Hawaiian resources, rights, or lands;

(2) consult with the Native Hawaiian governing entity, through the coordination referred to in section 6(d)(1), but the consultation obligation established in this provision shall apply only after the satisfaction of all of the conditions referred to in section 7(c)(6); and

(3) ensure the participation of each Federal agency in the development of the report to Congress authorized in section 5(b)(5).

(e) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Interagency Coordinating Group.

SEC. 7. PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY AND THE REAFFIRMATION OF THE SPECIAL POLITICAL AND LEGAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) RECOGNITION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—The right of the Native Hawaiian people to reorganize the single Native Hawaiian governing entity to provide for their common welfare and to adopt appropriate organic governing documents is recognized by the United States.

(b) COMMISSION.—

(1) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purposes of—

(A) preparing and maintaining a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the single Native Hawaiian governing entity; and

(B) certifying that the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(10).

(2) MEMBERSHIP.—

(A) APPOINTMENT.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the members of the Commission in accordance with subparagraph (B).

(ii) CONSIDERATION.—In making an appointment under clause (i), the Secretary may take into consideration a recommendation made by any Native Hawaiian organization.

(B) REQUIREMENTS.—Each member of the Commission shall demonstrate, as determined by the Secretary—

(i) not less than 10 years of experience in the study and determination of Native Hawaiian genealogy; and

(ii) an ability to read and translate into English documents written in the Hawaiian language.

(C) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(3) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(4) DUTIES.—The Commission shall—

(A) prepare and maintain a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certify that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(5) STAFF.—

(A) IN GENERAL.—The Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(6) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(7) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(8) EXPIRATION.—The Secretary shall dissolve the Commission upon the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States.

(c) PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—

(1) ROLL.—

(A) CONTENTS.—The roll shall include the names of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity and are certified to be Native Hawaiian as defined in section 3(10) by the Commission.

(B) FORMATION OF ROLL.—Each adult member of the Native Hawaiian community who elects to participate in the reorganization of the Native Hawaiian governing entity shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition of Native Hawaiian in section 3(10).

(C) DOCUMENTATION.—The Commission shall—

(i) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of Native Hawaiian in section 3(10);

(ii) establish a standard format for the submission of documentation; and

(iii) publish information related to clauses (i) and (ii) in the Federal Register.

(D) CONSULTATION.—In making determinations that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10), the Commission may consult with Native Hawaiian organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descendancy.

(E) CERTIFICATION AND SUBMITTAL OF ROLL TO SECRETARY.—The Commission shall—

(i) submit the roll containing the names of the adult members of the Native Hawaiian community who meet the definition of Native Hawaiian in section 3(10) to the Secretary within two years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(F) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of Native Hawaiian in section 3(10), the Secretary shall publish the roll in the Federal Register.

(G) APPEAL.—The Secretary may establish a mechanism for an appeal for any person whose name is excluded from the roll who claims to meet the definition of Native Hawaiian in section 3(10) and to be 18 years of age or older.

(H) PUBLICATION; UPDATE.—The Secretary shall—

(i) publish the roll regardless of whether appeals are pending;

(ii) update the roll and the publication of the roll on the final disposition of any appeal; and

(iii) update the roll to include any Native Hawaiian who has attained the age of 18 and who has been certified by the Commission as meeting the definition of Native Hawaiian in section 3(10) after the initial publication of the roll or after any subsequent publications of the roll.

(I) FAILURE TO ACT.—If the Secretary fails to publish the roll, not later than 90 days after the date on which the roll is submitted to the Secretary, the Commission shall publish the roll notwithstanding any order or directive issued by the Secretary or any other official of the Department of the Interior to the contrary.

(J) EFFECT OF PUBLICATION.—The publication of the initial and updated roll shall serve as the basis for the eligibility of adult members of the Native Hawaiian community whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

(2) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(A) ORGANIZATION.—The adult members of the Native Hawaiian community listed on the roll published under this section may—

(i) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(ii) determine the structure of the Council; and

(iii) elect members from individuals listed on the roll published under this subsection to the Council.

(B) POWERS.—

(i) IN GENERAL.—The Council—

(I) may represent those listed on the roll published under this section in the implementation of this Act; and

(II) shall have no powers other than powers given to the Council under this Act.

(ii) FUNDING.—The Council may enter into a contract with, or obtain a grant from, any Federal or State agency to carry out clause (iii).

(iii) ACTIVITIES.—

(I) IN GENERAL.—The Council may conduct a referendum among the adult members of the Native Hawaiian community listed on the roll published under this subsection for the purpose of determining the proposed elements of the organic governing documents of the Native Hawaiian governing entity, including but not limited to—

(aa) the proposed criteria for citizenship of the Native Hawaiian governing entity;

(bb) the proposed powers and authorities to be exercised by the Native Hawaiian governing entity, as well as the proposed privileges and immunities of the Native Hawaiian governing entity;

(cc) the proposed civil rights and protection of the rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities of the Native Hawaiian governing entity; and

(dd) other issues determined appropriate by the Council.

(II) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based on the referendum, the Council may develop proposed organic governing documents for the Native Hawaiian governing entity.

(III) DISTRIBUTION.—The Council may distribute to all adult members of the Native Hawaiian community listed on the roll published under this subsection—

(aa) a copy of the proposed organic governing documents, as drafted by the Council; and

(bb) a brief impartial description of the proposed organic governing documents;

(IV) ELECTIONS.—The Council may hold elections for the purpose of ratifying the proposed organic governing documents, and on certification of the organic governing documents by the Secretary in accordance with paragraph (4), hold elections of the officers of the Native Hawaiian governing entity pursuant to paragraph (5).

(3) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—Following the reorganization of the Native Hawaiian governing entity and the adoption of organic governing documents, the Council shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(4) CERTIFICATIONS.—

(A) IN GENERAL.—Within the context of the future negotiations to be conducted under the authority of section 8(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the 3 governments, not later than 90 days after the date on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) establish the criteria for citizenship in the Native Hawaiian governing entity;

(ii) were adopted by a majority vote of the adult members of the Native Hawaiian community whose names are listed on the roll published by the Secretary;

(iii) provide authority for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(iv) provide for the exercise of governmental authorities by the Native Hawaiian governing entity, including any authorities that may be delegated to the Native Hawaiian governing entity by the United States and the State of Hawaii following negotiations authorized in section 8(b)(1) and the enactment of legislation to implement the agreements of the 3 governments;

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian governing entity without the consent of the Native Hawaiian governing entity;

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities by the Native Hawaiian governing entity; and

(vii) are consistent with applicable Federal law and the special political and legal relationship between the United States and the indigenous, native people of the United States; provided that the provisions of Public Law 103–454, 25 U.S.C. 479a, shall not apply.

(B) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (a).—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part of the documents, do not meet all of the requirements set forth in subparagraph (A), the Secretary shall resubmit the organic governing documents to the Council, along with a justification for each of the Secretary's findings as to why the provisions are not in full compliance.

(ii) AMENDMENT AND RESUBMISSION OF ORGANIC GOVERNING DOCUMENTS.—If the organic governing documents are resubmitted to the Council by the Secretary under clause (i), the Council shall—

(I) amend the organic governing documents to ensure that the documents meet all the requirements set forth in subparagraph (A); and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with this paragraph.

(C) CERTIFICATIONS DEEMED MADE.—The certifications under paragraph (4) shall be deemed to have been made if the Secretary has not acted within 90 days after the date on which the Council has submitted the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(5) ELECTIONS.—On completion of the certifications by the Secretary under paragraph (4), the Council may hold elections of the officers of the Native Hawaiian governing entity.

(6) REAFFIRMATION.—Notwithstanding any other provision of law, upon the certifications required under paragraph (4) and the election of the officers of the Native Hawaiian governing entity, the special political and legal relationship between the United States and the Native Hawaiian governing entity is hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.

SEC. 8. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS; CLAIMS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3, 73 Stat. 4), is reaffirmed.

(b) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement addressing such matters as—

(A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;

(C) the exercise of civil and criminal jurisdiction;

(D) the delegation of governmental powers and authorities to the Native Hawaiian governing entity by the United States and the State of Hawaii;

(E) any residual responsibilities of the United States and the State of Hawaii; and

(F) grievances regarding assertions of historical wrongs committed against Native Hawaiians by the United States or by the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States, the State of Hawaii, and the Native Hawaiian governing entity, the parties are authorized to submit—

(A) to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives, recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the 3 governments; and

(B) to the Governor and the legislature of the State of Hawaii, recommendations for proposed amendments to State law that will enable the implementation of agreements reached between the 3 governments.

(3) GOVERNMENTAL AUTHORITY AND POWER.—Any governmental authority or power to be exercised by the Native Hawaiian governing entity which is currently exercised by the State or Federal Governments shall be exercised by the Native Hawaiian governing entity only as agreed to in negotiations pursuant to section 8(b)(1) of this Act and beginning on the date on which legislation to implement such agreement has been enacted by the United States Congress, when applicable, and by the State of Hawaii, when applicable. This includes any required modifications to the Hawaii State Constitution in accordance with the Hawaii Revised Statutes.

(c) CLAIMS.—

(1) DISCLAIMERS.—Nothing in this Act—

(A) creates a cause of action against the United States or any other entity or person;

(B) alters existing law, including existing case law, regarding obligations on the part of the United States or the State of Hawaii with regard to Native Hawaiians or any Native Hawaiian entity;

(C) creates obligations that did not exist in any source of Federal law prior to the date of enactment of this Act; or

(D) establishes authority for the recognition of Native Hawaiian groups other than the single Native Hawaiian Governing Entity.

(2) FEDERAL SOVEREIGN IMMUNITY.—

(A) SPECIFIC PURPOSE.—Nothing in this Act is intended to create or allow to be maintained in any court any potential breach-of-trust actions, land claims, resource-protection or resource-management claims, or similar types of claims brought by or on behalf of Native Hawaiians or the Native Hawaiian governing entity for equitable, monetary, or Administrative Procedure Act-based relief against the United States or the State of Hawaii, whether or not such claims specifically assert an alleged breach of trust, call for an accounting, seek declaratory relief, or seek the recovery of or compensation for lands once held by Native Hawaiians.

(B) ESTABLISHMENT AND RETENTION OF SOVEREIGN IMMUNITY.—To effectuate the ends expressed in section 8(c)(1) and 8(c)(2)(A), and notwithstanding any other provision of Federal law, the United States retains its sovereign immunity to any claim that existed prior to the enactment of this Act (including, but not limited to, any claim based in whole or in part on past events), and which could be brought by Native Hawaiians or any Native Hawaiian governing entity. Nor shall any preexisting waiver of sovereign immunity (including, but not limited to, waivers set forth in chapter 7 of part I of title 5, United States Code, and sections 1505 and 2409a of title 28, United States Code) be applicable to any such claims. This complete retention or reclaiming of sovereign immunity also applies to every claim that might attempt to rely on this Act for support, without regard to the source of law under which any such claim might be asserted.

(C) EFFECT.—It is the general effect of section 8(c)(2)(B) that any claims that may already have accrued and might be brought against the United States, including any claims of the types specifically referred to in section 8(c)(2)(A), along with both claims of a similar nature and claims arising out of the same nucleus of operative facts as could give rise to claims of the specific types referred to in section 8(c)(2)(A), be rendered nonjusticiable in suits brought by plaintiffs other than the Federal Government.

(3) STATE SOVEREIGNTY IMMUNITY.—

(A) Notwithstanding any other provision of Federal law, the State retains its sovereign immunity, unless waived in accord with State law, to any claim, established under any source of law, regarding Native Hawaiians, that existed prior to the enactment of this Act.

(B) Nothing in this Act shall be construed to constitute an override pursuant to section 5 of the Fourteenth Amendment of State sovereign immunity held under the Eleventh Amendment.

SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) INDIAN GAMING REGULATORY ACT.—

(1) The Native Hawaiian governing entity and Native Hawaiians may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

(2) The foregoing prohibition in section 9(a)(1) on the use of Indian Gaming Regulatory Act and inherent authority to game apply regardless of whether gaming by Native Hawaiians or the Native Hawaiian governing entity would be located on land within the State of Hawaii or within any other State or Territory of the United States.

(b) TAKING LAND INTO TRUST.—Notwithstanding any other provision of law, including but not limited to part 151 of title 25, Code of Federal Regulations, the Secretary

shall not take land into trust on behalf of individuals or groups claiming to be Native Hawaiian or on behalf of the native Hawaiian governing entity.

(c) REAL PROPERTY TRANSFERS.—The Indian Trade and Intercourse Act (25 U.S.C. 177), does not, has never, and will not apply after enactment to lands or lands transfers present, past, or future, in the State of Hawaii. If despite the expression of this intent herein, a court were to construe the Trade and Intercourse Act to apply to lands or land transfers in Hawaii before the date of enactment of this Act, then any transfer of land or natural resources located within the State of Hawaii prior to the date of enactment of this Act, by or on behalf of the Native Hawaiian people, or individual Native Hawaiians, shall be deemed to have been made in accordance with the Indian Trade and Intercourse Act and any other provision of Federal law that specifically applies to transfers of land or natural resources from, by, or on behalf of an Indian tribe, Native Hawaiians, or Native Hawaiian entities.

(d) SINGLE GOVERNING ENTITY.—This Act will result in the recognition of the single Native Hawaiian governing entity. Additional Native Hawaiian groups shall not be eligible for acknowledgment pursuant to the Federal Acknowledgment Process set forth in part 83 of title 25 of the Code of Federal Regulations or any other administrative acknowledgment or recognition process.

(e) JURISDICTION.—Nothing in this Act alters the civil or criminal jurisdiction of the United States or the State of Hawaii over lands and persons within the State of Hawaii. The status quo of Federal and State jurisdiction can change only as a result of further legislation, if any, enacted after the conclusion, in relevant part, of the negotiation process established in section 8(b).

(f) INDIAN PROGRAMS AND SERVICES.—Notwithstanding section 7(c)(6), because of the eligibility of the Native Hawaiian governing entity and its citizens for Native Hawaiian programs and services in accordance with subsection (g), nothing in this Act provides an authorization for eligibility to participate in any Indian program or service to any individual or entity not otherwise eligible for the program or service under applicable Federal law.

(g) NATIVE HAWAIIAN PROGRAMS AND SERVICES.—The Native Hawaiian governing entity and its citizens shall be eligible for Native Hawaiian programs and services to the extent and in the manner provided by other applicable laws.

SEC. 10. SEVERABILITY.

If any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions shall continue in full force and effect.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. INOUYE. Mr. President, I am pleased to join my colleague, Senator AKAKA, as a cosponsor of the Native Hawaiian Government Reorganization Act of 2007.

During the 109th Congress, the Administration expressed concerns with this legislation that stem from its experience with Indian tribes. The history of the Native Hawaiians and their treatment by the United States is similar to that of Indian tribes and Alaska Natives. I want to commend the Administration for devoting staff to work with us to achieve consensus on mutually agreeable language. I am confident that this measure not only addresses the Administration's concerns but also the concerns of some of our colleagues.

Having served on the Indian Affairs Committee for the past 28 years, I know that most of our colleagues are more familiar with conditions and circumstances in Indian country, and naturally, they bring their experience with Indian country to bear in considering this measure, which has been pending in the Senate for the past eight years.

Accordingly, I believe it is important that our colleagues understand what this bill seeks to accomplish as well as how it differs from legislation affecting Indian country.

It is a little known fact that beginning in 1910 and since that time, the Congress has passed and the President has signed into law over 160 Federal laws designed to address the conditions of Native Hawaiians.

Thus, Federal laws which authorize the provision of health care, education, housing, and job training and employment services, as well as programs to provide for the preservation of the Native Hawaiian language, Native language immersion, Native cultural and grave protections and repatriation of Native sacred objects have been in place for decades.

The Native Hawaiian programs do not draw upon funding that is appropriated for American Indians or Alaska Natives—there are separate authorizations for programs that are administered by different Federal agencies—not the Bureau of Indian Affairs or the Indian Health Service, for instance—and the Native Hawaiian program funds are not drawn from the Interior Appropriations Subcommittee account. Thus, they have no impact on the funding that is provided for the other indigenous, native people of the United States.

However, unlike the native people residing on the mainland, Native Hawaiians have not been able to exercise their rights as Native people to self-determination or self-governance because their government was overthrown on January 17, 1893.

This bill would provide a process for the reorganization of the Native Hawaiian government and the resumption of a political and legal relationship between that government and the government of the United States.

Because the Native Hawaiian government is not an Indian tribe, the body of Federal Indian law that would otherwise customarily apply when the United States extends Federal recognition to an Indian tribal group does not apply.

Thus, the bill provides authority for a process of negotiations amongst the United States, the State of Hawaii, and the reorganized Native Hawaiian government to address such matters as the exercise of civil and criminal jurisdiction by the respective governments, the transfer of land and natural resources and other assets, and the exercise of governmental authority over those lands, natural resources and other assets.

Upon reaching agreement, the U.S. Congress and the legislature of the State of Hawaii would have to enact legislation implementing the agreements of the three governments, including amendments that will necessarily have to be made to existing Federal law, such as the Hawaii Admissions Act and the Hawaiian Homes Commission Act, and to State law, including amendments to the Hawaii State Constitution, before any of the new governmental relationships and authorities can take effect.

That is why concerns which are premised on the manner in which Federal Indian law provides for the respective governmental authorities of the State governments and Indian tribal governments simply do not apply in Hawaii.

We have every confidence that consistent with the Federal policy for over 35 years, the restoration of the rights to self-determination and self-governance will enable the Native Hawaiian people, as the direct, lineal descendants of the aboriginal, indigenous native people of what has become our nation's fiftieth state, to take their rightful place in the family of governments that makes up our constitutional system of governance.

By Mr. WARNER (for himself, Mr. WEBB, Mr. GRASSLEY, Mr. CORNYN, Mr. THUNE, and Mr. GRAHAM):

S. 315. A bill to establish a digital and wireless network technology program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WARNER. Mr. President, I rise today to reintroduce the Minority Serving Institution Digital and Wireless Technology Opportunity Act. This legislation, which was crafted by Senator Allen and I in years past, will provide vital resources to address the technology gap that exists at many Minority Serving Institutions, MSIs.

In the past, Senator Allen took the role of lead sponsor on this important bill. With his leadership, this exact legislation has passed twice unanimously. Unfortunately, the 109th Congress adjourned before the House of Representatives considered the bill. Accordingly, today I am privileged to serve as the lead sponsor of this legislation in the 110th Congress. I am pleased to have my Virginia colleague Senator JIM WEBB as an original cosponsor of this bill. I hope this important bill will soon become law.

Over 60 percent of all jobs require information technology skills. Jobs in the information technology field pay significantly higher salaries than jobs in non-information technology fields. At the same time, many of our Minority Serving Institutions lack the capital to offer assistance to their students to bridge the ''Digital Divide'' between students who are able to develop the skills necessary to succeed in

a technology based economy and those who are not.

This legislation will establish a grant program for these institutions of higher education to bring increased access to computers, technology, and the Internet to their student populations. Specifically, this legislation authorizes $250 million in Federal grants for Minority Serving Institutions to acquire equipment, instrumentation, networking capability, hardware and software, digital network technology and wireless technology and infrastructure to develop and provide educational services. In addition, the grants could be used for such activities as campus wiring, equipment upgrades, and technology training. Finally, Minority Serving Institutions could use these funds to offer their students universal access to campus networks, increase connectivity rates, or make infrastructure improvements.

I am proud to say that Virginia is home to five Historically Black Colleges and Universities, HBCUs—Norfolk State University, St. Paul's College, Virginia Union University, Hampton University, and Virginia State University—that are eligible for these technology grants. There are over 200 Hispanic Serving Institutions, over 100 Historically Black Colleges and Universities and over 30 Tribal Colleges throughout the United States.

Again, in 2005, this bill passed in the Senate by unanimous consent. In 2003, this bill passed in the Senate with a roll call vote of 97–0. I am pleased to support this legislation, as I have done in the past, and I look forward to strengthening the technology provided to students at Minority Serving Institutions.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. LEAHY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 316. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Preserve Access to Affordable Generics Act. This legislation will stop one of the most egregious tactics used by the brand-name pharmaceutical industry to keep generic competitors off the market, leaving consumers with unnecessary high drug prices.

The way it is done is simple—a drug company that holds a patent on a blockbuster brand-name drug, pays a generic drug maker off to delay the sale of a competing generic product that might dip into their profits. The brand name company profits so much by delaying competition that it can easily afford to pay off the generic company, leaving consumers the big losers who continue to pay unnecessarily high drug prices.

Last year, the Supreme Court refused to consider an appeal by the Federal Trade Commission to reinstate antitrust charges against a brand-name drugs maker. Since the recent court decisions allowing these backroom deals, there has been a sharp rise in the number of settlements in which brand-name companies pay off generic competitors to keep their cheaper drugs off the market. In a report issued last year, the FTC found that more than two-thirds of the 10 settlement agreements made in 2006 included a pay-off from the brand in exchange for a promise by the generic company to delay entry into the market.

The decision by the Supreme Court is a blow to consumers who save billions of dollars on generics every year. When brand, name drugs lose patent rights, this opens the door for consumers, employers, third-party payers, and other purchasers to save billions—63 percent on average—by using generic versions of these drugs. A recent study released earlier this year by Pharmaceutical Care Management Association, showed that health plans and consumers could save $26.4 billion over the next 5 years by using the generic versions of 14 popular drugs that are scheduled to lose their patent protections before 2010.

Last year, I was successful in including an additional $10 million in the fiscal year 07 Agriculture Appropriations bill for the Food and Drug Administration's Office of Generic Drugs, an effort to help reduce the growing backlog of generic drug applications. The FDA Office of Generic Drugs has reported a backlog of more than 800 generic drug applications with more applications for new generics being received than ever before.

But even approval by the FDA doesn't always guarantee that consumers will have access to these affordable drugs. Brand-name pharmaceutical manufacturers have learned to circumvent the Drug Price Competition and Patent Term Restoration Act, commonly referred to as Hatch-Waxman, using litigation and other means to extend the life of patents and keep generics from entering the market Of the six approved first generics for LA popular brand-name drugs taken by seniors over the last year, only two have actually reached the market, while the others are being kept of the shelves by patent disputes.

We cannot profess to care about the high cost of prescription drugs while turning a blind eye to anticompetitive backroom deals between brand and generic drug companies. It's time to stop these drug company pay-offs that only serve the companies involved and deny consumers to affordable generic drugs. I urge my colleagues to join me in this effort.

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. 316

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 ''Preserve Access to Affordable Generics Act''.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) prescription drugs make up 11 percent of the national health care spending but are 1 of the largest and fastest growing health care expenditures;

(2) 56 percent of all prescriptions dispensed in the United States are generic drugs, yet they account for only 13percent of all expenditures;

(3) generic drugs, on average, cost 63 percent less than their brand-name counterparts;

(4) consumers and the health care system would benefit from free and open competition in the pharmaceutical market and the removal of obstacles to the introduction of generic drugs;

(5) full and free competition in the pharmaceutical industry, and the full enforcement of antitrust law to prevent anticompetitive practices in this industry, will lead to lower prices, greater innovation, and inure to the general benefit of consumers.

(6) the Federal Trade Commission has determined that some brand name pharmaceutical manufacturers collude with generic drug manufacturers to delay the marketing of competing, low-cost, generic drugs;

(7) collusion by the brand name pharmaceutical manufacturers is contrary to free competition, to the interests of consumers, and to the principles underlying antitrust law;

(8) in 2005, 2 appellate court decisions reversed the Federal Trade Commission's longstanding position, and upheld settlements that include pay-offs by brand name pharmaceutical manufacturers to generic manufacturers designed to keep generic competition off the market;

(9) in the 6 months following the March 2005 court decisions, the Federal Trade Commission found there were three settlement agreements in which the generic received compensation and agreed to a restriction on its ability to market the product;

(10) the FTC found that more than ⅔ of the approximately ten settlement agreements made in 2006 include a pay-off from the brand in exchange for a promise by the generic company to delay entry into the market; and

(11) settlements which include a payment from a brand name manufacturer to a generic manufacturer to delay entry by generic drugs are anti-competitive and contrary to the interests of consumers.

(b) PURPOSES.—The purposes of this Act are—

(1) to enhance competition in the pharmaceutical market by prohibiting anticompetitive agreements and collusion between brand name and generic drug manufacturers intended to keep generic drugs off the market;

(2) to support the purpose and intent of antitrust law by prohibiting anticompetitive agreements and collusion in the pharmaceutical industry; and

(3) to clarify the law to prohibit payments from brand name to generic drug manufacturers with the purpose to prevent or delay the entry of competition from generic drugs.

SEC. 3. UNLAWFUL COMPENSATION FOR DELAY.

The Clayton Act (15 U.S.C. 12 et seq.) is amended—

(1) by redesignating section 25 as section 29; and

(2) by inserting after section 27 the following:

"SEC. 28. UNLAWFUL INTERFERENCE WITH GENERIC MARKETING.

''(a) It shall be unlawful under this Act for any person, in connection with the sale of a drug product, to directly or indirectly be a party to any agreement resolving or settling a patent infringement claim which—

''(1) an ANDA filer receives anything of value; and

''(2) the ANDA filer agrees not to research, develop, manufacture, market, or sell the ANDA product for any period of time.

''(b) Nothing in this section shall prohibit a resolution or settlement of patent infringement claim in which the value paid by the NDA holder to the ANDA filer as a part of the resolution or settlement of the patent infringement claim includes no more than the right to market the ANDA product prior to the expiration of the patent that is the basis for the patent infringement claim.

''(c) In this section:

''(1) The term 'agreement' means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

''(2) The term 'agreement resolving or settling a patent infringement claim' includes, any agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

''(3) The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

''(4) The term 'ANDA filer' means a party who has filed an ANDA with the Federal Drug Administration.

''(5) The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

''(6) The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

''(7) The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

''(8) The term 'NDA holder' means—

''(A) the party that received FDA approval to market a drug product pursuant to an NDA;

''(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

''(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subclauses (i) and (ii) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

''(9) The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

''(10) The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.''.

SEC. 4. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 3155 note) is amended by—

(1) striking ''the Commission the'' and inserting ''the Commission (1) the''; and

(2) inserting before the period at the end the following: ''; and (2) a description of the subject matter of any other agreement the parties enter into within 30 days of an entering into an agreement covered by subsection (a) or (b)''.

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

''(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: 'I declare under penalty of perjury that the following is true and correct: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.'.''.

SEC. 5. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting ''section 28 of the Clayton Act or'' after ''that the agreement has violated''.

SEC. 6. STUDY BY THE FEDERAL TRADE COMMISSION.

(a) REQUIREMENT FOR A STUDY.—Not later than 180 days after the date of enactment of this Act and pursuant to its authority under section 6(a) of the Federal Trade Commission Act (15 U.S.C. 46(a)) and its jurisdiction to prevent unfair methods of competition, the Federal Trade Commission shall conduct a study regarding—

(1) the prevalence of agreements in patent infringement suits of the type described in section 28 of the Clayton Act, as added by this Act, during the last 5 years;

(2) the impact of such agreements on competition in the pharmaceutical market; and

(3) the prevalence in the pharmaceutical industry of other anticompetitive agreements among competitors or other practices that are contrary to the antitrust laws, and the impact of such agreements or practices on competition in the pharmaceutical market during the last 5 years.

(b) CONSULTATION.—In conducting the study required under this section, the Federal Trade Commission shall consult with the Antitrust Division of the Department of Justice regarding the Justice Department's findings and investigations regarding anticompetitive practices in the pharmaceutical market, including criminal antitrust investigations completed by the Justice Department with respect to practices or conduct in the pharmaceutical market.

(c) REQUIREMENT FOR A REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall submit a report to the Judiciary Committees of Senate and House of Representatives, and to the Department of Justice regarding the findings of the study conducted under subsection (a). This report shall contain the Federal Trade Commission's recommendation as to whether any amendment to the antitrust laws should be enacted to correct any substantial lessening of competition found during the study.

(d) FEDERAL AGENCY CONSIDERATION.—Upon receipt of the report required by subsection (c), the Attorney General or the Chairman of the Federal Trade Commission, as appropriate, shall consider whether any additional enforcement action is required to restore competition or prevent a substantial lessening of competition occurring as a result of the conduct or practices that were the subject of the study conducted under subsection (b).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Trade Commission such sums as may be necessary to carry out the provisions of this Act.

Mr. LEAHY. Mr. President, I am pleased to join Senators KOHL, FEINGOLD, GRASSLEY and SCHUMER in introducing the Preserve Access to Affordable Generics Act of 2007. This legislation is a continuation of a longstanding, bipartisan effort to provide consumers with more choices for medications at lower costs. Better access to affordable prescription medication is of vital importance to seniors, families, and consumers across the Nation who are struggling to keep up with the ever increasing costs of health care.

This legislation builds on the Drug Competition Act, which I authored in 2001 and which became law in 2003 in the Medicare Modernization Act. Recently, two Federal courts undermined the intent of this law; the legislation we introduce today will address that problem. The Preserve Access to Affordable Generics Act will result in lower prescription drug costs for all Americans by preventing a pernicious practice in which brand-name pharmaceutical companies pay other drug companies not to produce and market generic drugs—which can be 80 percent less expensive than their brand-name counterparts—as part of private patent settlement agreements.

The Hatch-Waxman Act was intended to facilitate the entry of lower-cost generic drugs into the market, making medication more affordable, while protecting patent rights to foster innovation. It created a process, known as the Abbreviated New Drug Application, ANDA, to speed approval of generics. Under ANDA, an applicant can receive expedited approval from the FDA to market a generic product. An applicant using ANDA may certify that the manufacturing of its new drug will either not infringe on a previously patented drug on which it is based, or that the existing patent is invalid. After certifying an ANDA, the generic applicant must give notice to the patent-holder, at which point the patent-holder has 45 days to file a patent infringement against the applicant.

More times than not, disputes over an ANDA are resolved through private settlements. Unfortunately, the

underpinnings of these private settlements are becoming more and more questionable; drug companies are abusing Hatch-Waxman provisions, and using settlement opportunities to limit consumer choices and keep consumer prices artificially high. The FTC had been policing these deals to ensure they were not anticompetitive until two recent appellate court decisions limited it's role.

Hatch-Waxman created a good framework for promoting innovation while speeding the market entry of affordable drugs. The trend of anticompetitive agreements between brand-name pharmaceutical companies and generic companies to delay entry into the market is a troubling abuse of that good law. Some drug firms have colluded to pad their profits by forcing consumers to pay higher prices than they would pay for lower-cost generics. Congress never intended for brand-name drug companies to be able to grease the palms of generic companies by paying them not to produce generic medicines.

Rarely do we have such a clear-cut opportunity as this to remove obvious impediments that prevent the marketplace from working as it should—to the benefit of consumers. Congress should seize this opportunity and enact legislation that plainly makes anticompetitive deals, such as those I have outlined, illegal.

The Preserve Access to Affordable Generics Act will accomplish this goal. I look forward to working with my colleagues on both sides of the aisle to pass this timely and needed legislation.

By Mrs. FEINSTEIN (for herself and Mr. CARPER):

S. 317. A bill to amend the Clean Air Act to establish a program to regulate the emission of greenhouse gases from electric utilities; to the Committee on Environment and Public Works.

Mrs. FEINSTEIN. Mr. President, I am pleased to join with Senator CARPER to introduce the Electric Utility Cap and Trade Act.

Today, we are introducing the first of five bills to address the number one environmental issue facing this planet—global warming.

This bill establishes a national cap and trade system over the electricity sector. It will reduce emissions from this sector by 25 percent by 2020.

What distinguishes this bill is that it has the support of 6 major energy companies.

Together, these companies operate in 42 States and produce approximately 150,000 megawatts of energy. This is greater than 15 percent of the U.S. electricity market.

These companies include, first, Pacific Gas & Electric (PG&E) Corporation, which is the parent of Pacific Gas and Electric Company. PG&E is California's largest utility and serves approximately 1 in every 20 Americans. PG&E Corporation currently owns approximately 6,500 megawatts of generation.

Second, Calpine, which operates in 20 States and Canada, generating 26,000 megawatts of energy.

Third, Florida Power & Light, which operates in 26 States, generating more than 30,000 megawatts.

Fourth, Entergy, which operates in Arkansas, Louisiana, Mississippi, and Texas, generating approximately 30,000 megawatts.

Fifth, Exelon, which operates in Illinois and Pennsylvania, generating 38,000 megawatts of energy.

Sixth, Public Service Enterprise Group, which is the largest provider of energy in New Jersey, generating approximately 15,000 megawatts.

These companies' support is greatly appreciated, and I think it signals a new willingness in the energy industry to seriously tackle global warming.

This bill is just the beginning of a major program. Over the next weeks and months, we will also be introducing a cap and trade bill for the industrial sector; a bill that increases fuel economy standards by ten miles per gallon over the next ten years; a bill to promote bio-diesel and E–85; and other low carbon fuels and an energy efficiency bill modeled after California's program.

This is an ambitious agenda, but I believe it is the right way to go if we are to slow global warming.

A great debate has raged in the halls of Congress, in academia, and in the field over the past two decades.

At issue were three fundamental questions: First, is the earth warming? Second, if so, is the warming caused by human activity? And third, can it be stopped?

Over the past few years, a consensus has been forged. An overwhelming body of evidence has been gathered. And, an inescapable conclusion has been reached: The earth is warming. The warming is caused by human activity, namely the combustion of fossil fuels.

It cannot be stopped, because carbon dioxide does not dissipate. It stays in the atmosphere for 30, 40, or 50 years or more.

When we pick up the newspaper each day we see the results. We read about ice sheets the size of small nations breaking off the ice shelves in the Arctic and Antarctic. We read about polar bears committing acts of cannibalism, something unknown in recent memory. We read about species disappearing, seas rising, coral reefs dying, and glaciers melting.

But, all this dire news does not mean we should throw up our hands and do nothing. If we act now, and if we act with purpose, the most serious consequences can be averted. Global warming can be contained to 1–2 degrees Fahrenheit.

But if we do not act, and temperatures spike by 5 degrees or more, the world around us will change forever. There's no going back.

The question becomes what can we do? I've spent the last year trying to answer this question. And the conclusion I've reached is that there is no single answer, no silver bullet, no one thing to turn the tide. But rather, we need many answers in many different areas.

And more importantly, we need people of common purpose, working together, to find innovative solutions. And that's why we're here today.

As I was searching for answers, I picked up the phone and called PG&E Corporation's CEO, Peter Darbee. I said, ''Peter, would you help me out on Global Warming legislation?''

To his immense credit, Peter went back, studied the issue, and said ''You're right. Something must be done.'' And he's been terrific. He's helped at every step of the way.

It means so much to me that PG&E, Calpine, Florida Power and Light, and all the companies that comprise the Clean Energy Group's Clean Air Policy Initiative have endorsed the legislation we are introducing today.

This is the most aggressive global warming bill that industry has supported to date. And I want to thank the CEOs of these companies today for their courage and leadership in taking this step.

Here's what the bill would do. The bill would establish a cap and trade program for the electricity sector, which is the single largest piece of the global warming puzzle, accounting for 33 percent of all U.S. emissions.

First, the bill would a cap at 2006 levels in 2011—a 6 percent reduction from anticipated levels of greenhouse gases from the electric sector.

In 2015, it would ratchet the cap down to 2001 levels—a 16 percent reduction from anticipated levels.

In 2016, the bill would reduce the cap further to 1 percent below 2001 levels. And, from 2017 to 2019 it would require additional annual 1 percent reductions.

By 2020, emissions would be reduced 25 percent below anticipated levels.

And after that, emissions will be reduced even further—by an additional 1.5 percent a year and potentially more, if the EPA, based on scientific evidence, believes that more needs to be done to avert the most dire consequences of global warming.

That's the cap.

The trade part of the bill gives companies flexibility to embrace new technologies, encourage innovation, and promote green practices—not just in this area, but across the economy.

As I said, this bill is only one part of the answer. One piece of the puzzle.

Congress has a window of opportunity to act. If we act boldly and quickly, then perhaps we can make a difference.

But if we resort to the feuding which has characterized past Congresses, our world will be the poorer for it. I think there is but one choice.

I urge my colleagues to join me in supporting this legislation and I ask unanimous consent that the text of the legislation 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. 317

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 ''Electric Utility Cap and Trade Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—GLOBAL CLIMATE CHANGE

SEC. 101. GLOBAL CLIMATE CHANGE.

(a) IN GENERAL.—The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

''TITLE VII—GLOBAL CLIMATE CHANGE

''SEC. 701. DEFINITIONS.

''In this title:

''(1) AFFECTED UNIT.—

''(A) IN GENERAL.—The term 'affected unit' means an electric generating facility that—

''(i) has a nameplate capacity greater than 25 megawatts;

''(ii) combusts greenhouse gas-emitting fuels; and

''(iii) generates electricity for sale.

''(B) INCLUSIONS.—The term 'affected unit' includes—

''(i) a cogeneration facility; and

''(ii) a facility owned or operated by any instrumentality of—

''(I) the Federal Government; or

''(II) any State, local, or tribal government.

''(2) AFFORESTATION.—The term 'afforestation' means the conversion to a forested condition of land that has been in a nonforested condition for at least 15 years.

''(3) ALLOCATION.—The term 'allocation', with respect to an allowance, means the issuance of an allowance directly to covered units, at no cost, under this title.

''(4) ALLOWANCE.—The term 'allowance' means an authorization under this title to emit 1 metric ton of carbon dioxide (or a carbon dioxide equivalent), as allocated to a covered unit pursuant to section 716.

''(5) CARBON DIOXIDE EQUIVALENT.—The term 'carbon dioxide equivalent' means, with respect to a greenhouse gas, the quantity of the greenhouse gas that makes the same contribution to global warming as 1 metric ton of carbon dioxide, as determined by the Administrator.

''(6) COGENERATION FACILITY.—The term 'cogeneration facility' means a facility that—

''(A) cogenerates steam and electricity; and

''(B) supplies, on a net annual basis, to the electric power grid—

''(i) more than ⅓ of the potential electric output capacity of the facility; and

''(ii) more than 25 megawatts of electrical output from the facility.

''(7) COVERED UNIT.—The term 'covered unit' means—

''(A) an affected unit;

''(B) a nuclear generating unit (including a facility owned or operated by any instrumentality of the Federal Government or of any State, local, or tribal government), but only to the extent of incremental nuclear generation of the unit; and

''(C) a renewable energy unit (including a facility owned or operated by any instrumentality of the Federal Government or of any State, local, or tribal government).

''(8) CREDIT.—

''(A) IN GENERAL.—The term 'credit' means an authorization under this title to emit greenhouse gases equivalent to 1 metric ton of carbon dioxide.

''(B) INCLUSIONS.—The term 'credit' includes—

''(i) an allowance;

''(ii) an offset credit;

''(iii) an early reduction credit; or

''(iv) an international credit.

''(9) EARLY REDUCTION CREDIT.—The term 'early reduction credit' means a credit issued under section 718 for a reduction in the quantity of emissions or an increase in sequestration equivalent to 1 metric ton of carbon dioxide.

''(10) FUND.—The term 'Fund' means the Climate Action Trust Fund established by section 717(a)(1).

''(11) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons; and

''(F) sulfur hexafluoride.

''(12) GREENHOUSE GAS AUTHORIZED ACCOUNT REPRESENTATIVE.—The term 'greenhouse gas authorized account representative' means, for a covered unit, an individual who is authorized by the owner and operator of the covered unit to represent and legally bind the owner and operator in matters pertaining to this title.

''(13) GREENHOUSE GAS-EMITTING FUEL.—

''(A) IN GENERAL.—The term 'greenhouse gas-emitting fuel' means any fuel that produces a greenhouse gas as a combustion product.

''(B) INCLUSIONS.—The term 'greenhouse gas-emitting fuel' includes—

''(i) fossil fuels;

''(ii) municipal waste;

''(iii) industrial waste;

''(iv) agricultural waste; and

''(v) biomass that is not grown using sustainable techniques.

''(C) EXCLUSION.—The term 'greenhouse gas-emitting fuel' does not include biomass that is grown using sustainable techniques.

''(14) INCREMENTAL NUCLEAR GENERATION.—The term 'incremental nuclear generation' means, as determined by the Administrator and measured in megawatt hours, the difference between—

''(A) the quantity of electricity generated by a nuclear generating unit in a calendar year; and

''(B) the quantity of electricity generated by the nuclear generating unit in calendar year 1990.

''(15) INDUSTRY SECTOR.—The term 'industry sector' means any sector of the economy of a country (including, where applicable, the forestry sector) that is responsible for significant quantities of greenhouse gas emissions.

''(16) INTERNATIONAL CREDIT.—The term 'international credit' means a credit recognized for a reduction in the quantity of emissions or an increase in sequestration equivalent to 1 metric ton of carbon dioxide that—

''(A) arises from activities outside the United States; and

''(B) is authorized for use under section 719.

''(17) INVASIVE SPECIES.—The term 'invasive species' means a species (including pathogens, seeds, spores, or any other biological material relating to a species) the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

''(18) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

''(19) LEAKAGE.—The term 'leakage' means an increase in greenhouse gas emissions or a decrease in sequestration of greenhouse gases that is—

''(A) outside the area of a project; and

''(B) attributable to the project.

''(20) NATIVE PLANT.—The term 'native plant' means an indigenous, terrestrial, or aquatic plant species that evolved naturally in an ecosystem.

''(21) NEW AFFECTED UNIT.—The term 'new affected unit' means an affected unit that has operated for not more than 3 years.

''(22) NEW COVERED UNIT.—The term 'new covered unit' means a covered unit that has operated for not more than 3 years.

''(23) NOXIOUS WEED.—The term 'noxious weed' means a plant species that is—

''(A) characterized by being—

''(i) aggressive and difficult to manage;

''(ii) poisonous, toxic, parasitic, or a carrier or host of insects or disease representing a serious threat to native species or crops; or

''(iii) nonnative to, new to, or not common to, the United States (or a region of the United States); or

''(B) otherwise designated as a noxious weed by the Secretary of Agriculture or an appropriate State official.

''(24) NUCLEAR GENERATING UNIT.—The term 'nuclear generating unit' means an electric generating facility that uses nuclear energy to generate electricity for sale.

''(25) OFFSET CREDIT.—The term 'offset credit' means a credit issued for an offset project pursuant to subtitle B certifying a reduction in the quantity of emissions or an increase in sequestration equivalent to 1 metric ton of carbon dioxide.

''(26) OFFSET PRACTICE.—The term 'offset practice' means a practice that—

''(A) reduces greenhouse gas emissions or increases sequestration other than by reducing the combustion of greenhouse gas-emitting fuel at an affected unit; and

''(B) may be eligible to create an offset credit under this title.

''(27) OFFSET PROJECT.—The term 'offset project' means a project that reduces greenhouse gas emissions or increases sequestration of carbon dioxide or a carbon dioxide equivalent by a method other than reduction of combustion of greenhouse gas-emitting fuel at an affected unit.

''(28) PANEL.—The term 'Panel' means the Climate Science Advisory Panel established by section 712(b)(1).

''(29) PLANT MATERIAL.—The term 'plant material' means—

''(A) a seed;

''(B) a part of a plant; or

''(C) a whole plant.

''(30) RENEWABLE ENERGY.—The term 'renewable energy' means electricity generated from—

''(A) wind;

''(B) organic waste (excluding incinerated municipal solid waste);

''(C) biomass (including anaerobic digestion from farm systems and landfill gas recovery); or

''(D) a hydroelectric, geothermal, solar thermal, photovoltaic, tidal, wave, or other nonfossil fuel, nonnuclear source.

''(31) RENEWABLE ENERGY UNIT.—The term 'renewable energy unit' means an electric generating unit that exclusively uses renewable energy to generate electricity for sale.

''(32) RESTORATION.—

''(A) IN GENERAL.—The term 'restoration' means assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.

''(B) INCLUSION.—The term 'restoration' includes the reestablishment in an ecosystem of preexisting biotic integrity with respect to species composition and community structure.

''(33) SEQUESTRATION.—The term 'sequestration' means the separation, isolation, or removal of greenhouse gases from the atmosphere.

''(34) SEQUESTRATION FLOW.—The term 'sequestration flow' means the uptake of greenhouse gases each year from sequestration practices, as calculated under section 732.

''(35) SUSTAINABLE TECHNIQUE.—The term 'sustainable technique' means an agricultural, forestry, or animal husbandry technique that does not result in—

''(A) a long-term net depletion of natural resources; or

''(B) a net emission of greenhouse gas during the lifecycle of biomass production, harvest, processing, and consumption.

''(36) UNFCCC.—The term 'UNFCCC' means the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

''Subtitle A—Stopping and Reversing Greenhouse Gas Emissions

''SEC. 711. REGULATIONS; GREENHOUSE GAS TONNAGE LIMITATION.

''(a) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate regulations to establish an allowance trading program to address emissions of greenhouse gases from affected units in the United States.

''(b) GREENHOUSE GAS TONNAGE LIMITATION.—Beginning in calendar year 2011, the annual tonnage limitation for the aggregate quantity of emissions of greenhouse gases from affected units in the United States shall be equal to—

''(1) for each of calendar years 2011 through 2014, the aggregate quantity of emissions emitted from affected units in calendar year 2006, as determined by the Administrator based on certified and quality-assured continuous emissions monitoring data for greenhouse gases, or data that the Administrator determines to be of similar reliability for affected units without continuous monitoring systems, reported to the Administrator by affected units in accordance with this subtitle;

''(2) for calendar year 2015, the aggregate quantity of emissions emitted from affected units in calendar year 2001, as determined by the Administrator based on certified and quality-assured continuous emissions monitoring data for greenhouse gases, or data that the Administrator determines to be of similar reliability for affected units without continuous monitoring systems, reported to the Administrator by affected units in accordance with this subtitle;

''(3) for each of calendar years 2016 through 2019, the aggregate quantity of emissions emitted from affected units during the calendar year that is 1 percent less than the aggregate quantity of emissions from affected units allowed pursuant to this section during the preceding calendar year; and

''(4) for calendar year 2020 and each calendar year thereafter, the aggregate quantity of emissions emitted during the calendar year that is 1.5 percent less than the aggregate quantity of emissions from affected units allowed pursuant to this section during the preceding calendar year, except as modified by the Administrator pursuant to section 713.

''SEC. 712. SCIENTIFIC REVIEW OF THE SAFE CLIMATE LEVEL.

''(a) DEFINITION AND OBJECTIVE OF MAINTAINING THE SAFE CLIMATE LEVEL.—

''(1) FINDING.—Congress finds that ratification by the Senate in 1992 of the UNFCCC, commitments which were affirmed by the President in 2002, established for the United States an objective of 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system'.

''(2) DEFINITION OF SAFE CLIMATE LEVEL.—In this section, the term 'safe climate level' means the climate level referred to in paragraph (1).

''(b) CLIMATE SCIENCE ADVISORY PANEL.—

''(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this title, the Administrator shall establish an advisory panel, to be known as the 'Climate Science Advisory Panel'.

''(2) DUTIES.—The Panel shall—

''(A) inform Congress and the Administrator of the state of climate science;

''(B) not later than December 31, 2011, and not less frequently than every 4 years thereafter, issue a report that is endorsed by at least 7 members of the Panel that describes recommendations for the Administrator, based on the best available information in the fields of climate science, including reports from the Intergovernmental Panel on Climate Change, relating to—

''(i) the specific concentration, in parts per million, of all greenhouse gases in carbon dioxide equivalents at or below which constitutes the safe climate level; and

''(ii) the projected timeframe for achieving the safe climate level.

''(3) COMPOSITION.—

''(A) IN GENERAL.—The Panel shall be composed of 8 climate scientists and 3 former Federal officials, as described in subparagraphs (B) through (D).

''(B) CLIMATE SCIENTISTS.—Not later than 270 days after the date of enactment of this title, the President of the National Academy of Sciences shall appoint to serve on the Panel 8 climate scientists from among individuals who—

''(i) have earned doctorate degrees;

''(ii) have performed research in physical, biological, or social sciences, mathematics, economics, or related fields, with a particular focus on or link to 1 or more aspects of climate science;

''(iii) have records of peer-reviewed publications that include—

''(I) publications in main-stream, high-quality scientific journals (such as journals associated with respected scientific societies or those with a high impact factor, as determined by the Institute for Scientific Information);

''(II) recent publications relating to earth systems, and particularly relating to the climate system; and

''(III) a high publication rate, typically at least 2 or 3 papers per year; and

''(iv) have participated in high-level committees, such as those formed by the National Academy of Sciences or by leading scientific societies.

''(C) RESTRICTION.—A majority of climate scientists appointed to the Panel under subparagraph (B) shall be participating, as of the date of appointment to the Panel, in active research in the physical or biological sciences, with a particular focus on or link to 1 or more aspects of climate science.

''(D) FEDERAL OFFICIALS.—

''(i) IN GENERAL.—Subject to clause (ii), the Administrator shall appoint as members of the Panel, the longest-serving former Administrators of the Environmental Protection Agency for each of the 3 most recent former Presidents.

''(ii) TIMING.—The 3 most recent former Presidents described in clause (i) shall be identified as of the deadline for appointments to the Panel under subparagraph (B) or (E)(ii), whichever is applicable.

''(iii) SUBSTITUTES.—If a former Administrator described in clause (i) declines appointment, or is unable to serve, as a member of the Panel, the Administrator shall appoint in place of the former Administrator—

''(I) the longest-serving former Administrator for the applicable President who agrees to serve; or

''(II) if no individual described in subclause (I) accepts appointment as a member of the Panel, the longest-serving Assistant Administrator for Air and Radiation for the applicable President who agrees to serve.

''(E) TERMS OF SERVICE AND VACANCIES.—

''(i) TERMS.—The initial term of a member of the Panel shall be—

''(I) to the maximum extent practicable, the period covered by, and extending through the date of issuance of, each report under paragraph (2)(B); but

''(II) not longer than 4 years.

''(ii) SUBSEQUENT PANELS AND REPORTS.—On the issuance of each report under paragraph (2)(B)—

''(I) the Panel that submitted the report shall terminate; and

''(II)(aa) pursuant to subparagraphs (B) and (C), the President of the National Academy of Sciences shall appoint climate scientists (including at least 3 climate scientists who served as members of the preceding Panel) to serve as members of a new Panel by not later than 15 months after the deadline for issuance of the report under paragraph (2)(B); and

''(bb) pursuant to subparagraph (D), the Administrator shall appoint 3 Federal officials as members of the new Panel by the deadline described in item (aa).

''(iii) VACANCIES.—Vacancies in the membership of the Panel—

''(I) shall not affect the power of the remaining members to execute the functions of the Panel; and

''(II) shall be filled in the same manner in which the original appointment was made.

''(F) CHAIRPERSON AND VICE CHAIRPERSON.—The Panel shall elect a Chairperson and Vice Chairperson as soon as practicable.

''(G) COMPENSATION OF MEMBERS.—A member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Panel.

''(H) TRAVEL EXPENSES.—A member of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Panel.

''(4) STAFF.—

''(A) IN GENERAL.—The Chairperson of the Panel may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Panel to perform the duties of the Panel.

''(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Panel.

''(C) COMPENSATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(ii) EXCEPTION.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(D) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

''(i) IN GENERAL.—An employee of the Federal Government may be detailed to the staff of the Panel without reimbursement.

''(ii) TREATMENT OF DETAILEES.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

''(E) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson or executive director of the Panel may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

''(5) HEARINGS.—The Panel may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out this section.

''(6) INFORMATION FROM FEDERAL AGENCIES.—

''(A) IN GENERAL.—The Panel may secure directly from a Federal agency such information as the Panel considers necessary to carry out this section.

''(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Panel, the head of the agency shall provide the information to the Panel.

''(7) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other agencies of the Federal Government.

''SEC. 713. REQUIRED REVIEW OF EMISSION REDUCTIONS NEEDED TO MAINTAIN THE SAFE CLIMATE LEVEL.

''(a) REVIEW AND DETERMINATION REGARDING REDUCTION RATE.—Not later than December 31, 2015, the Administrator, after providing public notice and opportunity to comment, shall promulgate a final rule pursuant to which the Administrator shall review the reduction rate for greenhouse gas emissions required under section 711(b)(4) and determine—

''(1) whether to—

''(A) accept the recommendations of the Panel under section 712(b)(2)(B) regarding the safe climate level and the timeframe for achieving the safe climate level; or

''(B) establish a different safe climate level or timeframe, together with a detailed explanation of the justification of the Administrator for rejection of the recommendations of the Panel; and

''(2) whether, in order to achieve the safe climate level within the timeframe described in paragraph (1), the reduction rate under section 711(b)(4) is most accurately characterized as requiring—

''(A) the appropriate level of emission reductions;

''(B) lesser emission reductions than are necessary; or

''(C) greater emission reductions than are necessary.

''(b) MODIFICATION OF REDUCTION RATE.—

''(1) IN GENERAL.—If the Administrator makes a determination described in subparagraph (B) or (C) of subsection (a)(2), the final rule promulgated pursuant to subsection (a) shall establish a required level of emissions reductions for each calendar year, beginning with calendar year 2020, based on the considerations described in paragraph (2).

''(2) CONSIDERATIONS.—

''(A) PRIMARY CONSIDERATION.—In establishing the required level of emission reductions pursuant to paragraph (1), the Administrator shall take into consideration primarily the emission reductions necessary to stabilize atmospheric greenhouse gas concentrations at the safe climate level within the timeframe specified under section 712(b)(2)(B).

''(B) SECONDARY CONSIDERATIONS.—In establishing the required level of emission reductions pursuant to paragraph (1), in addition to the primary consideration described in paragraph (1), the Administrator shall take into consideration—

''(i) technological capability to reduce greenhouse gas emissions;

''(ii) the progress that foreign countries have made toward reducing their greenhouse gas emissions;

''(iii) the economic impacts within the United States of implementing this subtitle, including impacts on the major emitting sectors; and

''(iv) the economic impacts within the United States of inadequate action.

''(c) ENFORCEMENT PROVISION.—

''(1) IN GENERAL.—If the Administrator fails to meet a deadline for promulgation of any regulation under subsection (a), the Administrator shall withhold from allocation to covered units that would otherwise be entitled to an allocation of allowances under this subtitle a total of 10 percent of the allowances for each covered unit for each year after the deadline until the Administrator promulgates the applicable regulation.

''(2) RETURN OF ALLOWANCES.—On promulgation of a delayed regulation described in paragraph (1), the Administrator shall distribute any allowances withheld under that paragraph—

''(A) among the covered units from which the allowances were withheld; and

''(B) in accordance with the applicable formula under section 716.

''(d) SUBSEQUENT RULEMAKINGS.—

''(1) IN GENERAL.—Not later than December 31, 2019, and every 4 years thereafter, the Administrator shall promulgate a new final rule described in subsection (a) in accordance with this section.

''(2) EFFECTIVE DATE.—If a new final rule promulgated pursuant to paragraph (1) changes a level of emission reductions required under the preceding final rule, the effective date of the new final rule shall be January 1 of the calendar year that is 5 years after the deadline for promulgation of the new final rule under paragraph (1).

''SEC. 714. DISTRIBUTION OF ALLOWANCES BETWEEN AUCTIONS AND ALLOCATIONS; NATURE OF ALLOWANCES.

''(a) DISTRIBUTION OF ALLOWANCES BETWEEN AUCTIONS AND ALLOCATIONS.—

''(1) IN GENERAL.—For each calendar year, the total quantity of allowances to be auctioned and allocated under this subtitle shall be equal to the annual tonnage limitation for emissions of greenhouse gases from affected units specified in section 711 for the calendar year.

''(2) DISTRIBUTION.—The proportion of allowances to be auctioned pursuant to section 715 and allocated pursuant to section 716 for each calendar year beginning in calendar year 2011 shall be as follows:

''Percentages of Allowances to be Auctioned and Allocated

Calendar Year	Percentage to be Auctioned	Percentage to be Allocated
2011	15	85
2012	18	82
2013	21	79
2014	24	76
2015	27	73
2016	30	70
2017	33	67

''Percentages of Allowances to be Auctioned and Allocated—Continued

Calendar Year	Percentage to be Auctioned	Percentage to be Allocated
2018	36	64
2019	39	61
2020	42	58
2021	45	55
2022	48	52
2023	51	49
2024	54	46
2025	57	43
2026	60	40
2027	63	37
2028	66	34
2029	69	41
2030	72	28
2031	75	25
2032	80	20
2033	85	15
2034	90	10
2035	95	5
2036 and thereafter	100	0

''(b) NATURE OF ALLOWANCES.—An allowance—

''(1) shall not be considered to be a property right; and

''(2) may be terminated or limited by the Administrator.

''(c) NO JUDICIAL REVIEW.—An auction or allocation of an allowance by the Administrator shall not be subject to judicial review.

''SEC. 715. AUCTION OF ALLOWANCES.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations establishing a procedure for the auction of the quantity of allowances specified in section 714(a) for each calendar year.

''(b) DEPOSIT OF PROCEEDS.—The Administrator shall deposit all proceeds from auctions conducted under this section in the Fund for use in accordance with section 717.

''SEC. 716. ALLOCATION OF ALLOWANCES.

''(a) ALLOCATION TO NEW COVERED UNITS.—

''(1) ESTABLISHMENT.—For each calendar year, the Administrator, in consultation with the Secretary of Energy, shall, based on projections of electricity output for new covered units, promulgate regulations establishing—

''(A) a reserve of allowances to be allocated among new covered units for the calendar year; and

''(B) the methodology for allocating those allowances among new covered units.

''(2) LIMITATION.—The number of allowances allocated under paragraph (1) during a calendar year shall be not more than 3 percent of the total number of allowances allocated among covered units for the calendar year.

''(3) UNUSED ALLOWANCES.—For each calendar year, the Administrator shall reallocate to each covered unit any unused allowances from the new unit reserve established under paragraph (1) in the proportion that—

''(A) the number of allowances allocated to each covered unit for the calendar year; bears to

''(B) the number of allowances allocated to all covered units for the calendar year.

''(b) ALLOCATION TO COVERED UNITS THAT ARE NOT NEW COVERED UNITS.—

''(1) TIMING OF ALLOCATIONS.—Subject to subsection (c), the Administrator shall allocate allowances among covered units that are not new covered units—

''(A) not later than December 31, 2007, for calendar year 2011; and

''(B) not later than December 31 of calendar year 2008 and of each calendar year thereafter, for each fourth calendar year that begins after that December 31.

''(2) ALLOCATIONS.—

''(A) IN GENERAL.—Subject to subsection (c), the Administrator shall allocate to each covered unit that is not a new covered unit a quantity of allowances that is equal to the product obtained by multiplying—

''(i) the quantity of allowances available for allocation under this subsection; and

''(ii) the quotient obtained by dividing—

''(I) the annual average quantity of electricity generated by the unit (including only incremental nuclear generation for nuclear generating units) during the most recent 3-calendar year period for which data is available, updated each calendar year and measured in megawatt hours; by

''(II) the difference between—

''(aa) the total of the average quantities calculated under subclause (I) for all covered units; and

''(bb) the quantity of electricity generated by all affected units and new affected units that, pursuant to subsection (c), do not receive any allowances.

''(B) QUANTITY TO BE ALLOCATED.—For each calendar year, the quantity of allowances allocated under subparagraph (A) to covered units that are not new covered units shall be equal to the difference between—

''(i) the annual tonnage limitation for emissions of greenhouse gases from affected units specified in section 711 for the calendar year, as modified, if applicable, under section 713; and

''(ii) the quantity of allowances reserved under subsection (a) for the calendar year.

''(c) COAL-FIRED AFFECTED UNITS AND NEW AFFECTED UNITS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subtitle, no allowance shall be allocated under this subtitle to a coal-fired affected unit or a coal-fired new affected unit unless the affected unit or new affected unit—

''(A) is powered by qualifying advanced clean coal technology, as defined pursuant to paragraph (2); or

''(B) entered operation before January 1, 2007.

''(2) DEFINITION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of this title, the Administrator, by regulation, shall define the term 'qualifying advanced clean coal technology' with respect to electric power generation.

''(B) REQUIREMENT.—In promulgating a definition pursuant to subparagraph (A), the Administrator shall ensure that the term 'qualifying advanced clean coal technology' reflects advances in available technology, taking into consideration—

''(i) net thermal efficiency;

''(ii) measures to capture and sequester carbon dioxide; and

''(iii) output-based emission rates for—

''(I) carbon dioxide;

''(II) sulfur dioxide;

''(III) oxides of nitrogen;

''(IV) filterable and condensable particulate matter; and

''(V) mercury.

''(C) REVIEW AND REVISION.—

''(i) IN GENERAL.—Not later than July 1, 2009, and each July 1 of every second year thereafter, the Administrator shall review and, if appropriate, revise the definition under subparagraph (A) based on technological advances during the preceding 2 calendar years.

''(ii) NOTICE AND COMMENT REQUIRED.—Subject to clause (iii), after the initial definition is established under subparagraph (A), no subsequent review or revision under this subparagraph shall be subject to the notice and comment provisions of section 307 of this Act or of section 553 of title 5, United States Code.

''(iii) EFFECT.—Nothing in clause (ii) precludes the application of the notice and comment provisions of section 307 of this Act or of section 553 of title 5, United States Code, as the Administrator determines to be practicable.

''SEC. 717. CLIMATE ACTION TRUST FUND.

''(a) ESTABLISHMENT AND ADMINISTRATION.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a fund, to be known as the 'Climate Action Trust Fund', consisting of—

''(A) such amounts as are deposited in the Fund under paragraph (2); and

''(B) any interest earned on investment of amounts in the Fund under paragraph (4).

''(2) TRANSFERS TO FUND.—The Secretary of the Treasury shall deposit in the Fund amounts equivalent to the proceeds received by the Administrator as a result of the conduct of auctions of allowances under section 715.

''(3) EXPENDITURES FROM FUND.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Administrator shall use amounts in the Fund to carry out the programs described in this section.

''(B) ADMINISTRATIVE EXPENSES.—Of amounts in the Fund, there shall be made available to pay the administrative expenses necessary to carry out this title, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor—

''(i) $90,000,000 for each fiscal year, to the Administrator; and

''(ii) $30,000,000 for each fiscal year, to the Secretary of Agriculture.

''(C) PANEL.—Of amounts in the Fund, there shall be made available to pay the expenses of the Panel under section 712 $7,000,000 for each fiscal year, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor.

''(4) INVESTMENT OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary of Treasury shall invest such portion of the Fund as

is not, in the judgment of the Administrator, required to meet current withdrawals.

''(B) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

''(C) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(i) on original issue at the issue price; or

''(ii) by purchase of outstanding obligations at the market price.

''(D) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Administrator at the market price.

''(E) RETURN OF PROCEEDS 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.

''(5) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of Energy, shall promulgate such regulations as are necessary to administer the Fund in accordance with this section.

''(b) USES OF FUND.—

''(1) NO FURTHER APPROPRIATION.—The Administrator shall distribute amounts in the Fund for use in accordance with this section, without further appropriation.

''(2) REGULATIONS.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of Energy, shall promulgate regulations establishing an innovative low- and zero-emitting carbon technologies program, a clean coal technologies program, and an energy efficiency technology program that include—

''(i) the funding mechanisms that will be available to support the development and deployment of the technologies addressed by each program, including low-interest loans, loan guarantees, grants, and financial awards; and

''(ii) the criteria for the methods by which proposals will be funded to develop and deploy the technologies.

''(B) REVISION OF CRITERIA.—Not later than January 1, 2014, and every 3 years thereafter, the Administrator shall review and, if appropriate, revise, based on technological advances, the criteria referred to in subparagraph (A)(ii).

''(C) ADAPTATION ASSISTANCE FOR WORKERS AND COMMUNITIES.—Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of Energy, shall promulgate regulations governing the distribution of funds pursuant to subsection (g).

''(c) INNOVATIVE LOW- AND ZERO-EMITTING CARBON ELECTRICITY GENERATION TECHNOLOGIES PROGRAM.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use not more than 35 percent to support the development and deployment of low- and zero-emitting carbon electricity generation technologies.

''(2) REGULATIONS.—The regulations establishing the innovative low- and zero-emitting carbon electricity generation technologies program referred to in subsection (b)(2)(A) shall establish the areas of technology development that will qualify for funding under that program, including technologies for the generation of electricity from renewable energy sources.

''(d) CLEAN COAL TECHNOLOGIES PROGRAM.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use not more than 20 percent to support the development and deployment of clean coal technologies.

''(2) REGULATIONS.—The regulations establishing the clean coal technologies program referred to in subsection (b)(2)(A) shall establish the criteria for use in defining qualifying clean coal technologies for electric power generation, while ensuring that those technologies represent an advance in available technology, taking into consideration net thermal efficiency and measures to capture and sequester carbon dioxide.

''(e) ENERGY EFFICIENCY TECHNOLOGY PROGRAM.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use not more than 15 percent to support the development and deployment of technologies for increasing the efficiency of energy end use in buildings and industry.

''(2) REGULATIONS.—The regulations establishing the energy efficiency program referred to in subsection (b)(2)(A) shall establish the areas of technology development that will qualify for funding under the energy efficiency program.

''(f) FEDERAL FUNDING OF RESEARCH INTO AND DEVELOPMENT OF ENERGY AND EFFICIENCY TECHNOLOGIES.—For each calendar year, the Administrator shall use not more than 10 percent of the amounts in the Fund to support research into and development of energy and efficiency technologies.

''(g) ADAPTATION ASSISTANCE FOR WORKERS AND COMMUNITIES NEGATIVELY AFFECTED BY CLIMATE CHANGE AND GREENHOUSE GAS REGULATION.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use at least 10 percent to provide adaptation assistance for workers and communities—

''(1) to address local or regional impacts of climate change and the impacts, if any, from greenhouse gas regulation, including by providing assistance to displaced workers and disproportionately affected communities; and

''(2) to mitigate impacts of climate change and the impacts, in any, from greenhouse gas regulation on low-income energy consumers.

''(h) FISH AND WILDLIFE HABITAT.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use at least 10 percent to mitigate the impacts of climate change on fish and wildlife habitat in accordance with this subsection.

''(2) WILDLIFE RESTORATION FUND.—

''(A) IN GENERAL.—For each calendar year, the Administrator shall transfer not less than 70 percent of the amounts made available under paragraph (1) to the Federal aid to wildlife restoration fund established under section 3(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(1))—

''(i) to carry out climate change impact mitigation actions pursuant to comprehensive wildlife conservation strategies; and

''(ii) to provide relevant information, training, monitoring, and other assistance to develop climate change impact mitigation and adaptation plans and integrate the plans into State comprehensive wildlife conservation strategies.

''(B) AVAILABILITY.—Amounts transferred to the Federal aid to wildlife restoration fund under this paragraph shall—

''(i) be available, without further appropriation, for obligation and expenditure; and

''(ii) remain available until expended.

''(3) PROTECTION OF NATURAL RESOURCES.—

''(A) IN GENERAL.—For each calendar year, the Administrator, in consultation with the Secretary of Agriculture, the Secretary of Commerce, the Chief of Engineers, and State and national wildlife conservation organizations, shall transfer not more than 30 percent of the funds made available under paragraph (1) to the Secretary of the Interior for use in carrying out Federal and State programs and projects—

''(i) to protect natural communities that are most vulnerable to climate change;

''(ii) to restore and protect natural resources that directly guard against damages from climate change events; and

''(iii) to restore and protect ecosystem services that are most vulnerable to climate change.

''(B) ADMINISTRATION.—Amounts transferred to the Secretary of the Interior under this paragraph shall—

''(i) be available, without further appropriation, for obligation and expenditure;

''(ii) remain available until expended;

''(iii)(I) be obligated not later than 2 years after the date of transfer; or

''(II) if the amounts are not obligated in accordance with subclause (I), be transferred to the Federal aid to wildlife restoration fund for use in accordance with paragraph (2); and

''(iv) supplement, and not supplant, the amount of Federal, State, and local funds otherwise expended to carry out programs and projects described in subparagraph (A).

''(C) PROGRAMS AND PROJECTS.—Programs and projects for which funds may be used under this paragraph include—

''(i) Federal programs and projects—

''(I) to identify Federal land and water at greatest risk of being damaged or depleted by climate change;

''(II) to monitor Federal land and water to allow for early detection of impacts;

''(III) to develop adaptation strategies to minimize the damage; and

''(IV) to restore and protect Federal land and water at the greatest risk of being damaged or depleted by climate change;

''(ii) Federal programs and projects to identify climate change risks and develop adaptation strategies for natural grassland, wetlands, migratory corridors, and other habitats vulnerable to climate change on private land enrolled in—

''(I) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

''(II) the grassland reserve program established under subchapter C of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838n et seq.); and

''(III) the wildlife habitat incentive program established under section 1240N of that Act (16 U.S.C. 3839bb–1);

''(iii) programs and projects under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.), the North American Bird Conservation Initiative, and the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) to protect habitat for migratory birds that are vulnerable to climate change impacts;

''(iv) programs and projects—

''(I) to identify coastal and marine resources (such as coastal wetlands, coral reefs, submerged aquatic vegetation, shellfish beds, and other coastal or marine ecosystems) at the greatest risk of being damaged by climate change;

''(II) to monitor those resources to allow for early detection of impacts;

''(III) to develop adaptation strategies;

''(IV) to protect and restore those resources; and

''(V) to integrate climate change adaptation requirements into State plans developed under the coastal zone management program established under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the national estuary program established under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330), the Coastal and Estuarine Land Conservation Program established under the fourth proviso of the matter under the heading 'PROCUREMENT, ACQUISITION, AND CONSTRUCTION (INCLUDING TRANSFERS OF FUNDS)' of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (16 U.S.C. 1456d), or other comparable State programs;

''(v) programs and projects to conserve habitat for endangered species and species of conservation concern that are vulnerable to the impact of climate change;

''(vi) programs and projects under the Forest Legacy Program established under section 7 of the Cooperative Forestry Assistance Act (16 U.S.C. 2103c), to support State efforts to protect environmentally sensitive forest land through conservation easements to provide refuges for wildlife;

''(vii) other Federal or State programs and projects identified by the heads of agencies described in subparagraph (A) as high priorities—

''(I) to protect natural communities that are most vulnerable to climate change;

''(II) to restore and protect natural resources that directly guard against damages from climate change events; and

''(III) to restore and protect ecosystem services that are most vulnerable to climate change;

''(viii) to address climate change in Federal land use planning and plan implementation and to integrate climate change adaptation strategies into—

''(I) comprehensive conservation plans prepared under section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e));

''(II) general management plans for units of the National Park System;

''(III) resource management plans of the Bureau of Land Management; and

''(IV) land and resource management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.) and the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.); and

''(ix) projects to promote sharing of information on climate change wildlife impacts and mitigation strategies across agencies, including funding efforts to strengthen and restore habitat that improves the ability of fish and wildlife to adapt successfully to climate change through the Wildlife Conservation and Restoration Account established by section 3(a)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(2)).

''SEC. 718. EARLY REDUCTION CREDITS.

''(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations that provide for the issuance on a 1-time basis, certification, and use of early reduction credits for greenhouse gas reduction or sequestration projects carried out during any of calendar years 2000 through 2010.

''(b) ELIGIBLE PROJECTS.—A greenhouse gas reduction or sequestration project shall be eligible for early reduction credits if the project—

''(1) is carried out in the United States;

''(2) meets the standards contained in regulations promulgated by the Administrator under subsection (a) that the Administrator determines to be applicable to the project, including consistency with the requirements of—

''(A) paragraphs (2) through (5) of section 736(a), with respect to greenhouse gas reduction projects; and

''(B) section 732(a), with respect to sequestration projects; and

''(3) was reported—

''(A) under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

''(B) to a State or regional greenhouse gas registry.

''(c) LIMITATION.—

''(1) IN GENERAL.—The aggregate quantity of early reduction credits available for greenhouse gas reduction or sequestration projects for the period of calendar years 2000 through 2010 shall not exceed 10 percent of the tonnage limitation for calendar year 2011 for emissions of greenhouse gases from affected units under section 711.

''(2) NO OTHER EXCEEDANCE OF TONNAGE LIMITATION.—No provision of this subtitle (other than paragraph (1)) or any regulation promulgated under this subtitle authorizes the issuance or use of a quantity of credits greater than the annual tonnage limitation for emissions of greenhouse gases from affected units for a calendar year.

''SEC. 719. RECOGNITION AND USE OF INTERNATIONAL CREDITS.

''(a) USE OF INTERNATIONAL CREDITS.—

''(1) IN GENERAL.—Except as provided in this section and section 720, the owner of each affected unit may satisfy the obligation of the affected unit under section 722 to surrender a quantity of credits associated with the greenhouse gas emissions of the affected unit by submitting international credits representing up to 25 percent of the total annual submission requirements of the affected unit.

''(2) NEW AFFECTED UNITS.—The owner of a new affected unit may satisfy up to 50 percent of the obligation of the new affected unit under section 722 to surrender a quantity of credits associated with the greenhouse gas emissions of the new affected unit by submitting international credits.

''(b) FACILITY CERTIFICATION.—The owner of an affected unit who submits an international credit under this section shall certify that the international credit—

''(1) has not been retired from use in the registry of the applicable foreign country; and

''(2) satisfies the requirements of subsection (c) or (d).

''(c) INTERNATIONAL CREDITS FROM COUNTRIES WITH MANDATORY GREENHOUSE GAS LIMITS.—The owner of an affected unit may submit an international credit under this subsection if—

''(1) the international credit is issued by a foreign country pursuant to a governmental program that imposes mandatory absolute tonnage limits on greenhouse gas emissions from the country or 1 or more industry sectors pursuant to protocols adopted through the UNFCCC process; and

''(2) the Administrator has promulgated regulations, taking into consideration applicable UNFCCC protocols, approving for use under this subsection international credits from such categories of countries as the regulations establish, and the regulations permit the use of international credits from the foreign country that issued the credit.

''(d) INTERNATIONAL CREDITS FROM COUNTRIES WITHOUT MANDATORY GREENHOUSE GAS LIMITS.—

''(1) IN GENERAL.—Subject to paragraph (2), the owner of an affected unit may submit an international credit under this subsection if—

''(A) the international credit is issued by a foreign country that has not imposed mandatory absolute tonnage limits on greenhouse gas emissions from the country or 1 or more industry sectors pursuant to protocols adopted through the UNFCCC process;

''(B) the international credit is issued pursuant to protocols adopted through the UNFCCC process; and

''(C) the Administrator has promulgated regulations, taking into consideration applicable UNFCCC protocols, approving for use under this subsection international credits from such categories of countries as the regulations establish, and the regulations permit the use of international credits from the foreign country that issued the credit.

''(2) DECISION ON CONTINUED APPROVAL.—Not later than December 31, 2015, the Administrator shall determine, pursuant to the regulations promulgated under paragraph (1)(C), whether to continue to approve for use under this subsection international credits from any country that—

''(A) has not imposed mandatory absolute tonnage limits on greenhouse gas emissions from the country or 1 or more industry sectors pursuant to protocols adopted through the UNFCCC process; and

''(B) generates more than 0.5 percent of global greenhouse gas emissions as of 2010 or as of the most recent year for which data are available.

''SEC. 720. AVOIDING SIGNIFICANT ECONOMIC HARM.

''(a) IN GENERAL.—Pursuant to the regulations promulgated under this section, the Administrator may permit affected units—

''(1) to use allowances in a calendar year before the calendar year for which the allowances were allocated; and

''(2) to increase the use by the affected units of international credits up to 50 percent of the total annual submission requirements of the affected units under section 722.

''(b) REGULATIONS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Administrator, in coordination with the Secretary of the Treasury, shall promulgate regulations requiring the continuous monitoring of the operation of the carbon market and the effect of that market on the economy of the United States.

''(2) REQUIREMENTS.—The regulations shall—

''(A) establish the criteria for determining whether allowance prices have reached and sustained a level that is causing or will cause significant harm to the economy of the United States; and

''(B) take into consideration—

''(i) the obligation of the United States under this subtitle to stabilize greenhouse gas concentrations in the atmosphere at the safe climate level; and

''(ii) the costs of the anticipated impacts of climate change in the United States.

''(3) PREVENTION OF ECONOMIC HARM.—If the Administrator determines that allowance prices have reached and sustained a level that is causing or will cause significant harm to the economy of the United States, the regulations shall establish—

''(A) a program under which an affected unit may use allowances in a calendar year before the calendar year for which the allowances were allocated, including—

''(i) a requirement that allowances borrowed from the allocation of a future year reduce the allocation of allowances to the affected unit for the future year on a 1-to-1 basis;

''(ii) a requirement for payment of interest on borrowed allowances requiring the submission of additional credits upon repayment of the allowances equal to the product obtained by multiplying—

''(I) the number of years between the advance use of allowances by an affected unit under clause (i) and the submission of additional credits under this clause; and

''(II) the sum obtained by adding—

''(aa) the Federal short-term rate, as defined pursuant to section 1274(d)(1)(C)(i) of the Internal Revenue Code of 1986; and

''(bb) 2 percent; and

''(iii) a limitation that in no event may an affected unit—

''(I) satisfy more than 10 percent of the obligation of the affected unit under section 722 to surrender allowances by submitting allowances in a calendar year before the calendar year for which the allowances were allocated; and

''(II) use allowances in a calendar year that is more than 5 years before the calendar year for which the allowances were allocated; and

''(B) a program under which the owner of an affected unit may satisfy the obligation of the affected unit under section 722 to surrender allowances for the calendar year in which the determination is made by submitting international credits representing up to 50 percent of the total annual submission requirements of the affected unit.

''SEC. 721. USE AND TRANSFER OF CREDITS.

''(a) USE IN OTHER GREENHOUSE GAS ALLOWANCE TRADING PROGRAMS.—

''(1) IN GENERAL.—A credit obtained under this subtitle may be used in any other greenhouse gas allowance trading program, including a program of 1 or more States or subdivisions of States, that is approved by the Administrator and an authorized official for the other program for use of the allowance.

''(2) RECIPROCITY.—A credit obtained from another greenhouse gas trading program, including a program of 1 or more States or subdivisions of States, that is approved by the Administrator and an authorized official for the other program may be used in the trading program under this title.

''(b) ALLOWANCE USE BEFORE APPLICABLE CALENDAR YEAR.—Except as provided in section 720, an allowance auctioned or allocated under this subtitle may not be used before the calendar year for which the allowance was auctioned or allocated.

''(c) TRANSFER.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the transfer of a credit shall not take effect until receipt and recording by the Administrator of a written certification of the transfer that is executed by an authorized official of the person making the transfer.

''(2) SPECIAL RULE FOR ALLOWANCES.—Notwithstanding paragraph (1), the transfer of an allowance auctioned or allocated under this subtitle may take effect before the calendar year for which the allowance was auctioned or allocated.

''(d) BANKING OF CREDITS.—Any affected unit may use a credit obtained under this subtitle in the calendar year for which the credit was auctioned or allocated, or in a subsequent calendar year, to demonstrate compliance with section 722.

''SEC. 722. COMPLIANCE AND ENFORCEMENT.

''(a) IN GENERAL.—For calendar year 2011 and each calendar year thereafter, the owner of each affected unit shall surrender to the Administrator a quantity of credits that is equal to the total tons of carbon dioxide or, with respect to other greenhouse gases, tons in carbon dioxide equivalent, associated with the combustion by the affected unit of greenhouse gas-emitting fuels during the calendar year.

''(b) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations establishing the procedures for the surrender of credits.

''(c) PENALTY.—The owner of an affected unit that emits greenhouse gases associated with the combustion by the affected unit of a greenhouse gas-emitting fuel in excess of the number of credits that the owner of the affected unit holds for use of the affected unit for the calendar year shall—

''(1) submit to the Administrator 1.3 credits for each metric ton of excess greenhouse gas emissions of the affected unit; and

''(2) pay an excess emissions penalty equal to the product obtained by multiplying—

''(A) the number of tons of carbon dioxide, or the carbon dioxide equivalent of other greenhouse gases, emitted in excess of the total quantity of credits held by the affected unit; and

''(B)(i) except as provided in clause (ii), $100, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor; or

''(ii) if the average market price for a metric ton of carbon dioxide equivalent during a calendar year exceeds $60, $200, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor.

''Subtitle B—Offset Credits

''SEC. 731. OUTREACH INITIATIVE ON REVENUE ENHANCEMENT FOR AGRICULTURAL PRODUCERS.

''(a) PURPOSES.—The purposes of this subtitle are to achieve climate benefits, reduce overall costs to the United States economy, and enhance revenue for domestic agricultural producers, foresters, and other landowners by—

''(1) establishing procedures by which domestic agricultural producers, foresters, and other landowners can measure and report reductions in greenhouse gas emissions and increases in sequestration; and

''(2) publishing a handbook of guidance for domestic agricultural producers, foresters, and other landowners to market emission reductions to companies.

''(b) ESTABLISHMENT.—The Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service, the Chief of the Forest Service, the Administrator of the Cooperative State Research, Education, and Extension Service, and landgrant colleges and universities, in consultation with the Administrator and the heads of other appropriate departments and agencies, shall establish an outreach initiative to provide information to agricultural producers, agricultural organizations, foresters, and other landowners about opportunities under this subtitle to earn new revenue.

''(c) COMPONENTS.—The initiative under this section—

''(1) shall be designed to ensure that, to the maximum extent practicable, agricultural organizations and individual agricultural producers, foresters, and other landowners receive detailed practical information about—

''(A) opportunities to earn new revenue under this subtitle;

''(B) measurement protocols, monitoring, verifying, inventorying, registering, insuring, and marketing offsets under this title;

''(C) emerging domestic and international markets for energy crops, allowances, and offsets; and

''(D) local, regional, and national databases and aggregation networks to facilitate achievement, measurement, registration, and sales of offsets;

''(2) shall provide—

''(A) outreach materials, including the handbook published under subsection (d)(1), to interested parties;

''(B) workshops; and

''(C) technical assistance; and

''(3) may include the creation and development of regional marketing centers or coordination with existing centers (including centers within the Natural Resources Conservation Service or the Cooperative State Research, Education, and Extension Service or at land-grant colleges and universities).

''(d) HANDBOOK.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator and after public input, shall publish a handbook for use by agricultural producers, agricultural cooperatives, foresters, other landowners, offset buyers, and other stakeholders that provides easy-to-use guidance on achieving, reporting, registering, and marketing offsets.

''(2) DISTRIBUTION.—The Secretary of Agriculture shall ensure, to the maximum extent practicable, that the handbook is distributed widely through land-grant colleges and universities and other appropriate institutions.

''SEC. 732. OFFSET MEASUREMENT FOR AGRICULTURAL, FORESTRY, WETLANDS, AND OTHER LAND USE-RELATED SEQUESTRATION PROJECTS.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations establishing the requirements regarding the issuance, certification, and use of offset credits for greenhouse gas reductions from agricultural, forestry, wetlands, and other land use-related sequestration projects, including requirements—

''(1) for a region-specific discount factor for business-as-usual practices for specific types of sequestration projects, in accordance with subsection (c);

''(2) that ensure that the reductions are real, additional, verifiable, and enforceable;

''(3) that address leakage;

''(4) that the reductions are not otherwise required by any law (including a regulation) or other legally binding requirement;

''(5) for the quantification, monitoring, reporting, and verification of the reductions;

''(6) that ensure that offset credits are limited in duration to the period of sequestration of greenhouse gases, and rectify any loss of sequestration other than a loss caused by an error in calculation identified under this subtitle, by requiring the submission of additional credits of an equivalent quantity to the lost sequestration; and

''(7) that quantify sequestration flow.

''(b) ELIGIBILITY TO CREATE OFFSET CREDITS.—

''(1) IN GENERAL.—A sequestration project that commences operation on or after January 1, 2011, is eligible to create offset credits under this subtitle if the sequestration project satisfies the other applicable requirements of this subtitle.

''(2) EXCEPTION FOR AGRICULTURAL PROJECTS.—Notwithstanding paragraph (1), sequestration flow from an agricultural project that occurs on or after January 1, 2011, may provide the basis for offset credits under this subtitle regardless of the date on which the agricultural sequestration project to which the sequestration flow is attributable commenced, if the project satisfies the other applicable requirements of this subtitle.

''(c) DISCOUNTING FOR BUSINESS-AS-USUAL PRACTICES.—

''(1) IN GENERAL.—In order to streamline the availability of offset credits for agricultural and other land use-related sequestration projects, the regulations promulgated under subsection (a) shall provide for the calculation and reporting of region-specific discount factors by the Secretary of Agriculture—

''(A) to be used by developers of agricultural projects and other land use-related sequestration projects; and

''(B) to account for business-as-usual practices for specific types of sequestration projects.

''(2) CALCULATION.—Unless otherwise provided in this subtitle, the region-specific discount factor for business-as-usual practices for sequestration projects shall be calculated by dividing—

''(A) the difference between—

''(i) the quantity of greenhouse gases sequestered in the region as a result of the offset practice under this subtitle; and

''(ii) the quantity of greenhouse gases sequestered in the region as a result of the projected business-as-usual implementation of the applicable offset practice; by

''(B) the quantity of greenhouse gases sequestered in the region as a result of the offset practice under this subtitle.

''(3) REQUIREMENTS.—

''(A) IN GENERAL.—The regulations promulgated under this section shall, to the maximum extent practicable—

''(i) define geographic regions with reference to land that has similar agricultural characteristics; and

''(ii) subject to subparagraph (B), define baseline historical reference periods for each category of sequestration practice, using the most recent period of sufficient length for which there are reasonably comprehensive data available.

''(B) EXCEPTION.—If the Secretary of Agriculture determines that entities have increased implementation of the relevant offset practice during the most recent period in anticipation of legislation granting credit for the offsets, the regulations described in subparagraph (A)(ii) may define baseline historical reference periods for each category of sequestration practice using an earlier period.

''(d) QUANTIFYING SEQUESTRATION FLOW.—The regulations that quantify sequestration flow shall include—

''(1) a default rate of sequestration flow, regionally specific to the maximum extent practicable, for each offset practice or combination of offset practices, that is estimated conservatively to allow for site-specific variations and data uncertainties;

''(2) a downward adjustment factor for any offset practice or combination of practices for which, in the judgment of the Secretary of Agriculture, there are substantial uncertainties in the sequestration flows estimated in paragraph (1), but still reasonably sufficient data to calculate a default rate of flow; and

''(3) offset practice- or project-specific measurement, monitoring, and verification requirements for—

''(A) offset practices or projects for which there are insufficiently reliable data to calculate a default rate of sequestration flow; or

''(B) projects for which the project proponent chooses to use project-specific requirements.

''(e) USE OF NATIVE PLANT SPECIES IN OFFSET PROJECTS.—

''(1) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Administrator, in consultation with the Secretary of Agriculture, shall promulgate regulations for selection, use, and storage of native and nonnative plant materials in the offset projects described in paragraph (2)—

''(A) to ensure native plant materials are given primary consideration, in accordance with applicable Department of Agriculture guidance for use of native plant materials;

''(B) to prohibit the use of Federal- or State-designated noxious weeds; and

''(C) to prohibit the use of a species listed by a regional or State invasive plant council within the applicable region or State.

''(2) APPLICABILITY.—The regulations under paragraph (1) shall apply to qualifying offset projects described in sections 733(b)(2), 734(a)(2), and 734(b)(1).

''SEC. 733. CATEGORIES OF AGRICULTURAL OFFSET PRACTICES.

''(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations establishing the categories of offset practices that—

''(1) reduce greenhouse gases as a result of agricultural sequestration projects; and

''(2) are eligible to receive offset credits under this subtitle.

''(b) OFFSET PRACTICES.—Offset practices described in subsection (a) shall include—

''(1) agricultural sequestration practices, including—

''(A) no-till agriculture;

''(B) conservation tillage (ridge till or minimum till);

''(C) winter cover cropping;

''(D) switching from a cycle of—

''(i) planting wheat or other crops and then fallowing land; to

''(ii) continuous cropping;

''(E) any other offset practices identified by the Administrator, in consultation with the Secretary of Agriculture; and

''(F) combinations of any of the offset practices described in subparagraphs (A) through (E); and

''(2) conversion of cropland to rangeland or grassland.

''SEC. 734. OFFSET CREDITS FROM FOREST MANAGEMENT, GRAZING MANAGEMENT, AND WETLANDS MANAGEMENT.

''(a) FOREST MANAGEMENT OFFSETS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations providing for the issuance of offset credits for forest management projects that provide durable, long-term reductions in greenhouse gases as a result of sequestration.

''(2) FOREST MANAGEMENT OFFSETS.—Forest management offset projects under this section may include activities that reduce greenhouse gases as a result of forest management sequestration projects (including afforestation), other than avoided forest land conversion as described in section 735.

''(3) PROHIBITIONS.—

''(A) IN GENERAL.—In accordance with section 732(e), no afforestation project may involve the planting of invasive species or noxious weeds.

''(B) EXISTING NATIVE GRASSLAND AND ECOSYSTEMS.—No afforestation project may involve planting trees on existing native grassland or other existing native non-forested ecosystems that the Secretary of Agriculture determines should be protected in their existing native condition.

''(b) WETLANDS MANAGEMENT OFFSETS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Chief of Engineers, shall promulgate regulations providing for the issuance of offset credits for wetlands management projects that provide durable, long-term reductions in greenhouse gases as a result of sequestration.

''(2) PROHIBITIONS.—

''(A) IN GENERAL.—In accordance with section 732(e), no wetlands restoration project may involve the planting of invasive species or noxious weeds.

''(B) NO NEW WETLANDS.—No wetlands offset project may be carried out in an area in which underlying local hydrologic processes will not support a wetland.

''(c) GRAZING MANAGEMENT OFFSETS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations providing for the issuance of offset credits for grazing management projects that provide durable, long-term reductions in greenhouse gases as a result of sequestration.

''(2) GRAZING MANAGEMENT OFFSETS.—Grazing management offset projects under this section may include activities that reduce greenhouse gases as a result of grazing management sequestration projects other than conversion of cropland to grassland or rangeland under section 733.

''(d) USE OF OFFSETS.—

''(1) IN GENERAL.—For each calendar year, an affected unit may satisfy not more than 5 percent of the total allowance submission requirements of the affected unit under section 722 by using forest management offset credits under this section.

''(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to grazing management, afforestation, or wetland offset projects.

''SEC. 735. OFFSET CREDITS FROM THE AVOIDED CONVERSION OF FORESTED LAND OR WETLAND.

''(a) IN GENERAL.—Offset credits for avoided conversion of forested land or wetland shall be awarded to any State that reduces the conversion below expected levels for all or a significant portion of the State.

''(b) REGULATIONS.—Not later than 3 years after the date of enactment of this title, the Administrator, in conjunction with the Secretary of Agriculture, shall promulgate regulations that address the eligibility of offset practices that avoid the conversion of forested land or wetland to nonforested land uses or drained or converted wetland to receive offset credits under this subtitle, including requirements that address—

''(1) the methodology for measuring the avoided conversion of forest land or wetland, including—

''(A) measurement of presently on-going rates of forest land conversion or wetland conversion;

''(B) calculation of business-as-usual rates of forest land conversion or wetland conversion by reference to the historical rate of conversion of forested land or wetland; and

''(C) comparison of the rates in subparagraph (A) and subparagraph (B); and

''(2) leakage, including—

''(A) adjustments for leakage using standardized regional leakage factors for afforestation and wetland restoration; and

''(B) the magnitude of the forested region or wetlands region in a State in which the rate of conversion of forest land or wetland must be reduced to ensure that leakage of forest land or wetlands conversion is minimized.

''(c) PRECONDITION.—For an offset to be creditable under this section, the State must certify that the State has reduced its rate of conversion of forest land or wetland over a period of 5 or more consecutive years for the entire State or a significant forested or wetland region in the State.

''(d) AWARD BY STATES OF OFFSET CREDITS.—States that participate in the program under this section shall establish transparent and equitable rules by which offset credits will be awarded to owners of forested land or wetland.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator, in consultation with the Secretary of Agriculture, for use in awarding grants to States to carry out this section $5,000,000 for each fiscal year.

''SEC. 736. OFFSET CREDITS FROM GREENHOUSE GAS EMISSIONS REDUCTION PROJECTS.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations establishing the requirements regarding the issuance, certification, and use of offset credits for greenhouse gas emissions reduction offset projects, including requirements—

''(1) for performance standards for specific types of offset projects, which represent significant improvements compared to recent practices in the geographic area, to be reviewed, and updated if the Administrator determines updating is appropriate, every 5 years;

''(2) that ensure that the reductions are real, additional, verifiable, enforceable, and permanent;

''(3) that address leakage;

''(4) that the reductions are not otherwise required by any law (including a regulation) or other legally binding requirement;

''(5) for the quantification, monitoring, reporting, and verification of the reductions; and

''(6) that specify the duration of offset credits for greenhouse gas emissions reduction projects under this section.

''(b) ELIGIBILITY TO CREATE OFFSET CREDITS.—Greenhouse gas emissions reduction offset projects that commence operation on or after January 1, 2007, are eligible to create offset credits under this subtitle if the projects satisfy the other applicable requirements of this subtitle.

''(c) APPROVED CATEGORIES OF GREENHOUSE GAS EMISSIONS REDUCTION OFFSET PROJECTS.—Greenhouse gas emission reductions from the following types of operations shall be eligible to create offsets for use under this section:

''(1) Landfill operations.

''(2) Agricultural manure management projects.

''(3) Wastewater treatment facilities.

''(4) Coal mining operations.

''(5) Natural gas transmission and distribution systems.

''(6) Electrical transmission and distribution systems.

''(7) Elimination or reduction in use of chemicals that substitute for ozone-depleting substances.

''(8) Cement manufacturing.

''(9) Lime manufacturing.

''(10) Iron and steel production.

''(11) Aluminum production.

''(12) Adipic acid production.

''(13) Nitric acid production.

''(14) Semiconductor manufacturing.

''(15) Magnesium production and processing.

''(16) Fossil fuel combustion at commercial and residential buildings.

''(d) CREATION OF ADDITIONAL CATEGORIES OF GREENHOUSE GAS EMISSIONS REDUCTION OFFSET PROJECTS.—The Administrator may, by regulation, create additional categories of greenhouse gas emissions reduction offset projects for types of projects for which the Administrator determines that compliance with the regulations promulgated under subsection (a) is feasible.

''(e) PROHIBITION ON USE.—Notwithstanding the eligibility of greenhouse gas emission reduction projects to create offset credits in accordance with subsection (c) or (d), greenhouse gas emissions reduction offset projects shall not be eligible to create offset credits for use under this section beginning on the date on which the reductions are required by law (including regulations) or other legally binding requirement.

''SEC. 737. BORROWING AT PROGRAM START-UP BASED ON CONTRACTS TO PURCHASE OFFSET CREDITS.

''(a) IN GENERAL.—During calendar years 2011, 2012, and 2013, an affected unit may satisfy not more than 5 percent of the allowance submission requirements of section 722 by submitting to the Administrator contractual commitments to purchase offset credits that will implement an equivalent quantity of emission reductions or sequestration not later than December 31, 2015.

''(b) APPROVAL OF QUALIFYING OFFSET PROJECTS.—Offset projects that may be appropriately carried out under this section shall be approved by the Administrator in accordance with this subtitle.

''(c) REPAYMENT BY 2015.—

''(1) IN GENERAL.—If an affected unit uses subsection (a) to comply with section 722, not later than the deadline in that section for allowance submissions for calendar year 2015, the affected unit shall submit additional credits of a quantity equivalent to the sum obtained by adding—

''(A) the value of credits submitted to comply with credit submission requirements described in subsection (a); and

''(B) interest calculated in accordance with paragraph (2).

''(2) INTEREST.—Interest referred to in paragraph (1)(B) shall be equal to the product obtained by multiplying—

''(A) the number of years between—

''(i) the use by an affected unit of the method of compliance described in subsection (a); and

''(ii) the submission by the affected unit of additional credits under this subsection; and

''(B) the sum obtained by adding—

''(i) the Federal short-term rate, as defined pursuant to section 1274(d)(1)(C)(i) of the Internal Revenue Code of 1986; and

''(ii) 2 percent.

''SEC. 738. REVIEW AND CORRECTION OF ACCOUNTING FOR OFFSET CREDITS.

''(a) DUTY TO MONITOR.—The Secretary of Agriculture and the Administrator shall monitor regularly whether offset credits under the respective jurisdiction of each agency head under this subtitle are being awarded only for real and additional sequestration of greenhouse gases and reductions in greenhouse gas emissions, including—

''(1) the accuracy of default calculations of sequestration flow and greenhouse gas emission reductions achieved by the use of offset practices;

''(2) the calculation of region-specific discount factors; and

''(3) the accuracy of leakage calculations.

''(b) PERIODIC REVIEW.—Not later than December 31, 2013, and every 5 years thereafter, the Secretary of Agriculture and the Administrator shall review the issuance of offset credits under the respective jurisdiction of each agency head under this subtitle to determine—

''(1) whether offset credits are being awarded only for real and additional sequestration of greenhouse gases or reductions in greenhouse gas emissions, as described in subsection (a);

''(2) the amount of excessive award of any offset credits;

''(3) the volume of offset credits that have been or are expected to be approved;

''(4) the impact of the offset credits on market prices; and

''(5) the impact of the offset credits on the trajectory of emissions from affected units.

''(c) DUTY TO CORRECT.—If the Secretary of Agriculture or the Administrator determines that offset credits under the respective jurisdictions of the agency head have been awarded under this subtitle in excess of real and additional sequestration of greenhouse gases or reductions in emissions of greenhouse gases, the Secretary of Agriculture or the Administrator shall—

''(1) promptly correct on a prospective basis the sources of the errors, including correcting leakage factors, region-specific discount factors, default rates of sequestration flow, and other relevant information for the offset practices involved; and

''(2) quantify and publicly disclose the quantity of offset credits that have been awarded in excess of real and additional sequestration or emissions reductions.

''Subtitle C—National Registry for Credits

''SEC. 741. ESTABLISHMENT AND OPERATION OF NATIONAL REGISTRY.

''(a) IN GENERAL.—Except as provided in subsection (b), not later than July 1 of the year immediately prior to the first calendar year in which an annual tonnage limitation on the emission of greenhouse gases applies under section 711(b), the Administrator shall promulgate regulations to establish, operate, and maintain a national registry through which the Administrator shall—

''(1) record allocations of allowances, the issuance of offset credits or early reduction credits, and the recognition of international credits;

''(2) track transfers of credits;

''(3) retire all credits used for compliance;

''(4) subject to subsection (b), maintain transparent availability of registry information to the public, including the quarterly reports submitted under section 742(a);

''(5) prepare an annual assessment of the emission data in the quarterly reports submitted under section 742(a); and

''(6) take such action as is necessary to maintain the integrity of the registry, including adjustments to correct for—

''(A) errors or omissions in the reporting of data; and

''(B) the prevention of counterfeiting, double-counting, multiple registrations, multiple sales, and multiple retirements of credits.

''(b) EXCEPTION TO PUBLIC AVAILABILITY OF DATA.—

''(1) IN GENERAL.—Subsection (a)(4) shall not apply in any case in which the Administrator, in consultation with the Secretary of Defense, determines that publishing or otherwise making available information in accordance with that paragraph poses a risk to national security.

''(2) STATEMENT OF REASONS.—In a case described in paragraph (1), the Administrator shall publish a description of the determination and the reasons for the determination.

''SEC. 742. MONITORING AND REPORTING.

''(a) REQUIREMENTS.—Each owner or operator of an affected unit, or to the extent applicable, the greenhouse gas authorized account representative for the affected unit, shall—

''(1) comply with the monitoring, recordkeeping, and reporting requirements of part 75 of title 40, Code of Federal Regulations (or successor regulations); and

''(2) submit to the Administrator electronic quarterly reports that describe the greenhouse gas mass emission data, fuel input data, and electricity output data for the affected unit.

''(b) BIOMASS COFIRING.—Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate regulations that provide monitoring, recordkeeping, and reporting requirements for biomass cofiring at affected units.''.

(b) CONFORMING AMENDMENTS.—

(1) FEDERAL ENFORCEMENT.—Section 113 of the Clean Air Act (42 U.S.C. 7413) is amended—

(A) in subsection (a)(3), by striking ''or title VI,'' and inserting ''title VI, or title VII,'';

(B) in subsection (b)—

(i) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting the subparagraphs appropriately;

(ii) by striking ''The Administrator shall'' and inserting the following:

''(1) IN GENERAL.—The Administrator shall'';

(iii) in paragraph (1) (as designated by clause (ii)), in the matter preceding subparagraph (A) (as redesignated by clause (i)), by striking ''or a major stationary source'' and inserting ''a major stationary source, or an affected unit under title VII''; and

(iv) in subparagraph (B) (as redesignated by clause (i)), by striking ''or title VI'' and inserting ''title VI, or title VII'';

(v) in the matter following subparagraph (C) of paragraph (1) (as designated by clauses (i) and (ii))—

(I) by striking ''Any action'' and inserting the following:

''(2) JUDICIAL ENFORCEMENT.—

''(A) IN GENERAL.—Any action'';

(II) by striking ''Notice'' and inserting the following:

''(B) NOTICE.—Notice''; and

(III) by striking ''In the case'' and inserting the following:

''(C) ACTIONS BROUGHT BY ADMINISTRATOR.—In the case'';

(C) in subsection (c)—

(i) in the first sentence of paragraph (1), by striking ''or title VI (relating to stratospheric ozone control),'' and inserting ''title VI (relating to stratospheric ozone control), or title VII (relating to global warming pollution emission reductions),''; and

(ii) in the first sentence of paragraph (3), by striking ''or VI'' and inserting ''VI, or VII'';

(D) in subsection (d)(1)(B), by striking ''or VI'' and inserting ''VI, or VII''; and

(E) in subsection (f), in the first sentence, by striking ''or VI'' and inserting ''VI, or VII''.

(2) INSPECTIONS, MONITORING, AND ENTRY.—Section 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is amended by striking ''section 112,'' and all that follows through ''(ii)'' and inserting the following: ''section 112, any regulation of solid waste combustion under section 129, or any regulation of greenhouse gas emissions under title VII, (ii)''.

(3) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW.—Section 307 of the Clean Air Act (42 U.S.C. 7607) is amended—

(A) in subsection (a), by striking '', or section 306'' and inserting ''section 306, or title VII'';

(B) in subsection (b)(1)—

(i) by striking ''section 111,,'' and inserting ''section 111,'';

(ii) by striking ''section 120,'' each place it appears and inserting ''section 120, any action under title VII,''; and

(iii) by striking ''112,,'' and inserting ''112,''; and

(C) in subsection (d)(1)—

(i) by striking subparagraph (S);

(ii) by redesignating the second subparagraph (N) and subparagraphs (O) through (R) as subparagraphs (O), (P), (Q), (R), and (S), respectively;

(iii) by redesignating subparagraphs (T) and (U) as subparagraphs (U) and (V), respectively; and

(iv) by inserting after subparagraph (S) (as redesignated by clause (ii)) the following:

''(T) the promulgation or revision of any regulation under title VII,''.

(4) UNAVAILABILITY OF EMISSIONS DATA.—Section 412(d) of the Clean Air Act (42 U.S.C. 7651k(d)) is amended in the first sentence—

(A) by inserting ''or title VII'' after ''under subsection (a)''; and

(B) by inserting ''or title VII'' after ''this title''.

TITLE II—CLIMATE CHANGE RESEARCH INITIATIVES

SEC. 201. RESEARCH GRANTS THROUGH NATIONAL SCIENCE FOUNDATION.

Section 105 of the Global Change Research Act of 1990 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) RESEARCH GRANTS.—

''(1) LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being adequately addressed by Federal agencies.

''(2) TRANSMISSION OF LIST.—The Director of the Office of Science and Technology Policy shall submit the list developed under paragraph (1) to the National Science Foundation.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation such sums as are necessary to carry out this subsection, to be made available through the Science and Technology Policy Institute, for research in the priority areas.''.

SEC. 202. ABRUPT CLIMATE CHANGE RESEARCH.

(a) IN GENERAL.—The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on abrupt climate change designed to provide timely warnings of the potential likelihood, magnitude, and consequences of, and measures to avoid, abrupt human-induced climate change.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce such sums as are necessary to carry out this section.

SEC. 203. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall carry out a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies to calculate greenhouse gas emissions or reductions for which no accurate, reliable, low-cost measurement technology exists.

(b) ADMINISTRATION.—The program shall include technologies (including remote sensing technologies) to measure carbon changes and other greenhouse gas emissions and reductions from agriculture, forestry, wetlands, and other land use practices.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 204. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology, acting through the Manufacturing Extension Partnership program, may develop a program to promote the use, by small manufacturers, of technologies and techniques that result in reduced emissions of greenhouse gases or increased sequestration of greenhouse gases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology such sums as are necessary to carry out this section.

SEC. 205. PUBLIC LAND.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall prepare a joint assessment or separate assessments setting forth recommendations for increased sequestration of greenhouse gases and reduction of greenhouse gas emissions on public land that is—

(1) managed forestland;

(2) managed rangeland or grassland; or

(3) protected land, including national parks and designated wilderness areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Agriculture and the Secretary of the Interior such sums as are necessary to carry out this section.

SEC. 206. SEA LEVEL RISE FROM POLAR ICE SHEET MELTING.

(a) IN GENERAL.—The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration and in cooperation with the Administrator of the National Aeronautics and Space Administration, shall carry out a program of scientific research to support modeling and observations into the potential role of the Greenland, west Antarctic, and east Antarctic ice sheets in any future increase in sea levels.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration such sums as are necessary to carry out this section.

By Mr. AKAKA (for himself, Mr. WYDEN, Mr. BUNNING, Mr. INOUYE, and Mr. DURBIN):

S. 320. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today along with my distinguished colleagues, Senator WYDEN, Senator BUNNING, Senator INOUYE, and Senator DURBIN, to introduce the Paleontological Resources Preservation Act in order to protect and preserve the Nation's important fossil record for the benefit of our citizens. Vertebrate fossils are rare and important natural resources that have become increasingly endangered due to an increase in the illegal collection of fossil specimens for commercial sale. However, at this time there is no unified policy regarding the treatment of fossils by Federal land management agencies which would help protect and conserve fossil specimens. Consequently, we risk the deterioration or loss of these valuable scientific resources. This Act will correct that omission by providing uniformity to the patchwork of statutes and regulations that currently exist. By creating a comprehensive national policy for preserving and managing paleontological resources found on Federal land, this Act will also be instrumental in curtailing and preventing future illegal trade thereby ensuring that many generations to come will have access to these invaluable records of our past. I would like to emphasize that this bill covers only paleontological remains on Federal lands and in no way affects archaeological or cultural resources under the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Rehabilitation Act.

I would also mention that this bill is exactly the same bill that I introduced

in the 109th Congress. This bill was heard and marked up by the Senate Energy and Natural Resources Committee, and was passed by the Senate.

As a senior member of the Senate Energy and Natural Resources Committee and Chair of the Subcommittee on National Parks, I am very concerned about the preservation of fossils as records of earth's past upheavals and struggles. While I recognize the value of amateur collecting—and casual collecting—of fossils is protected in this bill—fossil theft has become an increasing problem. New fossil fields and insights into the earth's past are discovered nearly every month. Paleontological resources can be sold on the market for a hefty price. For example, the complete skeleton of a T-Rex was sold for $8.6 million at auction to the Field Museum of Chicago. Consequently, they are being stolen from public lands without regard to science and education. The protections I offer in this Act are not new. Federal and management agencies have individual regulations prohibiting theft of government property. However, Congress has not provided a clear statute stating the value of paleontological resources to our Nation, as we have for archeological resources. We need to work together to make sure that we fulfill our responsibility as stewards of public lands, and as protectors of our Nation's natural resources.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 320

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 ''Paleontological Resources Preservation Act''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms ''reasonable amount'', ''common invertebrate and plant paleontological resources'' and ''negligible disturbance'' shall be determined by the Secretary.

(2) FEDERAL LANDS.—The term ''Federal lands'' means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(3) INDIAN LANDS.—The term ''Indian Land'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(4) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(6) STATE.—The term ''State'' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 7 or is assessed a civil penalty under section 8.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which

was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 8. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 9.

SEC. 9. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 7 or 8—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 7 or 8 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), Public Law 94–429 (commonly known as the ''Mining in the Parks Act'') (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. MCCAIN, Mr. CONRAD, Mr. BINGAMAN, Mr. BAUCUS, Mr. SMITH, and Mr. INOUYE):

S. 322. A bill to establish an Indian youth telemental health demonstration project; to the Committee on Indian Affairs.

Mr. DORGAN. Mr. President, I rise today to re-introduce legislation which would provide a first important step in dealing with the crisis of youth suicide in Indian Country.

The legislation I am introducing today is almost identical to legislation that the Senate passed in May, 2006, to establish an Indian youth telemental health demonstration project. The Indian Youth Telemental Health Demonstration Project Act of 2007 would authorize the Secretary of Health and Human Services to carry out a 4-year demonstration project under which five tribes and tribal organizations with telehealth capabilities could use telemental health services in youth suicide prevention, intervention, and treatment. Demonstration project grantees would provide services through telemental health for such purposes as counseling of Indian youth; providing medical advice and other assistance to frontline tribal health providers; training for community members, tribal

elected officials, tribal educators, and health workers and others who work with Indian youth; developing culturally sensitive materials on suicide prevention and intervention; and collecting and reporting of data.

The Committee on Indian Affairs held three hearings during the 109th Congress on the issue of Indian youth suicide, including one hearing that I convened in Bismarck, ND. Although on the Indian reservations of the northern Great Plains, the rate of Indian youth suicide is 10 times higher than it is anywhere else in the country, this tragic issue is not limited to these locations. The committee has heard testimony from people from tribal communities in Arizona, Oregon, Washington, Alaska, New Mexico, and Wyoming, as well.

According to 2004 statistics from the National Center for Injury Prevention and Control, suicide is the second leading cause of death, behind unintentional injury, for American Indian and Alaska Native young adults 15 to 24 years old, of both sexes—a statistic that has sadly been true for the past 20 years. For North Dakota Indian girls 15 to 24 years old in 2004, suicide was the number one leading cause of death.

I am grateful for the efforts of the Indian Health Service and the Substance Abuse and Mental Health Services Administration, in particular, both of which have, in a host of ways, sought to address the reservation youth suicide crisis. SAMHSA is providing a 4-year grant to the Standing Rock Sioux Tribe of North and South Dakota—a tribe that had 12 Indian youth die by suicide over a 6-month period—to provide mental health outreach workers. In addition, across the country, tribal leaders, tribal health professionals, and service providers and family members are working together to implement early intervention plans, improve access to prevention programs, promote community training and awareness, and reinstate traditional tribal practices and culture-based interventions to address Native youth suicides.

Many Indian reservations and Native villages in Alaska are remote and isolated, and everyone who lives in those communities experiences much more limited access to mental health services than in our Nation's metropolitan areas. The testimony received by the Indian Affairs Committee indicates that it is particularly in these remote Native communities that there is a crisis among the youth. I believe that the use of telemedicine—or, for purposes of this legislation, telemental health—will prove a useful resource for the several tribes or tribal organizations that will participate in this demonstration project in assisting their youth.

In addition to introducing this legislation, I will include authorization of this Indian Youth Telemental Health Demonstration Project in legislation to reauthorize and amend the Indian Health Care Improvement Act, which I intend to introduce soon.

I thank my colleagues who have joined me in sponsoring this legislation and in being willing to talk and think hard about an issue that many believe should be kept hidden. We must find ways to prevent the needless loss of young Native American boys and girls whose whole lives lie ahead of them, and from whom their tribal communities and all of this country stand to benefit as these youth blossom in to their potential as adults. I look forward to continuing our efforts to address this sensitive and very important issue. I urge my colleagues to support this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 322

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 ''Indian Youth Telemental Health Demonstration Project Act of 2007''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) suicide for Indians and Alaska Natives is 2½ times higher than the national average and the highest for all ethnic groups in the United States, at a rate of more than 16 per 100,000 males of all age groups, and 27.9 per 100,000 for males aged 15 through 24, according to data for 2002;

(2) according to national data for 2004, suicide was the second-leading cause of death for Indians and Alaska Natives of both sexes aged 10 through 34;

(3) the suicide rates of Indian and Alaska Native males aged 15 through 24 are nearly 4 times greater than suicide rates of Indian and Alaska Native females of that age group;

(4)(A) 90 percent of all teens who die by suicide suffer from a diagnosable mental illness at the time of death; and

(B) more than ½ of the people who commit suicide in Indian Country have never been seen by a mental health provider;

(5) death rates for Indians and Alaska Natives are statistically underestimated;

(6) suicide clustering in Indian Country affects entire tribal communities; and

(7) since 2003, the Indian Health Service has carried out a National Suicide Prevention Initiative to work with Service, tribal, and urban Indian health programs.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention, and treatment of Indian youth, including through—

(1) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

(2) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

(3) training and related support for community leaders, family members and health and education workers who work with Indian youth;

(4) the development of culturally-relevant educational materials on suicide; and

(5) data collection and reporting.

SEC. 3. DEFINITIONS.

In this Act:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the Indian youth telemental health demonstration project authorized under section 4(a).

(2) DEPARTMENT.—The term ''Department'' means the Department of Health and Human Services.

(3) INDIAN.—The term ''Indian'' means any individual who is a member of an Indian tribe or is eligible for health services under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(6) SERVICE.—The term ''Service'' means the Indian Health Service.

(7) TELEMENTAL HEALTH.—The term ''telemental health'' means the use of electronic information and telecommunications technologies to support long distance mental health care, patient and professional-related education, public health, and health administration.

(8) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary is authorized to carry out a demonstration project to award grants for the provision of telemental health services to Indian youth who—

(A) have expressed suicidal ideas;

(B) have attempted suicide; or

(C) have mental health conditions that increase or could increase the risk of suicide.

(2) ELIGIBILITY FOR GRANTS.—Grants described in paragraph (1) shall be awarded to Indian tribes and tribal organizations that operate 1 or more facilities—

(A) located in Alaska and part of the Alaska Federal Health Care Access Network;

(B) reporting active clinical telehealth capabilities; or

(C) offering school-based telemental health services relating to psychiatry to Indian youth.

(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

(4) MAXIMUM NUMBER OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian tribes and tribal organizations that—

(A) serve a particular community or geographic area in which there is a demonstrated need to address Indian youth suicide;

(B) enter into collaborative partnerships with Service or other tribal health programs or facilities to provide services under this demonstration project;

(C) serve an isolated community or geographic area which has limited or no access to behavioral health services; or

(D) operate a detention facility at which Indian youth are detained.

(b) USE OF FUNDS.—

(1) IN GENERAL.—An Indian tribe or tribal organization shall use a grant received under subsection (a) for the following purposes:

(A) To provide telemental health services to Indian youth, including the provision of—

(i) psychotherapy;

(ii) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

(iii) alcohol and substance abuse treatment.

(B) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service or tribal clinicians and health services providers working with youth being served under the demonstration project.

(C) To assist, educate, and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under the demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among those individuals and with State and local health services providers.

(D) To develop and distribute culturally-appropriate community educational materials on—

(i) suicide prevention;

(ii) suicide education;

(iii) suicide screening;

(iv) suicide intervention; and

(v) ways to mobilize communities with respect to the identification of risk factors for suicide.

(E) To conduct data collection and reporting relating to Indian youth suicide prevention efforts.

(2) TRADITIONAL HEALTH CARE PRACTICES.—In carrying out the purposes described in paragraph (1), an Indian tribe or tribal organization may use and promote the traditional health care practices of the Indian tribes of the youth to be served.

(c) APPLICATIONS.—To be eligible to receive a grant under subsection (a), an Indian tribe or tribal organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the project that the Indian tribe or tribal organization will carry out using the funds provided under the grant;

(2) a description of the manner in which the project funded under the grant would—

(A) meet the telemental health care needs of the Indian youth population to be served by the project; or

(B) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

(3) evidence of support for the project from the local community to be served by the project;

(4) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

(5) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

(6) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

(d) COLLABORATION.—The Secretary, acting through the Service, shall encourage Indian tribes and tribal organizations receiving grants under this section to collaborate to enable comparisons about best practices across projects.

(e) ANNUAL REPORT.—Each grant recipient shall submit to the Secretary an annual report that—

(1) describes the number of telemental health services provided; and

(2) includes any other information that the Secretary may require.

(f) REPORT TO CONGRESS.—Not later than 270 days after the date of termination of the demonstration project, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives a final report that—

(1) describes the results of the projects funded by grants awarded under this section, including any data available that indicate the number of attempted suicides;

(2) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

(3) evaluates whether the demonstration project should be—

(A) expanded to provide more than 5 grants; and

(B) designated a permanent program; and

(4) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2008 through 2011.

By Mrs. BOXER:

S. 323. A bill to require persons seeking approval for a liquefied natural gas facility to identify employees and agents engaged in activities to persuade communities of the benefits of the approval; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I rise to discuss liquified natural gas projects in California. As of August of last year, there are five potential liquified natural gas projects in California. The projects include the Cabrillo Deepwater Port LNG Facility, Clearwater Port LNG Project, Long Beach LNG Facility, Ocean Way LNG Terminal, and the Pacific Gateway LNG Facility.

LNG is natural gas in its liquid form. When natural gas is cooled to minus 259 degrees Fahrenheit, it becomes a clear, colorless, odorless liquid. Natural gas is transferred into LNG to transport it more easily.

Although there is a need for natural gas, there are potential safety concerns with the siting of new LNG facilities. According to the California Energy Commission, ''LNG hazards result from three of its properties: cryogenic temperatures, dispersion characteristics, and flammability characteristics. The extremely cold LNG can directly cause injury or damage. A vapor cloud, formed by an LNG spill, could drift downwind into populated areas. It can ignite if the concentration of natural gas is between five and 15 percent in air and it encounters an ignition source. An LNG fire gives off a tremendous amount of heat.''

This is why many people who live near a potential LNG facility have safety concerns. As a result, many companies try to ''sell'' the projects to communities.

That is why today I am introducing this common sense bill. This bill is identical to legislation that I introduced in the 109th Congress.

It would require any company seeking Federal Government approval to submit, as part or its application, the names of employees and business agents who are trying to persuade communities of the benefits of the LNG facility.

This bill does not stop anyone from reaching out to local communities. What this bill says is that if you are trying to get approval for an LNG facility, whether on- or off-shore, you have to be public about it. Today, if someone lobbies the federal government, he or she needs to register so their affiliation and interests before the government are publicly known. We should do the same for these projects. As I said, it is common sense.

I urge my colleagues to support this bill. I ask unanimous consent that the text of my 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. 323

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

SECTION 1. IDENTIFICATION OF PROPONENTS OF APPROVAL OF LIQUIFIED NATURAL GAS FACILITIES.

(a) LIQUEFIED NATURAL GAS FACILITIES REQUIRING FERC APPROVAL.—The Federal Energy Regulatory Commission shall—

(1) require an applicant for approval, by the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.), of the siting, construction, expansion, or operation of a liquefied natural gas facility to identify each of the employees and agents of the applicant that are engaged, directly or indirectly, in activities to persuade communities of the benefits of the approval; and

(2) maintain a publicly available database listing the names of the employees and agents.

(b) OFF-SHORE LIQUIFIED NATURAL GAS FACILITIES.—The Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating shall—

(1) require an applicant for approval, by the appropriate Secretary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), of the siting, construction, expansion, or operation of a liquefied natural gas facility to identify each of the employees and agents of the applicant that are engaged, directly or indirectly, in activities to persuade communities of the benefits of the approval; and

(2) maintain a publicly available database listing the names of the employees and agents.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 324. A bill to direct the Secretary of the Interior to conduct a study of water resources in the State of New Mexico; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, above-average rainfall in New Mexico last summer and recent snow fall have led many to turn a blind eye to the grim water situation faced by our State only months ago. New Mexico was fast approaching a disaster due to drought. Many of our municipalities' wells were running dry and reservoirs were at dangerously low levels. Providence intervened, narrowly averting a crisis resulting from water scarcity.

The development of the centrifugal pump was an event of great significance in the history of the West. Windmill driven pumps provided enough water for a family and several livestock. The centrifugal pump, on the other hand, was capable of pumping eight hundred gallons of water a minute, making possible the habitation of what was previously barren desert. To a large extent, this invention provided the water for growing towns and agricultural industry. However, it also resulted in a great dependence on groundwater. As such, we need to fully understand the nature and extent of our groundwater resources. This bill will provide us with the information necessary to ensure that the water on which we have come to rely is available for years to come.

During times of drought, when surface water is scarce, we must be able to reliably turn to groundwater reserves. Approximately 90 percent of New Mexicans depend on groundwater for drinking water and 77 percent of New Mexicans obtain water exclusively from groundwater sources. While groundwater supplies throughout the State are coming under increasing competition, not enough is known about these resources in order to make sound decisions regarding their use.

Nearly 40 percent of the State's population resides in the Middle Rio Grande Basin. Once thought to contain vast quantities of water, we are now faced with the reality the Middle Rio Grande Basin contains far less water than originally thought. Between 1995 and 2001, the United States Geological Survey undertook a study of the Basin which added greatly to our knowledge regarding the primary source of water for our largest population center. Had we proceeded with our water planning without the information provided by this study, I have little doubt that we would ultimately find ourselves in a dire situation. However, there is much more to be learned about this Basin.

Roughly 65 percent of the State's population lives along the Rio Grande. Also located along the river are the four largest cities in New Mexico: Santa Fe, Albuquerque, Rio Rancho and Las Cruces. While the completion of the San Juan-Chama Diversion by the Albuquerque Bernalillo County Water Utility Authority will allow the County of Bernalillo and City of Albuquerque to take advantage of their allocation of San JuanChama water, the remainder of the cities and counties located along the Rio Grande will continue to receive the majority of their water from aquifers beneath the Rio Grande. Aside from the Middle Rio Grande Basin, we have limited knowledge of the amount of water contained in the aquifers below the Rio Grande, the rate at which they recharge, aquifer contamination, and the interaction between surface flows and ground water.

Elsewhere in the State, even less is understood regarding groundwater resources. While there is limited unallocated surface water in the State, there are significant quantities of untapped underground water in the Tularosa and Salt Basins. The Tularosa Basin is approximately 60 miles wide and 200 miles long. Making the conservative estimate that 10 percent of the water contained in that aquifer is available for use through desalination, it would provide 100 years of water for a city the size of Albuquerque. With the development of desalination technology, I anticipate that even a greater amount of the brackish water contained in the Tularosa Basin will be available for human use.

Another untapped water supply is the Salt Basin located in southern New Mexico. The Basin lies in a geologically complex area and our understanding of the total resource is incomplete. However, initial estimates predict sustainable withdrawals on the order of 100,000 acre-feet per year of potable water from the New Mexico portion of the aquifer. This is enough water to support a city the size of our largest municipal area. Additional brackish resources in that Basin are highly likely. Because the Basin is located near expanding metropolitan areas near the U.S.-Mexico Border, it is a resource of critical importance.

The bill I introduce today would direct the United States Geological Survey, in collaboration with the State of New Mexico, to undertake a groundwater resources study in the State of New Mexico. A comprehensive study of the State's water resources is critical to effective water planning. Absent such a study, I fear that there is a significant likelihood that we may be depleting aquifers at an unsustainable rate.

I thank Senator BINGAMAN for being an original co-sponsor of this legislation. I look forward to working with him to ensure the bill's passage.

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. 324

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 ''New Mexico Aquifer Assessment Act of 2007''.

SEC. 2. NEW MEXICO WATER RESOURCES STUDY.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Geological Survey (referred to in this Act as the ''Secretary''), in coordination with the State of New Mexico (referred to in this Act as the ''State'') and any other entities that the Secretary determines to be appropriate (including other Federal agencies and institutions of higher education), shall, in accordance with this Act and any other applicable law, conduct a study of water resources in the State, including—

(1) a survey of groundwater resources, including an analysis of—

(A) aquifers in the State, including the quantity of water in the aquifers;

(B) the availability of groundwater resources for human use;

(C) the salinity of groundwater resources;

(D) the potential of the groundwater resources to recharge;

(E) the interaction between groundwater and surface water;

(F) the susceptibility of the aquifers to contamination; and

(G) any other relevant criteria; and

(2) a characterization of surface and bedrock geology, including the effect of the geology on groundwater yield and quality.

(b) STUDY AREAS.—The study carried out under subsection (a) shall include the Estancia Basin, Salt Basin, Tularosa Basin, Hueco Basin, and middle Rio Grande Basin in the State.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the results of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. BINGAMAN (for himself and Mr. VOINOVICH):

S. 325. A bill to provide for innovation in heath care through State initiatives that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce bipartisan legislation with Senator VOINOVICH entitled the ''Health Partnership Act of 2007,'' which along with a companion House bill introduced by Representatives TAMMY BALDWIN, JOHN TIERNEY, and TOM PRICE, intends to set us on a path toward affordable, quality health care for all Americans. The Health Partnership Act creates partnerships between the Federal Government, State and local governments, tribes and tribal organizations, private payers, and health care providers to seek innovation in health care systems.

Under this Act, States, local governments, and tribes and tribal governments would be invited to submit applications to the Federal Government for funding to implement expansion and improvements to current health programs for review by a bipartisan ''State Health Innovation Commission.'' Based on funding available through the Federal budget process, the Commission would approve a variety of reform options and innovative approaches.

This federalist approach to health reform would encourage a broad array of reform options subject to monitoring, to determine what is and is not successful. As Supreme Court Justice Louis D. Brandeis wrote in 1932, ''It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.''

Our bipartisan legislation, the ''Health Partnership Act,'' encourages

this type of State-based innovation and will help the Nation better address both the policy and the politics of health care reform. Currently, we do not have a ''one-size-fits-all'' model of reform, so encouraging States, local governments, and tribes to adopt a variety of approaches will help us better understand what may or may not work.

Inaction on the growing and related problems of the uninsured and increasing health care costs is unacceptable and unconscionable.

In fact, while spending on health care in our country has reached $2 trillion annually, the number of uninsured has increased to nearly 47 million people, seven million more than in 2000. The consequences are staggering, as uninsured citizens get about half the medical care they need compared to those with health insurance and, according to the Institute of Medicine, about 18,000 unnecessary deaths occur each year in the U.S. because of lack of health insurance.

While gridlock continues to permeate Washington, DC, in regards to this issue, a number of States and local governments are moving ahead with health reform. The ''Health Partnership Act'' would provide support, in the form of grants, to States, groups of States, local governments, and Indian tribes and tribal organizations to carry out any of a broad range of strategies intended to reduce the number of uninsured, reduce costs, and improve the quality of care.

Responding to urgent needs, State and local governments have not been able to wait for Federal action. We observed this in the early 1990s as States such as New Mexico, Massachusetts, Pennsylvania, Florida, Rhode Island, Hawaii, Maryland, Tennessee, Vermont, and Washington led the way to expanding coverage to children through the enactment of a variety of health reforms. Evaluation proved that some of these programs worked better than others, so the Federal Government took note and responded in 1997 with passage of the ''State Children's Health Insurance Program'' or SCHIP. This legislation, built upon experiences of the States, enjoyed broad bipartisan support. SCHIP is a popular and successful State-based model that covers millions of children and continues to have broad-based bipartisan support across this Nation.

So, why not use that successful model and build upon it? In fact, State and local governments are already taking up that challenge and the Federal Government should, through the enactment of the ''Health Partnership Act,'' do what it can to be helpful with those efforts. For example—

On November 15, 2005, Illinois Governor Rod Blagojevich signed into law the ''Covering All Kids Health Insurance Act'' which, beginning in July 2006, intended to make insurance coverage available to all uninsured children.

In April, Massachusetts Governor Mitt Romney signed into law legislation that requires all Bay State residents to have health insurance. Their State experiment involves partnerships between the State Medicaid, employer groups, and insurance companies.

Now California's Governor Schwarzenegger proposes health reform to include health promotion and wellness services for all, insurance coverage, and cost containment measures.

Other States, including New Mexico, Vermont, Tennessee, Maine, West Virginia, Oklahoma, and New York have enacted other health reforms that have had mixed success.

All of these efforts add importantly to our knowledge base, and can then lead to a national solution to our uninsured and affordability crisis. We can learn from each and every one of these efforts, including those which failed.

Commonwealth Fund President Karen Davis said it well by noting that State-based reforms, such as that passed in Massachusetts, are very good news. As she notes, ''First, any substantive effort to expand access to coverage is worthwhile, given the growing number of uninsured in this country and the large body of evidence showing the dangerous health implications of lacking coverage.''

She adds, ''But something more important is at work here. While we urgently need a national solution so that all Americans have insurance, it doesn't appear that we'll be getting one at the Federal level any time soon. So what Massachusetts has done potentially holds lessons for every State.'' I would add that it holds lessons for the Federal Government as well and not just for the mechanics of implementing health reform policy but also to the politics of health reform.

As she concludes, ''One particularly cogent lesson is the manner in which the measure was crafted—via a civil process that successfully brought together numerous players from across the political business, health care delivery, and policy sectors.''

Senator VOINOVICH and I have worked together and reached out to like minded colleagues in the House of Representatives via a process much like that described by Karen Davis. The legislation stems from past legislative efforts by Senators such as Bob Graham, Mark Hatfield, and Paul Wellstone, but also from work across ideological lines by Henry Aaron of the Brookings Institution and Stuart Butler of the Heritage Foundation.

The legislation also benefits from advice and support from health care providers. Dr. Tim Garson who, as Dean of the University of Virginia, brought a much needed provider perspective, ensuring support from the House of Medicine. Supporters include the American Medical Association, the American Academy of Pediatrics, the American College of Physicians, the American College of Cardiology, American Gastroenterological Association, the Visiting Nurses Association, the National Association of Community Health Centers, and from state-based health providers such as the New Mexico Medical Society and Ohio Association of Community Health Centers.

The Health Partnership Act supports providers.

The Health Partnership Act received much comment and support from consumer-based groups advocating for national health reform, including that by Dr. Ken Frisof of the Universal Health Care Action Network, Bill Vaughan at Consumers Union, and from numerous health care advocates in New Mexico, including Community Action New Mexico, Health Action New Mexico, Health Care for All Campaign of New Mexico, New Mexico Center on Law and Poverty, New Mexico Health Choices Initiative, New Mexico POZ Coalition, New Mexico Public Health Association, New Mexico Religious Coalition for Reproductive Choice, New Mexico Progressive Alliance for Community Empowerment, and the Health Security for New Mexicans Campaign, which includes 115 State-based organizations.

The Health Partnership Act supports consumers.

Support from stakeholders throughout our Nation's health care system has been sought and I would like to thank the many organizations from New Mexico for their support and input to this legislation. There is great urgency in New Mexico because our State, like all of those along the U.S.-Mexico border, faces a severe health care crisis. Over one in five New Mexicans does not have insurance coverage. In fact, only one State, Texas, has more uninsured. New Mexico is also the only State in the country with greater than half of its population covered by State or federally funded health programs.

A rather shocking statistic, which also continues to worsen, is that one out of every three Hispanic citizens are uninsured. In fact, less than 41 percent of the Hispanic population now has employer-based coverage nationwide, which is in sharp comparison to the 66 percent of non-Hispanic whites who have employer-based coverage.

Because so few New Mexicans have employer-based health insurance, the State of New Mexico has enacted its own health reform plan called the State Coverage Initiative, or SCI, in July 2005. SCI is a public/private partnership intended to expand employer-sponsored insurance, developed in part with grant funding from the Robert Wood Johnson Foundation. As of December 2006, there were 4,256 people covered by this initiative and there are efforts to expand this effort to cover over 20,000 individuals. With Federal support for my State, the hope would be to further expand coverage to as many New Mexicans as possible.

The Health Partnership Act encourages reforms at both the state and local levels of government. Senator VOINOVICH, as former mayor of Cleveland, suggested language that would capture community-based efforts as well. Illinois, Georgia, Michigan, and

Oregon have all initiated efforts at the local level for reform, including so-called ''three-share'' programs in Illinois and Michigan. Under these initiatives, employers, employees, and the community each pick up about one-third of the cost of programs.

Jeaneane Smith, deputy administrator in the Office of Oregon Health Policy and Research was recently quoted by an Academy Health publication stating, ''In recent years it has become apparent that there is a need to consider both state- and community-level approaches to improved access. We want to learn how best to support communities as they play an integral part in addressing the gaps in coverage.''

The Health Partnership Act supports communities.

Our hope is to spawn innovation. Brookings Institution senior health fellow Henry Aaron and Heritage Foundation vice president Stuart Butler wrote a Health Affairs article in March 2004 that lays out the foundation for this legislative effort. They argue that while we remain unable to reconcile how best to expand coverage at the Federal level, we can agree to support states in their efforts to try widely differing solutions to health coverage, cost containment, and quality improvement. As they write, ''this approach offers both a way to improve knowledge about how to reform health care and a practical way to initiate a process of reform. Such a pluralist approach respects the real, abiding differences in politics, preferences, traditions, and institutions across the nation. It also implies a willingness to accept differences over an extended period in order to make progress. And it recognizes that permitting wide diversity can foster consensus by revealing the strengths and exposing the weaknesses of rival approaches.''

In addition to Dr. Garson, Mr. Aaron, Mr. Butler, and Dr. Frisof, I would like to express my appreciation to Dan Hawkins at the National Association of Community Health Centers, Bill Vaughan at Consumers Union, and both Jack Meyer and Stan Dorn at ESRI for their counsel and guidance on health reform and this legislation.

I would also like to commend the American College of Physicians, or ACP, for their outstanding leadership on the issue of the uninsured and for their willingness to support a variety of efforts to expand health coverage. ACP has been a longstanding advocate for expanding health coverage and has authored landmark reports on the important role that health insurance has in reducing people's morbidity and mortality. In fact, to cite the conclusion of one of those studies, ''Lack of insurance contributes to the endangerment of the health of each uninsured American as well as the collective health of the Nation.''

And finally, I would also thank the many people at the Robert Wood Johnson Foundation on their forethought and knowledge on all the issues confronting the uninsured. Their efforts to continue the dialogue on the uninsured has successfully kept the issue alive for many years.

I urge my colleagues to break the gridlock and support this legislation, which offers financial support to states, communities, providers, and consumers, as they adopt important innovations in healthcare coverage and expansion.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 325

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 ''Health Partnership Act''.

SEC. 2. STATE HEALTH REFORM PROJECTS.

(a) PURPOSE; ESTABLISHMENT OF STATE HEALTH CARE EXPANSION AND IMPROVEMENT PROGRAM.—The purposes of the programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) ensuring that patients receive high-quality, appropriate health care;

(3) improving the efficiency of health care spending; and

(4) testing alternative reforms, such as building on the public or private health systems, or creating new systems, to achieve the objectives of this Act.

(b) APPLICATIONS BY STATES, LOCAL GOVERNMENTS, AND TRIBES.—

(1) ENTITIES THAT MAY APPLY.—

(A) IN GENERAL.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care, may apply for a State health care expansion and improvement program for the entire State (or for regions of the State) under paragraph (2).

(B) REGIONAL GROUPS.—A regional entity consisting of more than one State may apply for a multi-State health care expansion and improvement program for the entire region involved under paragraph (2).

(C) DEFINITION.—In this Act, the term ''State'' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Such term shall include a regional entity described in subparagraph (B).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care expansion and improvement program may submit an application to the State Health Innovation Commission under subsection (c) (referred to in this section as the ''Commission'') for approval.

(3) LOCAL GOVERNMENT APPLICATIONS.—

(A) IN GENERAL.—Where a State declines to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Commission for programs or projects under this subsection. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(c) STATE HEALTH INNOVATION COMMISSION.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish a State Health Innovation Commission that shall—

(A) be comprised of—

(i) the Secretary;

(ii) four State governors to be appointed by the National Governors Association on a bipartisan basis;

(iii) two members of a State legislature to be appointed by the National Conference of State Legislators on a bipartisan basis;

(iv) two county officials to be appointed by the National Association of Counties on a bipartisan basis;

(v) two mayors to be appointed by the United States Conference of Mayors and the National League of Cities on a joint and bipartisan basis;

(vi) two individuals to be appointed by the Speaker of the House of Representatives;

(vii) two individuals to be appointed by the Minority Leader of the House of Representatives;

(viii) two individuals to be appointed by the Majority Leader of the Senate;

(ix) two individuals to be appointed by the Minority Leader of the Senate; and

(x) two individuals who are members of federally-recognized Indian tribes to be appointed on a bipartisan basis by the National Congress of American Indians;

(B) upon approval of ⅔ of the members of the Commission, provide the States with a variety of reform options for their applications, such as tax credit approaches, expansions of public programs such as medicaid and the State Children's Health Insurance Program, the creation of purchasing pooling arrangements similar to the Federal Employees Health Benefits Program, individual market purchasing options, single risk pool or single payer systems, health savings accounts, a combination of the options described in this clause, or other alternatives determined appropriate by the Commission, including options suggested by States, Indian tribes, or the public;

(C) establish, in collaboration with a qualified and independent organization such as the Institute of Medicine, minimum performance measures and goals with respect to coverage, quality, and cost of State programs, as described under subsection (d)(1);

(D) conduct a thorough review of the grant application from a State and carry on a dialogue with all State applicants concerning possible modifications and adjustments;

(E) submit the recommendations and legislative proposal described in subsection (d)(4)(B);

(F) be responsible for monitoring the status and progress achieved under program or projects granted under this section;

(G) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction;

(H) promote information exchange between States and the Federal Government; and

(I) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State program on national employer groups, provider organizations, and insurers because of

differing State requirements under the programs.

(2) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for a term of 5 years. In appointing such members under paragraph (1)(A), the designated appointing individuals shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(3) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(B) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(4) POWERS OF THE COMMISSION.—

(A) NEGOTIATIONS WITH STATES.—The Commission may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (d)(4)(B). Such negotiations shall include consultations with Indian tribes, and be conducted in a public forum.

(B) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(C) MEETINGS.—In addition to other meetings the Commission may hold, the Commission shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in subsection (a)(1) and for an exchange of information.

(D) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission if the head of the department or agency involved determines it appropriate.

(E) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government or of a State or local government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(C) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(6) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $3,000,000 for fiscal year 2007 and each fiscal year thereafter.

(d) REQUIREMENTS FOR PROGRAMS.—

(1) STATE PLAN.—A State that seeks to receive a grant under subsection (f) to operate a program under this section shall prepare and submit to the Commission, as part of the application under subsection (b), a State health care plan that shall have as its goal improvements in coverage, quality and costs. To achieve such goal, the State plan shall comply with the following:

(A) COVERAGE.—With respect to coverage, the State plan shall—

(i) provide and describe the manner in which the State will ensure that an increased number of individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, in accordance with the options established by the Commission;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the State health program;

(iii) describe the minimum benefits package that will be provided to all classes of beneficiaries under the State health program;

(iv) identify Federal, State, or local and private programs that currently provide health care services in the State and describe how such programs could be coordinated with the State health program, to the extent practicable; and

(v) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers.

(B) QUALITY.—With respect to quality, the State plan shall—

(i) provide a plan to improve health care quality in the State, including increasing effectiveness, efficiency, timeliness, patient focused, equity while reducing health disparities, and medical errors; and

(ii) contain appropriate results-based quality indicators established by the Commission that will be addressed by the State as well as State-specific quality indicators.

(C) COSTS.—With respect to costs, the State plan shall—

(i) provide that the State will develop and implement systems to improve the efficiency of health care, including a specific 5-year target for reducing administrative costs (including paperwork burdens);

(ii) describe the public and private sector financing to be provided for the State health program;

(iii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the State health program;

(iv) describe how the State plan will ensure the financial solvency of the State health program; and

(v) provide that the State will prepare and submit to the Secretary and the Commission such reports as the Secretary or Commission may require to carry out program evaluations.

(D) HEALTH INFORMATION TECHNOLOGY.—With respect to health information technology, the State plan shall provide methodology for the appropriate use of health information technology to improve infrastructure, such as improving the availability of evidence-based medical and outcomes data to providers and patients, as well as other health information (such as electronic health records, electronic billing, and electronic prescribing).

(2) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing applications and plans under this section, including technical assistance by private sector entities if determined appropriate by the Commission.

(3) INITIAL REVIEW.—With respect to a State application for a grant under subsection (b), the Secretary and the Commission shall complete an initial review of such State application within 60 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall advise the State within such period of the need to submit additional information.

(4) FINAL DETERMINATION.—

(A) IN GENERAL.—Not later than 90 days after completion of the initial review under paragraph (3), the Commission shall determine whether to submit a State proposal to Congress for approval.

(B) VOTING.—

(i) IN GENERAL.—The determination to submit a State proposal to Congress under subparagraph (A) shall be approved by ⅔ of the members of the Commission who are eligible to participate in such determination subject to clause (ii).

(ii) ELIGIBILITY.—A member of the Commission shall not participate in a determination under subparagraph (A) if—

(I) in the case of a member who is a Governor, such determination relates to the State of which the member is the Governor; or

(II) in the case of member not described in subclause (I), such determination relates to the geographic area of a State of which such member serves as a State or local official.

(C) SUBMISSION.—Not later than 90 days prior to October 1 of each fiscal year, the Commission shall submit to Congress a list, in the form of a legislative proposal, of the State applications that the Commission recommends for approval under this section.

(D) APPROVAL.—With respect to a fiscal year, a State proposal that has been recommended under subparagraph (B) shall be deemed to be approved, and subject to the availability of appropriations, Federal funds shall be provided to such program, unless a joint resolution has been enacted disapproving such proposal as provided for in

subsection (e). Nothing in the preceding sentence shall be construed to include the approval of State proposals that involve waivers or modifications in applicable Federal law.

(5) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Commission and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) EXPEDITED CONGRESSIONAL CONSIDERATION.—

(1) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(A) INTRODUCTION.—The legislative proposal submitted pursuant to subsection (d)(4)(B) shall be in the form of a joint resolution (in this subsection referred to as the ''resolution''). Such resolution shall be introduced in the House of Representatives by the Speaker, and in the Senate, by the Majority Leader, immediately upon receipt of the language and shall be referred to the appropriate committee of Congress. If the resolution is not introduced in accordance with the preceding sentence, the resolution may be introduced in either House of Congress by any member thereof.

(B) COMMITTEE CONSIDERATION.—A resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means of the House of Representatives. A resolution introduced in the Senate shall be referred to the Committee on Finance of the Senate. Not later than 15 calendar days after the introduction of the resolution, the committee of Congress to which the resolution was referred shall report the resolution or a committee amendment thereto. If the committee has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a resolution, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such reform bill and such reform bill shall be placed on the appropriate calendar of the House involved.

(2) EXPEDITED PROCEDURE.—

(A) CONSIDERATION.—Not later than 5 days after the date on which a committee has been discharged from consideration of a resolution, the Speaker of the House of Representatives, or the Speaker's designee, or the Majority Leader of the Senate, or the Leader's designee, shall move to proceed to the consideration of the committee amendment to the resolution, and if there is no such amendment, to the resolution. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution at any time after the conclusion of such 5-day period. All points of order against the resolution (and against consideration of the resolution) are waived. A motion to proceed to the consideration of the resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the resolution that was introduced in such House, such House receives from the other House a resolution as passed by such other House—

(i) the resolution of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under clause (iii);

(ii) the procedure in the House in receipt of the resolution of the other House, with respect to the resolution that was introduced in the House in receipt of the resolution of the other House, shall be the same as if no resolution had been received from the other House; and

(iii) notwithstanding clause (ii), the vote on final passage shall be on the reform bill of the other House.

Upon disposition of a resolution that is received by one House from the other House, it shall no longer be in order to consider the resolution bill that was introduced in the receiving House.

(C) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the resolution that results in a disagreement between the two Houses of Congress with respect to the resolution, conferees shall be appointed and a conference convened. Not later than 10 days after the date on which conferees are appointed, the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the resolution. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the resolution filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives or their designees and the Majority and Minority Leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report.

(3) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(4) LIMITATION.—The amount of Federal funds provided with respect to any State proposal that is deemed approved under subsection (d)(3) shall not exceed the cost provided for such proposals within the concurrent resolution on the budget as enacted by Congress for the fiscal year involved.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (b) to enable such State to carry out an innovative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Commission, subject to the amount appropriated under subsection (k).

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) fund a diversity of approaches as provided for by the Commission in subsection (c)(1)(B);

(B) give priority to those State programs that the Commission determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and other vulnerable populations with improved access to health care items and services; and

(C) link allocations to the State to the meeting of the goals and performance measures relating to health care coverage, quality, and health care costs established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Innovation Advisory Commission established under subsection (c) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Commission concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(g) MONITORING AND EVALUATION.—

(1) ANNUAL REPORTS AND PARTICIPATION BY STATES.—Each State that has received a program approval shall—

(A) submit to the Commission an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Commission and the Secretary in the approval and in this section; and

(B) participate in the annual meeting under subsection (c)(4)(B).

(2) EVALUATIONS BY COMMISSION.—The Commission, in consultation with a qualified and independent organization such as the Institute of Medicine, shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce, the Committee on Education and Labor, and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving approvals under this section;

(B) a description of the recommendations of the Commission and actions taken based on these recommendations;

(C) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(D) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(E) as required by the Commission or the Secretary under subsection (f)(5), a periodic, independent evaluation of the program.

(h) NONCOMPLIANCE.—

(1) CORRECTIVE ACTION PLANS.—If a State is not in compliance with a requirements of this section, the Secretary shall develop a corrective action plan for such State.

(2) TERMINATION.—For good cause and in consultation with the Commission, the Secretary may revoke any program granted under this section. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to regulations established by the Secretary.

(i) RELATIONSHIP TO FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Commission, a State, or any other person or entity to alter or affect in any way the provisions of title XIX of such Act (42 U.S.C. 1396 et seq.) or the regulations implementing such title.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(j) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE xix PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE xi PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary in each fiscal year. Amounts appropriated for a fiscal year under this subsection and not expended may be used in subsequent fiscal years to carry out this section.

Mr. VOINOVICH. Mr. President, I rise to speak about a bill my colleague Senator BINGAMAN and I introduced today, the Health Care Partnership Act. For too many years, I have listened to my colleagues on both sides of the aisle talk about the rising cost of health care and the growing number of uninsured Americans. Yet, at the Federal level we have made little progress toward a solution for improving access to quality, affordable health care. I believe it is the greatest domestic challenge facing our Nation. In fact, the rising cost of health care is a major part of what is hurting our competitiveness in the global marketplace.

While surveys have indicated that health insurance premiums have stabilized—a 9.2 percent increase in 2006 the same increase as in 2005 and compared with; 12.3 percent in 2004; 14.7 percent in 2003 and 15.2 percent in 2002—health insurance costs continue to be a significant factor impacting American competitiveness. In addition, the share of costs that individuals have paid for employer sponsored insurance has risen roughly 2 percent each year, from 31.4 percent of health care costs in 2001 to 38.4 percent this year.

In fact, spending on health care in the United States reached $2 trillion in 2005—16 percent of our GDP—the largest share ever.

Yet, despite all the spending some 45 million Americans—15 percent of the population—had no health insurance at some point last year. This number has increased steadily. In 2000, that number was 39.8 million. In 2002 it was 43.6 million.

These statistics are startling, and it is beyond time that we do something about them.

The bill Senator BINGAMAN and I are introducing today aims to break the log-jam here in Washington and allows States to experiment the way we did with welfare reform when I was Governor of Ohio. This bill would support State-based efforts to reduce the uninsured, reduce costs, improve quality, improve access to care, and expand information technology.

I have been in this situation before. As Governor of Ohio, I had to work creatively to expand coverage and deal with increasing health care costs for a growing number of uninsured Ohioans. I am happy to report that we were able to make some progress toward reducing the number of uninsured during my time as the head of the State by negotiating with the State unions to move to managed care; by controlling Medicaid costs to the point where from 1995 to 1998, due to good stewardship and management, Ohio ended up underspending on Medicaid without harming families; and implementing the S–CHIP program to provide coverage for uninsured children. In fact, I recently learned from the Cuyahoga Commissioners that in our county, 98 percent of eligible children are currently enrolled in this program.

Like we did in Ohio, a number of States are already actively pursuing efforts to reduce the number of their residents who lack adequate health care coverage. This bill will build on the goals of States like Massachusetts, California and others, while providing a mechanism to analyze results and make recommendations for future action on the Federal level.

Under the Health Partnership Act, Congress would authorize grants to individual States, groups of States, and Indian tribes and organizations to carry out any of a broad range of strategies to improve our Nation's health

care delivery. The bill creates a mechanism for States to apply for grants to a bipartisan ''State Health Innovation Commission'' housed at the Department of Health and Human Services, HHS. After reviewing the State proposals, the Commission would submit to Congress a list of recommended State applications. The Commission would also recommend the amount of Federal grant money each State should receive to carry out the actions described in their plan.

Most importantly, at the end of the 5-year period, the Commission would be required to report to Congress whether the States are meeting the goals of the act and recommend future action Congress should take concerning overall reform, including whether or not to extend the program.

I believe it is important that we pass this legislation and provide a platform from which we can have a thoughtful conversation about health care reform at the Federal level.

Since I have been in the Senate, Congress has made some progress toward improving health care, most notably for our 43 million seniors with the passage of the Medicare Modernization Act.

Yet, we have been at this too long here in Washington without comprehensive, meaningful results. It is my hope that we will have bipartisan support for this very bipartisan comprehensive bill that I hope will move us closer toward a solution to the uninsured.

By Mrs. LINCOLN (for herself, Mr. THOMAS, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. AKAKA, Mr. PRYOR, Ms. KLOBUCHAR, Mr. ENZI, Mr. HARKIN, Mr. ROCKEFELLER, and Mr. KERRY):

S. 326. A bill to amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today with my colleague, Senator CRAIG THOMAS, to introduce the Disabled Veterans Tax Fairness Act of 2007. This much-needed legislation would protect disabled veterans from being unfairly taxed on the benefits to which they are entitled, simply because their disability claims were not processed in a timely manner. This legislation is supported by the Military Coalition, a group representing more than 5.5 million members of the uniformed services and their families.

While the Department of Veterans Affairs, VA, resolves most of its filed disability claims in less than a year, there are also instances of lost paperwork, administrative errors, and appeals of rejected claims that often delay thousands of disability awards for years on end. When this occurs, disability compensation is awarded retroactively and for tax purposes, a disabled veteran's previously received taxable military retiree pay is re-designated as nontaxable disability compensation. Thereby, the disabled veteran is entitled to a refund of taxes paid and must file an amended tax return for each applicable year.

However, under current law the IRS Code bars the filing of amended returns beyond the last 3 tax years. As a result, many of our disabled veterans are denied the opportunity to file a claim for repayment of additional years of back taxes already paid—through no fault of their own—even though the IRS owes them a refund for the taxes that were originally paid on their retiree pay.

The Disabled Veterans Tax Fairness Act of 2007 would add an exception to the IRS statute of limitations for amending returns. This exception would allow disabled veterans whose disability claims have been pending for more than 3 years to receive refunds on previous taxes paid for up to 5 years—the length of time the IRS keeps these records. Affected veterans would have 1 year from the date the VA determination is issued to go back and amend previous years' tax returns.

My father and grandfather both served our Nation in uniform and they taught me from an early age about the sacrifices our troops and their families have made to keep our Nation free. This is particularly true for our disabled veterans. During a time when a grateful nation should be doing everything it can to honor those who have sacrificed so greatly on our behalf, the very least it can do is ensure they and their families are not unjustly penalized simply because of bureaucratic inefficiencies or administrative delays which are beyond their control. This situation is unacceptable and our veterans deserve better.

That is why I am proud to reintroduce this legislation today to provide relief to our Nation's veterans. It is the least we can do for those whom we owe so much, and it is the least we can do to reassure future generations that a grateful nation will not forget them when their military service is complete.

By Mr. MCCAIN (for himself and Mr. SALAZAR):

S. 327. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator SALAZAR in reintroducing the Cesar Estrada Chavez Study Act. A similar version of this bill was introduced by Congresswoman HILDA SOLIS last week. This legislation, which is identical to the bill we introduced in the 109th Congress and passed the Senate by unanimous consent during the 108th Congress, would authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Chavez. The bill would direct the Secretary of the Interior to determine whether any of the sites significant to Chavez's life meet the criteria for being listed on the National Register of Historic Landmarks. The goal of this legislation is to establish a foundation for future legislation that would then designate land for the appropriate sites to become historic landmarks.

Mr. Chavez's legacy is an inspiration to us all and he will be remembered for helping Americans to transcend distinctions of experience and share equally in the rights and responsibilities of freedom. It is important that we honor his struggle and do what we can to preserve appropriate landmarks that are significant to his life. This legislation has received an overwhelming positive response, not only from my fellow Arizonans, but from Americans all across the Nation. It has also received an endorsement from the Congressional Hispanic Caucus.

Cesar Chavez, an Arizonan born in Yuma, was the son of migrant farm workers. While his formal education ended in the eighth grade, his insatiable intellectual curiosity and determination helped make him known as one of the great American leaders for his successes in ensuring migrant farm workers were treated fairly and honestly. His efforts on behalf of some of the most oppressed individuals in our society is an inspiration, and through his work he made America a bigger and better nation.

While Chavez and his family migrated across the southwest looking for farm work, he evolved into a advocate of migrant farm workers. He founded the National Farm Workers Association in 1962, which later became the United Farm Workers of America. He gave a voice to those who had no voice. In his words, ''We cannot seek achievement for ourselves and forget about progress and prosperity for our community . . . our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own.''

Cesar Chavez was a humble man of deep conviction who understood what it meant to serve and sacrifice for others. His motto in life ''It Can Be Done,'' epitomizes his life's work and continues to be a positive influence on so many of us. Honoring the places of his life will enable his legacy to inspire and serve as an example for our future leaders.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 31—EXPRESSING SUPPORT FOR DEMOCRATIC FORCES IN SERBIA AND ENCOURAGING THE PEOPLE OF SERBIA TO REMAIN COMMITTED TO A DEMOCRATIC PATH

Mr. VOINOVICH (for himself, Mr. LUGAR, Mr. HAGEL, and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 31

Whereas, in September 2000, the people of Serbia fought for democracy by going to the streets to hold protests and rallies until President Slobodan Milosevic was removed from power and the Government of Serbia was handed over to democratic forces;

Whereas, in the following years, the democratic leadership of Serbia worked to establish a democratic society, functional rule of law, a free market economy, and respect for human and minority rights;

Whereas the President of Serbia, Boris Tadic, has expressed publicly his commitment to the principles of democracy and the dream of leading Serbia forward on this path;

Whereas Serbia is a member of several international organizations and has voiced its desire to become a member of the European Union (EU);

Whereas Serbia has enacted several military and defense reforms to strengthen ties to its Western allies and the North Atlantic Treaty Organisation (NATO) Alliance;

Whereas, on September 7, 2006, Serbia signed a Status of Forces Agreement with the United States Government to facilitate Serbia's participation in joint military exercises and training;

Whereas, on September 8, 2006, President Tadic commemorated the beginning of Serbia's participation in the National Guard State Partnership Program with the Ohio National Guard;

Whereas, on December 14, 2006, Serbia was granted accession to the NATO Partnership for Peace (PfP) program, along with its neighbors, Bosnia and Herzegovina and Montenegro, initiating formal cooperation between NATO and Serbia;

Whereas Serbia has transferred 36 individuals indicted for war crimes to the International Criminal Tribunal for the former Yugoslavia (ICTY), including Milosevic and some of his top officials, and provided thousands of documents to the Office of the Prosecutor of the ICTY;

Whereas Serbia has taken some additional steps, under the supervision of the ICTY and the international community, to enact judicial reforms and establish special courts to try individuals indicted for war crimes in Kosovo, Bosnia, and Croatia;

Whereas Serbia has failed to arrest war criminal Ratko Mladic for the horrific crimes he committed at Srebrenica in Bosnia and Herzegovina, which prevented Serbia's earlier participation in the PfP program and its progression in EU accession talks;

Whereas, on January 21, 2007, Serbia will hold democratic parliamentary elections to determine Serbia's future leadership at this critical juncture in Serbia's history;

Whereas Albanian parties in southern Serbia will participate in the parliamentary elections for the first time in over 15 years; and

Whereas a strong, stable, and democratic Serbia is critical to the future of the region: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should be committed to a strong relationship with a democratic Serbia as Serbia moves toward its goals of membership in the European Union (EU) and cooperation with the North Atlantic Treaty Organisation (NATO);

(2) the inclusion of Serbia in the NATO Partnership for Peace Program was a critical step in bringing Serbia closer to the Euro-Atlantic Alliance;

(3) Serbia will now have the opportunity to enact defense reforms and apply for a Membership Action Plan for NATO;

(4) Serbia should continue its progress on reform, including defense and judiciary reforms and reforms in the area of human and minority rights;

(5) Serbia should move quickly to fulfill its obligations to the International Criminal Tribunal for the former Yugoslavia, including by immediately arresting Ratko Mladic and transferring him to the Hague because this step is essential for Serbia to be admitted into the EU and NATO;

(6) as Serbia continues to work toward integration in Euro-Atlantic institutions, the United States should continue and increase its defense and security cooperation with the Government of Serbia, including through education, training, and technical cooperation, to assist Serbia in the reform process and in fulfilling the requirements for membership in NATO; and

(7) the United States should remain a friend to the people of Serbia as they continue on the path of democracy.

SENATE RESOLUTION 32—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. KERRY (for himself and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 32

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business and Entrepreneurship is authorized from March 1, 2007, through September 30, 2007, and October 1, 2007, through September 30, 2008, and October 1, 2008, through February 28, 2009, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2.

(a) The expense of the committee for the period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $1,373,063, of which amount—

(1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $2,405,349, of which amount—

(1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, organizations thereof (as authorized by section 292(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period of October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $1,021,186, of which amount—

(1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3.

The committee may report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2007.

SEC. 4.

Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate;

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate;

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate;

(4) for payments to the Postmaster, United States Senate;

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate;

(6) for the payment of Senate Recording and Photographic Services; or

(7) for payment of franked mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5.

There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2007, through September 30, 2007, October 1, 2007, through September 30, 2008, and October 1, 2008, through February 28, 2009, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE CONCURRENT RESOLUTION 2—EXPRESSING THE BIPARTISAN RESOLUTION ON IRAQ

Mr. BIDEN (for himself, Mr. HAGEL, Mr. LEVIN, and Ms. SNOWE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 2

Whereas the United States strategy and presence on the ground in Iraq can only be sustained with the support of the American people and bipartisan support from Congress;

Whereas maximizing chances of success in Iraq should be our goal, and the best chance

of success requires a change in current strategy;

Whereas the situation in Iraq is damaging the standing, influence, and interests of the United States in Iraq, the Middle East, and around the world;

Whereas more than 137,000 United States military personnel are bravely and honorably serving in Iraq and deserve the support of all Americans;

Whereas more than 3,000 United States military personnel have already lost their lives in Iraq, and more than 22,500 have been wounded in Iraq;

Whereas on January 10, 2007, President George W. Bush announced his plan to deepen the United States military involvement in Iraq by deploying approximately 21,000 additional United States combat forces to Iraq;

Whereas Iraq is witnessing widening sectarian and intra-sectarian violence;

Whereas Iraqis must reach a political settlement if there is going to be a reconciliation in Iraq, and the failure of the Iraqis to achieve such a settlement has led to the increase in violence in Iraq;

Whereas Iraq Prime Minister Nouri al-Maliki stated on November 27, 2006, that ''[t]he crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the politicians.'';

Whereas an open-ended commitment of United States forces in Iraq is unsustainable and a deterrent to the Iraqis making the political compromises and providing the personnel and resources that are needed for violence to end and for stability and security to be achieved in Iraq;

Whereas the responsibility for internal security and halting sectarian violence in Iraq must rest primarily with the Government of Iraq and Iraqi security forces;

Whereas there have been repeated promises by the Government of Iraq to assume a greater share of security responsibilities, disband militias, consider amendments to the Iraq constitution, enact laws to reconcile sectarian differences, and improve the quality of life for the Iraqi people, but those promises have not been kept;

Whereas a successful strategy in Iraq is dependent upon the Iraqi leaders fulfilling their promises;

Whereas the commander of the United States Central Command, General John Abizaid, testified to Congress on November 15, 2006, that ''[i]t's easy for the Iraqis to rely upon us to do this work. I believe that more American forces prevent the Iraqis from taking more responsibility for their own future'';

Whereas the Iraq Study Group suggested a comprehensive strategy to ''enable the United States to begin to move its combat forces out of Iraq responsibly'' based on ''new and enhanced diplomatic and political efforts in Iraq and the region'';

Whereas the United States Army and Marine Corps, including their Reserves and the Army National Guard, their personnel, and their families, are under enormous strain from multiple, extended deployments to Iraq and Afghanistan;

Whereas the majority of nondeployed Army and Marine Corps units are no longer combat ready due to a lack of equipment and insufficient time to train; and

Whereas the United States strategy in Iraq must not compromise the ability of the United States to address other vital national security priorities, in particular global terror networks, proliferation of weapons of mass destruction, regional stability in the Middle East, the nuclear program of Iran, the nuclear weapons of North Korea, and stability and security in Afghanistan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) it is not in the national interest of the United States to deepen its military involvement in Iraq, particularly by escalating the United States military force presence in Iraq;

(2) the primary objective of United States strategy in Iraq should be to have the Iraqi political leaders make the political compromises necessary to end the violence in Iraq;

(3) greater concerted regional, and international support would assist the Iraqis in achieving a political solution and national reconciliation;

(4) main elements of the mission of United States forces in Iraq should transition to helping ensure the territorial integrity of Iraq, conduct counterterrorism activities, reduce regional interference in the internal affairs of Iraq, and accelerate training of Iraqi troops;

(5) the United States should transfer, under an appropriately expedited timeline, responsibility for internal security and halting sectarian violence in Iraq to the Government of Iraq and Iraqi security forces; and

(6) the United States should engage nations in the Middle East to develop a regional, internationally-sponsored peace and reconciliation process for Iraq.

Mr. BIDEN. Mr. President, today, Senator HAGEL, Senator LEVIN, and I are submitting a bipartisan resolution that opposes the President's plan to escalate the war in Iraq.

This resolution says what we and many of our colleagues, Democrats and Republicans, are against: deepening America's military involvement in Iraq by escalating our troop presence.

Just as important, it says what we and many of our colleagues are for: a strategy that can produce a political settlement in Iraq.

That's the only way to stop Shiites and Sunnis from killing each other and allow our troops to leave Iraq without leaving chaos behind.

Last week, when Secretary of State Rice presented the President's plan to escalate our troop presence in Iraq to the Foreign Relations Committee, the reaction from Democrats and Republicans alike ranged from profound skepticism to outright opposition.

This resolution will give every Senator a chance to say where he or she stands on the President's plan.

I believe that when a President goes way off course on something as important as Iraq, the single most effective way to get him to change course is to demonstrate that his policy has waning or no support—from both parties.

The more we make Iraq a partisan issue, the more the President is likely to dig in. The more we show that Americans across the board don't want to go down the path of escalation, the better our chance to stop it.

Iraq is not a partisan issue. It's a challenge we must meet as Americans.

The very first sentence of our resolution says something the three of us believe profoundly: ''U.S. strategy and presence on the ground in Iraq can only be sustained with the support of the American people and the bipartisan support of Congress.''

This resolution will demonstrate that, right now, the support is not there for the President's policy in Iraq. The sooner he recognizes that reality and acts on it, the better off all of us will be.

Mr. HAGEL. Mr. President, we have before us one of the most important issues that has ever faced our country, certainly in modern times. The future of Iraq will affect the United States, the Middle East, and the world for decades to come.

No one in Congress and no one in the United States wants to see America humiliated, defeated, or in any way lose its purpose. The issue of Iraq involves all of us. The Congress of the United States must have a role to play.

Our responsibility is to join together in a bipartisan effort to work to develop a consensus to deal with the great challenges of our time. I know of no challenge that is greater today, before this country, than Iraq. When a Nation commits its men and women to war, it is the greatest challenge that any of us will ever deal with in our time in the Congress.

We owe it to the American people to help find a bipartisan consensus of purpose, to help develop a policy worthy of our men and women in uniform. The American people not only deserve but they expect a consensus. This resolution is not about trying to assign blame on the Administration. It is not about replaying past mistakes. This resolution is about moving forward. It is difficult but it is our responsibility.

Some of us believe that the course that the President announced Wednesday was not the appropriate course. I do not believe that the United States should be sending more American troops into the middle of the tribal, sectarian civil war that is occurring in Iraq.

Senators BIDEN, LEVIN, and I have focused personally on writing this resolution because we felt it must reflect a responsible, forward-looking, and constructive approach. We must remain focused on a strategy which seeks to advance America's national interests and allow America to leave Iraq honorably.

The American people look to its government for responsible policy. A policy that can be sustained. A policy that reflects a clear consensus of purpose regarding our objectives, our strategy and our policies. This is what our resolution seeks to achieve.

Mr. LEVIN. Mr. President, the primary objective of the bipartisan resolution my colleagues and I are introducing today is to convince a bipartisan majority of Senators to oppose deeper military involvement in Iraq by the United States and to get the Iraqis to reach a political settlement among themselves as the only way to end the violence in Iraq.

The resolution would send a clear message that Congress does not support the plan to increase the number of U.S. troops in Iraq because it is based on the false premise that there is a

military solution to the violence and instability in Iraq, when what is needed is a political solution among the Iraqi leaders and factions.

Iraq's own Prime Minister Maliki acknowledged recently that ''The crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the politicians.''

The resolution states that it is not in the national security interests of the United States to deepen our military involvement in Iraq by increasing the number of U.S. troops.

The resolution calls for the transition of our military mission in Iraq to a more limited one of training, counterterrorism, and protecting the territorial integrity of Iraq. It also calls for greater engagement of other countries in the region in the stabilization and reconstruction of Iraq.

Last week the President said that he had made clear to Iraq's leaders that America's commitment is not open-ended. I welcome these words. But the reality behind the President's new rhetoric is that the open-ended commitment continues—more American military men and women would be sent into the chaos of Iraq's sectarian violence without condition or limitation.

President Bush also indicated that the Iraqi government needs ''breathing space'' to make political progress. The opposite is true. The Iraqi leaders don't need breathing space—they must feel real pressure to reach a political settlement. Increasing our military presence in Iraq takes more pressure off. The Iraq Study Group put it this way last month: ''An open-ended commitment of American forces would not provide the Iraqi government the incentive it needs to take the political actions that give Iraq its best chance of quelling sectarian violence.''

President Bush also said that the Iraqis have set benchmarks for themselves. But look at the track record of the Iraqi government in meeting some of its past benchmarks and promises: Iraqi President Talibani said in August 2006 that Iraqi forces would ''take over security in all Iraqi provinces by the end of 2006.'' That pledge has not been kept. Prime Minister Maliki said last June that he would disband the militias and illegal armed groups as part of his national reconciliation plan, and in October he set the timetable for disbanding the militias as the end of 2006. That commitment has not been kept. The Iraqi Constitutional Review Commission was to present its recommendations for changes in the Constitution to the Council of Representatives within four months of the formation of the Government last May. The Commission has yet to formulate any recommendations. Prime Minister Maliki put forward a series of reconciliation milestones to be completed by the end of 2006 or early 2007, including approval of the Provincial Election Law, the Petroleum Law, a new De-Baathification Law, and the Militia Law. Not one of these laws has been enacted. The Iraqi army pledged six battalions in support of American and Coalition efforts during Operation Forward Together last summer. In fact, Iraqis provided only two battalions.

This is not a track record that inspires confidence in Iraqi pledges and commitments.

The President said that ''America will hold the Iraqi government to the benchmarks it has announced.'' How did the President say we are going to do that? What will the consequences be if the Iraqis continue to fail to meet these benchmarks, particularly since some of them have been established and missed in the past? The President said ''If the Iraqi government does not follow through on its promises, it will lose the support of the American people . . . '' That is an empty threat given the fact that the Iraqi Government has already lost the support of the American people, and it hasn't affected their behavior. The President's most recent plan, like previous ones, includes no mechanism to hold the Iraqis to their commitments.

Just two months ago General Abizaid testified before our Committee against increasing the number of U.S. troops in Iraq. He told us: ''I met with every divisional commander, General Casey, the corps commander, General Dempsey. We all talked together. And I said, in your professional opinion, if we were to bring in more American troops now, does it add considerably to our ability to achieve success in Iraq? And they all said no. And the reason is, because we want the Iraqis to do more. It's easy for the Iraqis to rely upon us do this work. I believe that more American forces prevent the Iraqis from doing more, from taking more responsibility for their own future.''

Deepening our involvement in Iraq would be a mistake. Deepening our involvement in Iraq on the assumption that the Iraqis will meet future benchmarks and commitments given their track record would compound the mistake.

For America to supply more troops while the Iraqi leaders simply supply more promises is not a recipe for success in Iraq. Telling the Iraqis that we will increase our troops to give them yet more breathing space will only postpone the day when Iraqis take their future into their own hands and decide whether they want to continue to fight a civil war or make peace among themselves.

This resolution does not limit any future course of action that Congress may decide to take. What it would do is send a powerful message to the President and the Iraqis that Congress does not support an escalation of our military presence in Iraq.

SENATE CONCURRENT RESOLUTION 3—EXPRESSING THE SENSE OF CONGRESS THAT IT IS THE GOAL OF THE UNITED STATES THAT, NOT LATER THAN JANUARY 1, 2025, THE AGRICULTURAL, FORESTRY, AND WORKING LAND OF THE UNITED STATES SHOULD PROVIDE FROM RENEWABLE RESOURCES NOT LESS THAN 25 PERCENT OF THE TOTAL ENERGY CONSUMED IN THE UNITED STATES AND CONTINUE TO PRODUCE SAFE, ABUNDANT, AND AFFORDABLE FOOD, FEED, AND FIBER

Mr. SALAZAR (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. LUGAR, Mr. OBAMA, Mr. HAGEL, Mr. DORGAN, Mr. COLEMAN, Mr. KERRY, Mr. THUNE, Mr. NELSON of Nebraska, Mr. BROWNBACK, Ms. CANTWELL, Mr. ALLARD, Mr. KOHL, Mr. MENENDEZ, Mr. TESTER, Mrs. CLINTON, Mr. BROWN, Mr. BAUCUS, Mr. DURBIN, Mr. FEINGOLD, and Mr. COCHRAN) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 3

Whereas the United States has a quantity of renewable energy resources that is sufficient to supply a significant portion of the energy needs of the United States;

Whereas the agricultural, forestry, and working land of the United States can help ensure a sustainable domestic energy system;

Whereas accelerated development and use of renewable energy technologies provide numerous benefits to the United States, including improved national security, improved balance of payments, healthier rural economies, improved environmental quality, and abundant, reliable, and affordable energy for all citizens of the United States;

Whereas the production of transportation fuels from renewable energy would help the United States meet rapidly growing domestic and global energy demands, reduce the dependence of the United States on energy imported from volatile regions of the world that are politically unstable, stabilize the cost and availability of energy, and safeguard the economy and security of the United States;

Whereas increased energy production from domestic renewable resources would attract substantial new investments in energy infrastructure, create economic growth, develop new jobs for the citizens of the United States, and increase the income for farm, ranch, and forestry jobs in the rural regions of the United States;

Whereas increased use of renewable energy is practical and can be cost effective with the implementation of supportive policies and proper incentives to stimulate markets and infrastructure; and

Whereas public policies aimed at enhancing renewable energy production and accelerating technological improvements will further reduce energy costs over time and increase market demand: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should provide from renewable resources not less than 25 percent of the total energy consumed in the United States and continue to produce safe, abundant, and affordable food, feed, and fiber.

Mr. SALAZAR. Mr. President, today Senator GRASSLEY and I, along with our colleagues Senators HARKIN, LUGAR, OBAMA, HAGEL, and others, are submitting Senate Concurrent Resolution 3, the ''25x'25'' Resolution, as we did last year, 25x'25 is a critical vision for our energy future that will help reduce our dependence on foreign oil by building a new energy economy here at home. Our resolution establishes a national goal of producing 25 percent of America's energy from renewable sources—like solar, wind and biofuels—by 2025.

The ''25x'25'' vision is widely endorsed, bold, and fully attainable. If implemented, it would dramatically improve our energy security, our economy, and our ability to protect the environment.

I am pleased that more than 20 of my colleagues in the Senate, from both sides of the aisle, are cosponsoring this resolution. In addition, the ''25x'25'' vision has been endorsed by 22 current and former governors and several State legislatures across the country.

The Big Three automobile manufacturers—Ford, Chrysler, and General Motors—are all behind ''25x'25'' So are many agricultural organizations, environmental groups, scientists, and businesses, ranging from the Farm Bureau and Farmers' Union to the Natural Resources Defense Council and John Deere. The breadth of support for the ''25x'25'' vision speaks to the extraordinary economic, environmental, and national security benefits that its implementation will yield. In all, nearly 400 organizations have embraced this vision and are working together on a plan to implement it.

The resolution that Senator GRASSLEY and I are submitting makes the ''25x'25'' vision a policy goal for our Nation. It sets a challenging but realistic target for our legislative and budgetary work on energy. Our resolution says that the ingenuity and entrepreneurship of the American people should be the engine for a new, clean energy economy.

I urge every American to join with me and the roughly 400 partner organizations that are part of the 25x'25 Alliance to make this goal a reality. Results from a recent study conducted by the University of Tennessee shows that reaching the 25x'25 goal is achievable. The study also shows that 25x'25 would: increase net farm income by $180 billion and, including multiplier effects, could result in $700 billion in economic activity annually; create approximately 5 million new jobs here at home in 2025; save as much as $15 billion in government payments.

America's working people can and should be at the center of our energy revolution. Farmers and ranchers in my native San Luis Valley, in Sterling, CO, and elsewhere are already leading the way; they are building biodiesel plants and ethanol refineries that help power cars, tractors, and trucks. They are building wind turbines in Prowers County and biomass generators in Jackson County. And they are searching for new technologies that will allow them to make even greater contributions to our energy supply.

These Americans understand that we cannot continue to import 60 percent of our oil from foreign countries, many of which are hostile to the United States, if we aim to be strong and secure in the world. They know that we will have to build a clean energy economy if we are to reduce our dependence on foreign oil.

A clean energy economy will take root in our farms and fields. It will help revitalize a rural America that has been forgotten for too long. It will spur our engineers to new developments and designs, and it will help establish the U.S. as the world leader in clean energy technologies.

It is time for Congress to take a more active role in our clean energy future. Establishing a national goal—''25x'25'' is the first step.

Today, with this resolution, we articulate a common vision for our energy policy. It is a target we can hit. It is a target that Governors, Senators, Representatives, state legislators, farmers, ranchers, entrepreneurs, scientists, and automakers, all wish to achieve.

I am proud to be working with Senator GRASSLEY and others to establish ''25x'25'' as our Nation's shared goal for our energy security and I look forward to working on a legislative agenda in this Congress that will help us reach that target.

Mr. GRASSLEY. Mr. President, I rise today to join Senator SALAZAR in introducing a concurrent resolution which expresses the goal of the United States to provide 25 percent of the Nation's energy needs from renewable resources by 2025.

The goal of this 25 by 25 resolution is quite simple: to replace 25 percent of our total energy needs with renewable resources like wind, hydropower, solar, geothermal, biomass and biofuels by 2025. This is a bold goal, but given our current energy situation in the U.S., it is a necessary goal.

The impact of increased energy prices is being felt around the country by working families, farmers, businesses and industries. The increased cost for energy at the pump, in home heating and for industrial uses has the potential to jeopardize our economic security and vitality.

Our effort with this concurrent resolution is to signal to America's farmers, ranchers and forestry industry, that we believe they have the ability and resources to generate 25 percent of our energy needs. And, that it's in our economic and national security interest to do so.

There are many inherent virtues in producing our own domestic energy from renewable resources. It is good for our environment. It is good for our national and economic security. It will provide an economic boost for our rural economies. And perhaps most importantly, it will ensure a stable, secure, domestic supply of affordable energy.

Already, our farmers and ranchers are working hard to use their resources to produce electricity from wind, biomass and other agricultural wastes. In addition, corn, soybeans and other crops are being used to produce transportation fuels like ethanol and biodiesel. It is evident that rural America has the drive to achieve this goal.

While this concurrent resolution states our renewable energy goal, it does not prescribe a way to achieve the goal. Rather, it recognizes the benefit of implementing supportive policies and incentives to stimulate the development and use of renewable energy. It also identifies the benefits of technological improvements to the cost and market appeal of renewable energy.

The supporters of this goal commit to support sensible policies and proper incentives to work toward the goal. I am hopeful that my colleagues will recognize the importance of this effort, and will consider supporting us in this goal to produce 25 percent of our energy needs from renewable resources by 2025.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, January 18, 2007, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a business meeting to organize for the 110th Congress by electing the chairman and vice chairman of the committee and to adopt the rules of the committee and any other organizational business the committee needs to consider.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, January 25, 2007, at 9:30 a.m. in room SD–366 of the Dirksen Building.

The purpose of this hearing is to receive testimony on oil and gas resources on the Outer Continental Shelf and areas available for leasing in the Gulf of Mexico.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Patty Beneke at (202) 224–5451 or David Marks at (202) 224–8046.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday, January 17, 2007 at 9:30 a.m. in 328A, Senate Russell Office Building. The purpose of this committee hearing will be to consider Working Land Conservation: Conservation Security Program and Environmental Quality Incentive Programs.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. FEINSTEIN. 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 Wednesday, January 17, 2007, at 10 a.m. in room SR–253 of the Russell Senate Office Building.

The purpose of the hearing is to evaluate the status of implementation of the aviation security recommendations of the 9/11 Commission.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet in Executive Session during the session of the Senate on Wednesday, January 17, 2007, at 9:45 a.m. in SD–406.

Agenda

Rules: Rules of the Committee on Environment and Public Works.

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

COMMITTEE ON FINANCE

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, January 17, 2007, at 10 a.m., in 215 Dirksen Senate Office Building, to organize for the 110th Congress. The Committee will also consider an Original Bill entitled, ''The Small Business and Work Opportunity Act of 2007.''

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 17, 2007, at 9:30 a.m. to hold a hearing on Iraq.

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

COMMITTEE ON THE JUDICIARY

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Paying Off Generics to Prevent Competition with Brand Name Drugs: Should it Be Prohibited?'' on Wednesday, January 17, 2007, at 10:00 a.m. in Dirksen Senate Office Building room 226.

Witness List

Panel I: Hon. Jon Leibowitz, Commissioner, Federal Trade Commission, Washington, DC.

Panel II: Billy Tauzin, CEO, PhRMA, Washington, DC; Merril Hirsh Partner, Ross, Dixon, and Bell LLP, Washington, DC; Bruce Downey, Chairman and CEO, Barr Pharmaceuticals, Inc., Washington, DC; Michael Wroblewski, Consumers Union, Non-Profit Publisher of Consumer Reports, Yonkers, NY.

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

SELECT COMMITTEE ON INTELLIGENCE

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 17, 2007, at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on Wednesday, January 17, 2007, at 2:30 p.m., to receive testimony on abusive practices in Department of Defense Contracting for services and interagency contracting.

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

DEMOCRACY FOR SERBIA

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 31 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 31) expressing support for democratic forces in Serbia and encouraging the people of Serbia to remain committed to a democratic path.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 31) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 31

Whereas, in September 2000, the people of Serbia fought for democracy by going to the streets to hold protests and rallies until President Slobodan Milosevic was removed from power and the Government of Serbia was handed over to democratic forces;

Whereas, in the following years, the democratic leadership of Serbia worked to establish a democratic society, functional rule of law, a free market economy, and respect for human and minority rights;

Whereas the President of Serbia, Boris Tadic, has expressed publicly his commitment to the principles of democracy and the dream of leading Serbia forward on this path;

Whereas Serbia is a member of several international organizations and has voiced its desire to become a member of the European Union (EU);

Whereas Serbia has enacted several military and defense reforms to strengthen ties to its Western allies and the North Atlantic Treaty Organisation (NATO) Alliance;

Whereas, on September 7, 2006, Serbia signed a Status of Forces Agreement with the United States Government to facilitate Serbia's participation in joint military exercises and training;

Whereas, on September 8, 2006, President Tadic commemorated the beginning of Serbia's participation in the National Guard State Partnership Program with the Ohio National Guard;

Whereas, on December 14, 2006, Serbia was granted accession to the NATO Partnership for Peace (PfP) program, along with its neighbors, Bosnia and Herzegovina and Montenegro, initiating formal cooperation between NATO and Serbia;

Whereas Serbia has transferred 36 individuals indicted for war crimes to the International Criminal Tribunal for the former Yugoslavia (ICTY), including Milosevic and some of his top officials, and provided thousands of documents to the Office of the Prosecutor of the ICTY;

Whereas Serbia has taken some additional steps, under the supervision of the ICTY and the international community, to enact judicial reforms and establish special courts to try individuals indicted for war crimes in Kosovo, Bosnia, and Croatia;

Whereas Serbia has failed to arrest war criminal Ratko Mladic for the horrific crimes he committed at Srebrenica in Bosnia and Herzegovina, which prevented Serbia's earlier participation in the PfP program and its progression in EU accession talks;

Whereas, on January 21, 2007, Serbia will hold democratic parliamentary elections to determine Serbia's future leadership at this critical juncture in Serbia's history;

Whereas Albanian parties in southern Serbia will participate in the parliamentary elections for the first time in over 15 years; and

Whereas a strong, stable, and democratic Serbia is critical to the future of the region: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States should be committed to a strong relationship with a democratic Serbia as Serbia moves toward its goals of membership in the European Union (EU) and cooperation with the North Atlantic Treaty Organisation (NATO);

(2) the inclusion of Serbia in the NATO Partnership for Peace Program was a critical step in bringing Serbia closer to the Euro-Atlantic Alliance;

(3) Serbia will now have the opportunity to enact defense reforms and apply for a Membership Action Plan for NATO;

(4) Serbia should continue its progress on reform, including defense and judiciary reforms and reforms in the area of human and minority rights;

(5) Serbia should move quickly to fulfill its obligations to the International Criminal Tribunal for the former Yugoslavia, including by immediately arresting Ratko Mladic and transferring him to the Hague because this step is essential for Serbia to be admitted into the EU and NATO;

(6) as Serbia continues to work toward integration in Euro-Atlantic institutions, the United States should continue and increase its defense and security cooperation with the Government of Serbia, including through education, training, and technical cooperation, to assist Serbia in the reform process and in fulfilling the requirements for membership in NATO; and

(7) the United States should remain a friend to the people of Serbia as they continue on the path of democracy.

MEASURE READ THE FIRST TIME—H.R. 391

Mr. REID. Mr. President, there is at the desk H.R. 391 which has been received from the House, if I am not mistaken. I would ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 391) to authorize the Secretary of Housing and Urban Development to continue to insure, and to enter into commitments to insure, home equity conversion mortgages under section 255 of the National Housing Act.

Mr. REID. I would ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR THURSDAY, JANUARY 18, 2007

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9 a.m. on Thursday, January 18; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business with Senators permitted to speak therein for up to 10 minutes each, with the first hour under the control of the majority leader or his designee and the second hour under the control of the Republican leader or his designee.

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

PROGRAM

Mr. REID. Mr. President, if I could say a brief word here, I hope the distinguished Republican leader has gotten the information—we tried to do it through staff—that sometime between 3 and 6 tomorrow, we will do a vote on the motion to reconsider that we had on the cloture vote. Then thereafter or sometime during the day tomorrow I will talk to the distinguished Republican leader and find out what happens next. There are a number of alternatives we have as to what we can do on Friday, but I will talk to my friend from Kentucky and try to work something out; otherwise, we will advise him what we are going to do.

COMPLETION OF ETHICS REFORM LEGISLATION

Mr. MCCONNELL. Mr. President, let me say to my friend the majority leader, I still hope we can finish this bill. We are not that far away from completion, if we can work out an orderly way in which to deal with the amendments that need to be offered by this side. I hope we can reach agreement tomorrow and move toward completing the bill.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:52 p.m., adjourned until Thursday, January 18, 2007, at 9 a.m.